

New York State Education Law Code
Section 305: General Powers and Duties

- Note: Section 14 refers to pupil transportation -

N.Y. EDN. LAW § 305 : NY Code - Section 305: General powers and duties

The commissioner of education is hereby charged with the following powers and duties:

- 1.** He is the chief executive officer of the state system of education and of the board of regents. He shall enforce all general and special laws relating to the educational system of the state and execute all educational policies determined upon by the board of regents.
- 2.** He shall have general supervision over all schools and institutions which are subject to the provisions of this chapter, or of any statute relating to education, and shall cause the same to be examined and inspected, and shall advise and guide the school officers of all districts and cities of the state in relation to their duties and the general management of the schools under their control. Additionally, he shall cause to be prepared and distributed to school officers of all districts, nonpublic schools and cities of the state timely notice as to alternate sources of funding for specific programs or purposes such as, but not limited to, grants to be awarded on the basis of competitive proposals by state or federal agencies or from an approved private source. Such notice shall include information as to proposal submission deadlines, eligibility standards and other relevant information to assist school officers in making application for such alternate sources of funding. The commissioner shall not be liable for any damages resulting from failure to give notice under this subdivision.
- 3.** He shall have general supervision of industrial schools, trade schools and schools of agriculture, mechanic arts and home making; he shall prescribe regulations governing the licensing of the teachers employed herein; and he is hereby authorized, empowered and directed to provide for the inspection of such schools, to take necessary action to make effectual the provisions therefore, and to advise and assist boards of education in the several cities and school districts in the establishment, organization and management of such schools.
- 4.** He shall also have general supervision over the state teachers colleges and state colleges for teachers which have been, or which may hereafter be, established as required by the provisions of this chapter.
- 5.** He shall be ex officio a trustee of Cornell university.
- 6.** He shall be responsible for the safe keeping and proper use of the department and university seal and of the books, records and other property in charge of the regents, and for the proper administration and discipline of the various officers and divisions of the education department.
- 7.** The commissioner may annul upon cause shown to his or her satisfaction any certificate of qualification granted to a teacher by any authority whatever or declare any diploma issued by a state teachers college and state colleges for teachers ineffective and null as a qualification to teach a public school within this state, and the commissioner may reconsider and reverse his or her action in any such matter. In a proceeding brought pursuant to this

subdivision on charges against a certified teacher, the commissioner shall also be authorized to impose as a penalty:

a. suspension of a teaching certificate or license:

- (1) wholly for a fixed period of time; or
- (2) partially, until the teacher successfully completes a course of retraining in the area to which the suspension applies; or
- (3) wholly, until the teacher successfully completes a course of therapy or treatment;

b. limitation of the scope of a teaching certificate through revocation of an extension to teach additional subjects or grades;

c. a fine not to exceed five thousand dollars; or

d. a requirement that the teacher pursue a course of continuing education or training.

The attorney general shall, at the request of the commissioner or the director of the division of the budget, bring an action in the name of the people of the state of New York to enforce and collect any fine imposed pursuant to this subdivision. In any such action, the findings and determination of the hearing officer or hearing panel or of the commissioner shall be admissible evidence and shall be conclusive proof of the violation and the penalty assessed. For purposes of this subdivision, the term "teacher" shall mean any professional educator holding a teaching certificate or license, including but not limited to a classroom teacher, teaching assistant, pupil personnel services professional, school administrator or supervisor or superintendent of schools.

7-a.

a. In addition to the authority to revoke and annul a certificate of qualification of a teacher in a proceeding brought pursuant to subdivision seven of this section, the commissioner shall be authorized, and it shall be his or her duty, to revoke and annul in accordance with this subdivision the teaching certificate of a teacher convicted of a sex offense for which registration as a sex offender is required pursuant to article six-C of the correction law.

b. As used in this subdivision, the following terms shall have the following meanings:

- (1) "conviction" means any conviction whether by plea of guilty or nolo contendere or from a verdict after trial or otherwise;
- (2) "sex offense" means an offense set forth in subdivision two or three of section one hundred sixty-eight-a of the correction law, including an offense committed in any jurisdiction for which the offender is required to register as a sex offender in New York;
- (3) "teacher" means any professional educator holding a teaching certificate as defined in subparagraph four of this paragraph, including but not limited to a classroom teacher, teaching assistant, pupil personnel services professional, school administrator or supervisor or superintendent of schools; and
- (4) "teaching certificate" means the certificate or license or other certificate of qualification granted to a teacher by any authority whatsoever.

c. Upon receipt of a certified copy of a criminal history record showing that a teacher has been convicted of a sex offense or sex offenses or upon receipt of notice of such a conviction as provided in paragraph d of this subdivision, the commissioner shall automatically revoke and annul the teaching certificate of such teacher without the right to a hearing. The commissioner shall mail notice of the revocation and annulment pursuant to this subdivision by certified mail, return receipt requested, and by first-class mail directed to

the teacher at such teacher's last known address and, if different, the last address filed by the certificate holder with the commissioner and to the teacher's counsel of record in the criminal proceeding as reported in the notice pursuant to paragraph d of this subdivision. Such notice shall inform the teacher that his or her certificate has been revoked and annulled, identify the sex offense or sex offenses of which the teacher has been convicted and shall set forth the procedure to follow if the teacher denies he or she is the person who has been so convicted. If such teacher notifies the commissioner in writing within twenty-five days after the date of receipt of the notice that he or she is not the same person as the convicted offender identified in the criminal record or identified pursuant to paragraph d of this subdivision, provides proof to reasonably support such claim and the commissioner is satisfied the proof establishes such claim, the commissioner shall, within five business days of the receipt of such proof, restore such teacher's teaching certificate retroactive to the date of revocation and annulment.

d. Upon conviction of a teacher of a sex offense defined in this subdivision, the district attorney or other prosecuting authority who obtained such conviction shall provide notice of such conviction to the commissioner identifying the sex offense or sex offenses of which the teacher has been convicted, the name and address of such offender and other identifying information prescribed by the commissioner, including the offender's date of birth and social security number, to the extent consistent with federal and state laws governing personal privacy and confidentiality of information. Such notice shall also include the name and business address of the offender's counsel of record in the criminal proceeding.

e. Upon receipt of proof that the conviction or convictions that formed the basis for revocation and annulment of the teacher's teaching certificate pursuant to this subdivision have been set aside upon appeal or otherwise reversed, vacated or annulled, the commissioner shall be required to conduct a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations prior to making a determination as to whether to reinstate the teacher's original teaching certificate. Such determination shall be made within ninety days after such proof has been received.

f. Except as provided in paragraph g of this subdivision, and notwithstanding any other provision of law to the contrary, a teacher shall be reinstated to his or her position of employment in a public school, with full back pay and benefits from the date his or her certificate was revoked or annulled to the date of such reinstatement, under the following circumstances:

- (i) The termination of employment was based solely on the conviction of a sex offense, or the revocation or annulment of a certificate based on such conviction, and such conviction has been set aside on appeal or otherwise reversed, vacated or annulled and the commissioner has reinstated the teacher's certification pursuant to paragraph e of this subdivision; or
- (ii) The termination of employment was based solely on the conviction of a sex offense and it has been determined that the teacher is not the same person as the convicted offender.

g. If a teacher's employment was terminated as a result of a disciplinary proceeding conducted pursuant to section three thousand twenty-a of this chapter or other disciplinary hearing conducted pursuant to any collective bargaining or contractual agreement on one or more grounds other than conviction of a sex offense, or the revocation or annulment of a certificate based on such conviction, then nothing in paragraph f of this subdivision shall require a school district to reinstate employment of such teacher or be liable for back pay or benefits.

h. No provision of this article shall be deemed to preclude the following:

- (i) the commissioner from conducting a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations; or
- (ii) a school district or employing board from bringing a disciplinary proceeding pursuant to section three thousand twenty-a of this chapter; or
- (iii) a school district or employing board from bringing an alternative disciplinary proceeding conducted pursuant to a collective bargaining or contractual agreement.

i. The commissioner shall be authorized to promulgate any regulations necessary to implement the provisions of this subdivision.

7-b.

a. In addition to the authority to revoke and annul a certificate of qualification of a teacher in a proceeding brought pursuant to subdivisions seven and seven-a of this section, the commissioner shall be authorized, and it shall be his or her duty, to revoke and annul in accordance with this subdivision the certificate of a school administrator or supervisor convicted of an offense listed under subparagraph two of paragraph b of this subdivision.

b. As used in this subdivision, the following terms shall have the following meanings:

- (1) "conviction" means any conviction whether by plea of guilty or nolo contendere or from a verdict after trial or otherwise;
- (2) "offense" means defrauding the government as defined in section 195.20 of the penal law, and any such offense in any other jurisdiction which includes all of the elements of such felony and for which a sentence to a term of imprisonment in excess of one year was authorized and is authorized in such state, irrespective of whether such sentence was imposed;
- (3) "school administrator or supervisor" means any professional school district administrator, school administrator or supervisor, or school business administrator holding a certificate as defined in subparagraph four of this paragraph; and
- (4) "certificate" means the certificate or license or other certificate of qualification granted to qualify an individual to serve as a school administrator or supervisor by any authority whatsoever.

c. Upon receipt of a certified copy of a criminal history record showing that a school administrator or supervisor has been convicted of an offense as defined in subparagraph two of paragraph b of this subdivision or upon receipt of notice of such a conviction as provided in paragraph d of this subdivision, the commissioner shall automatically revoke and annul the certificate of such school administrator or supervisor without the right to a hearing. The commissioner shall mail notice of the revocation pursuant to this subdivision by certified mail, return receipt requested, and by first-class mail directed to the school administrator's or supervisor's last known address and, if different, the last address filed by the certificate holder with the commissioner and to the school administrator's or supervisor's counsel of record in the criminal proceeding as reported in the notice pursuant to paragraph d of this subdivision. Such notice shall inform the school administrator or supervisor that his or her certificate has been revoked and annulled, identify the offense of which the school administrator or supervisor has been convicted and shall set forth the procedure to follow if the school administrator or supervisor denies he or she is the person who has been so convicted. If such school administrator or supervisor notifies the commissioner in writing within twenty-five days after the date of receipt of the notice that he or she is not the same person as the convicted offender identified in the criminal record, or identified pursuant to paragraph d of this subdivision, provides proof to reasonably

support such claim and the commissioner is satisfied the proof establishes such claim, the commissioner shall, within five business days of the receipt of such proof, restore such school administrator's or supervisor's teaching certificate retroactive to the date of revocation and annulment.

d. Upon conviction of a school administrator or supervisor of an offense defined in subparagraph two of paragraph b of this subdivision, the district attorney or other prosecuting authority who obtained such conviction shall provide notice of such conviction to the commissioner identifying the offense of which the school administrator or supervisor has been convicted, the name and address of such offender and other identifying information prescribed by the commissioner, including the offender's date of birth and social security number, to the extent consistent with federal and state laws governing personal privacy and confidentiality of information. Such district attorney or other prosecuting authority shall include in such notice the name and business address of the offender's counsel of record in the criminal proceeding.

e. Upon receipt of proof that the conviction or convictions that formed the basis for revocation and annulment of the school administrator's or supervisor's certificate pursuant to this subdivision have been set aside upon appeal or otherwise reversed, vacated or annulled, the commissioner shall be required to conduct a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations prior to making a determination as to whether to reinstate the school administrator's or supervisor's original certificate. Such determination shall be made within ninety days after such proof has been received.

f. Except as provided in paragraph g of this subdivision, and notwithstanding any other provision of law to the contrary, a school administrator or supervisor shall be reinstated to his or her position of employment in a public school or public school district, with full back pay and benefits from the date his or her certificate was revoked or annulled to the date of such reinstatement, under the following circumstances:

- (1) The termination of employment was based solely on the conviction of an offense defined in subparagraph two of paragraph b of this subdivision, or the revocation or annulment of a certificate based on such conviction, and such conviction has been set aside on appeal or otherwise reversed, vacated or annulled and the commissioner has reinstated the school administrator's or supervisor's certification pursuant to paragraph e of this subdivision; or
- (2) The termination of employment was based solely on the conviction of an offense defined in subparagraph two of paragraph b of this subdivision and it has been determined that the school administrator or supervisor is not the same person as the convicted offender.

g. If a school administrator's or supervisor's employment was terminated as a result of a disciplinary proceeding conducted pursuant to section three thousand twenty-a of this chapter or other disciplinary hearing conducted pursuant to any collective bargaining or contractual agreement on one or more grounds other than conviction of an offense defined in subparagraph two of paragraph b of this subdivision, or the revocation or annulment of a certificate based on such conviction, then nothing in paragraph f of this subdivision shall require a school district to reinstate the employment of such school administrator or supervisor or be liable for back pay or benefits.

h. No provision of this article shall be deemed to preclude the following:

- (1) the commissioner from conducting a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations; or
- (2) a school district or employing board from bringing a disciplinary proceeding pursuant to section three thousand twenty-a of this chapter; or

(3) a school district or employing board from bringing an alternative disciplinary proceeding conducted pursuant to a collective bargaining or contractual agreement.

i. The commissioner shall be authorized to promulgate any regulations necessary to implement the provisions of this subdivision.

8. He shall cause to be prepared and keep in his office records of all persons who have received, or shall receive, certificates of qualification to teach or diplomas of the state teachers colleges, and state colleges for teachers, with the dates thereof, and shall note thereon all annulments of such certificates and diplomas, and reversals thereof, with the dates and causes thereof, together with such other particulars as he may deem expedient.

9. The commissioner shall procure with the consent of the federal authorities complete lists giving the names, ages and destination within the state of all alien children of school age and such other facts as will tend to identify them, and shall deliver copies of such lists to the several boards of education and school boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of this chapter relative to the compulsory attendance at school of children of school age.

10. He may administer oaths and take affidavits concerning any matter relating to the duties of his office or pertaining in any way to the schools of the state or any part thereof.

11. He is hereby authorized to furnish, by means of pictorial or graphic representations, additional facilities for instruction in geography, history, science and kindred subjects, to the schools, institutions and organizations under the supervision of the regents. Material collected for this purpose may, under regents' general rules, be lent for a limited time to responsible institutions and organizations for the benefit of artisans, mechanics and other citizens of the several communities of the state. He may from time to time enter into contracts necessary for carrying out this provision.

12. The commissioner of education is authorized and directed to establish and provide for the maintenance and conduct of courses of study or training in state teachers colleges and state colleges for teachers and in colleges and universities and other educational institutions and in connection with other educational agencies for the purpose of training teachers in principles and methods of instruction, and to give them knowledge to fit them to instruct foreign born and native adults and minors over sixteen years of age in evening, extension, factory, home and community classes. Such courses of study shall be prescribed by the commissioner of education and shall continue for a period of not less than one year. No teacher employed to instruct foreign born and native adults and minors over sixteen years of age shall be employed by the state or compensated in whole or in part by the state, unless he shall have completed such course of study or training or shall have an equivalent thereof to be determined under the regulations of the commissioner of education. A special certificate shall be issued to teachers who have completed such course of study or a course of instruction which is equivalent thereto, provided, however, that temporary permits may be issued by the commissioner of education to teachers who are qualified to give such instruction pending the completion of such a course of study or training.

12-a. The commissioner shall evaluate the effectiveness of all teacher preparation programs in the state, and the timelines and costs of developing or modifying data systems to collect the necessary data. Such study shall consider measuring the effectiveness of such programs based on the academic performance of their students and graduates and through other measures. The commissioner shall consult with the chancellors of the state university

of New York and the city university of New York, and other representatives of institutions of higher education. Upon completion of such study, the commissioner shall make recommendations to the board of regents on implementation of such methodologies.

13. The commissioner of education or the board of education or trustees of any city or school district may provide for the establishment of courses of instruction or study and schools in connection with factories, places of employment, or in such other places as he or they may deem advisable, for the purpose of giving instruction to foreign-born and native adults and minors over the age of sixteen years. Such course of instruction or study shall include instruction in English, history, civics and other subjects tending to promote good citizenship and to increase vocational efficiency. Such course of instruction and study shall be prescribed by the regents of the university of the state of New York, and shall be in conformity with rules to be adopted by them.

14. * a. All contracts for the transportation of school children, all contracts to maintain school buses owned or leased by a school district that are used for the transportation of school children, all contracts for mobile instructional units, and all contracts to provide, maintain and operate cafeteria or restaurant service by a private food service management company shall be subject to the approval of the commissioner, who may disapprove a proposed contract if, in his opinion, the best interests of the district will be promoted thereby. Except as provided in paragraph e of this subdivision, all such contracts involving an annual expenditure in excess of the amount specified for purchase contracts in the bidding requirements of the general municipal law shall be awarded to the lowest responsible bidder, which responsibility shall be determined by the board of education or the trustee of a district, with power hereby vested in the commissioner to reject any or all bids if, in his opinion, the best interests of the district will be promoted thereby and, upon such rejection of all bids, the commissioner shall order the board of education or trustee of the district to seek, obtain and consider new proposals. All proposals for such transportation, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers designated by the board of education or trustee of the district having general circulation within the district for such purpose. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to an award of a contract for the transportation of pupils or a contract for mobile instructional units, if such award is based on an evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units secured either through competitive bidding or through evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision, when such extensions

(1) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and,

(2) do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the

transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to his existing statutory authority to approve or disapprove transportation or maintenance contracts,

- (i) to reject any extension of a contract beyond the initial term thereof if he finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period; and
 - (ii) to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in his opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section. The board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.
- * NB Effective until June 30, 2012

14. b. Notwithstanding the provisions of paragraph a of this subdivision, in the case of any emergency arising out of an accident or other unforeseen occurrence or condition affecting pupil transportation services within a district, and requiring immediate action which cannot await competitive bidding, interim contracts for pupil transportation services may be let by the board of education or the trustee of such district for a period not to exceed one month, pending the award of a contract for such services in compliance with the provisions of paragraph a of this subdivision.

14. c. Each board of education, or the trustees, of a school district which elected or elects to extend one or more pupil transportation contracts may extend a contract in an amount which is in excess of the maximum increase allowed by use of the CPI referenced in paragraph a of this subdivision. Such excess amount shall not be greater than the sum of the following:

- (i) the sum of the actual cost of qualifying criminal history and driver licensing testing fees attributable to special requirements for drivers of school buses pursuant to articles nineteen and nineteen-A of the vehicle and traffic law plus the actual cost of any diagnostic tests and physical performance tests that are deemed to be necessary by an examining physician or the chief school officer to determine whether an applicant to drive a school bus under the terms of the contract has the physical and mental ability to operate a school transportation conveyance and to satisfactorily perform the other responsibilities of a school bus driver pursuant to regulations of the commissioner;
- (ii) in a school district located in a city with at least one million inhabitants, the actual cost of clean air technology filters and Global Positioning System (GPS) technology;
- (iii) in a school district located in a city with at least one million inhabitants, with respects only to any extension beginning in fiscal year two thousand five--two thousand six, the sum of the actual cost of providing school bus attendants including the actual cost of criminal history record checks for school bus attendant applicants and training and instruction for

school bus attendants pursuant to section twelve hundred twenty-nine-d of the vehicle and traffic law plus up to five percent of such cost for necessary administrative services; and (iv) the actual cost of equipment or vehicle modification, or training required, by any state or local legislation or regulation promulgated or effective on or after June first, two thousand five. Such costs shall be approved by the commissioner upon documentation provided by the school district and contractor as required by the commissioner.

14.*d. Notwithstanding the provisions of paragraphs a, b and c of this subdivision, the board of education or the trustee of a district and a contractor providing pupil transportation services to such district may amend a contract for pupil transportation services upon a finding that such amendment is necessary to comply with any federal, state or local law, rule or regulation imposed after the execution of such contract, or to enhance the safety of pupil transportation, as determined by the board or trustee subject to the approval of the commissioner pursuant to regulations which shall require demonstrable enhancements in pupil safety and/or increased savings consistent with maintaining pupil safety. Such amendment shall cause no additional cost to the state, locality or school district. The commissioner shall not approve such an amendment if the commissioner finds that it circumvents the competitive bidding requirements contained in paragraph a of this subdivision, or otherwise violates this section or any other provision of law, or fails to increase or maintain the safety of pupil transportation. * NB Repealed January 1, 2011

14.*e. Notwithstanding the provisions of any general, special or local law or charter, a board of education or a trustee of a district, pursuant to rules and regulations promulgated by the commissioner, may award a contract for the transportation of pupils or a contract for mobile instructional units involving an annual expenditure in excess of the amount specified for purchase contracts in the bidding requirements of the general municipal law in compliance with the provisions of paragraph a of this subdivision or subsequent to an evaluation of proposals submitted in response to a request for proposals prepared by or for the board of education or trustee of a district. The commissioner, in addition to his existing statutory authority to approve or disapprove transportation contracts, may reject any award of a transportation contract or a contract for mobile instructional units that is based on an evaluation of proposals submitted in response to a request for proposals if he finds that (1) the contractor is not the most responsive to the request for proposals, or (2) that the best interests of the district will be promoted thereby. * NB Repealed June 30, 2012

14.*f. When a board of education or a trustee of a school district elects to receive proposals submitted in response to a request for proposals, such board of education or trustee shall evaluate each proposal from a responding contractor according to criteria established by the commissioner. For evaluation of proposals related to contracts for pupil transportation services, such criteria shall include at a minimum

- (i) the previous experience of the contractor in transporting pupils,
- (ii) the name of each transportation company the contractor has been an owner or a manager and previous experience,
- (iii) a description of any safety programs implemented by the contractor,
- (iv) a record of accidents in motor vehicles under the control of the contractor,
- (v) driving history of employees of the contractor,
- (vi) inspection records and model year of the motor vehicles under the control of the contractor,
- (vii) maintenance schedule of the motor vehicles under the control of the contractor,
- (viii) financial analysis of the contractor, and (ix) compliance with insurance requirements.

For evaluation of proposals related to contracts for mobile instructional units, such criteria shall include at a minimum

- (1) the previous experience of the contractor in providing mobile instructional units for use by public school districts,
- (2) the name of each transportation company or manufacturer in which the contractor or any of the contractor's officers has been an owner or a manager or has had a controlling interest,
- (3) a description of any vehicle safety standards included in the design standards for the mobile instructional units under the control of the contractor that exceed applicable standards defined in statute or regulations,
- (4) inspection records and model year of the mobile instructional units under the control of the contractor,
- (5) maintenance schedule of the mobile instructional units under the control of the contractor, (6) financial analysis of the contractor and (7) compliance with insurance requirements.

* NB Repealed June 30, 2012

15. The extension industrial teacher training courses heretofore established are continued under the jurisdiction and control of the education department. Members of the faculty to teach such courses shall be appointed by the commissioner of education and, subject to the approval of the director of the budget, shall be classified, allocated and paid in accordance with the schedules contained in section three hundred fifty-five-a of this chapter.

16. The commissioner shall cooperate with the commissioner of health to facilitate the timely establishment and maintenance of current records of courses in advanced emergency medical technology.

17. Whenever a mistake has been made, or an honest dispute exists, as to the location of the division line between land owned by the state, which is under the jurisdiction, care, custody or control of the department of education, and adjoining privately owned land, the commissioner of education, acting for and on behalf and in the name of the people of the state of New York, may enter into a boundary line agreement, fixing and determining the division line between such lands, subject to the approval of the attorney general as to form, content and manner of execution.

18. The commissioner shall cooperate with the superintendent of banks and the commissioner of commerce in the creation of educational programs to be offered in conjunction with and in support of the export finance awareness program of the department of banks and the department of commerce. Such assistance may include, but shall not be limited to, the development of specific training programs, identification of potential training needs, provision of facilities for training and the identification of potential trainees. Further activity by the commissioner shall require that a designee of the commissioner attend each and every export awareness advisory board meeting, formally report to the commissioner, and have the commissioner contact the superintendent of banks and the commissioner of commerce so that the superintendent of banks may coordinate the activities of each of these components in the area of training.

19. The commissioner is authorized and directed to require all elementary and secondary schools to store all chemicals present in their science facilities in locked and secure storage rooms and cabinets. The schools shall provide for the placement, spacing, arrangement,

ventilation and fire protection of such stored chemicals in accordance with guidelines promulgated by the commissioner of education. The commissioner shall also require all elementary and secondary schools to prepare at least annually an inventory of such chemicals, including the chemical's name, the chemical abstracts service registry number, a hazard warning code, the generally accepted method or methods of disposal, a compatible storage code, the date received, the scheduled date of disposal, the quantity received, the quantity remaining and its location. The inventory must be kept in a secure location and be available for inspection by the commissioner.

20. He shall also have and execute such further powers and duties as he shall be charged with by the regents.

21. a. For the purposes of the computation of the apportionment of aid under any of the provisions of this chapter or any other law, the commissioner shall promulgate regulations to provide where not otherwise provided by law, for the use of whole numbers, fractions or decimals. Such regulations shall specify when such numbers shall be rounded or truncated. Such regulations may provide that under each apportionment the amount of aid to be paid pursuant to the applicable section of law may be paid in whole dollars.

21.b. The commissioner shall periodically prepare an updated electronic data file containing actual and estimated data relating to apportionments due and owing during the current school year and projections of such apportionments for the following school year to school districts and boards of cooperative educational services from the general support for public schools, growth and boards of cooperative educational services appropriations on the following dates: November fifteenth, or such alternative date as may be requested by the director of the budget for the purpose of preparation of the executive budget; February fifteenth, or such alternative date as may be jointly requested by the chair of the senate finance committee and the chair of the assembly ways and means committee; and May fifteenth.

21.c. The commissioner shall transmit a report in support of the general support for public schools appropriation to the director of the budget and each such committee chair containing schedules displaying such apportionments then due and owing, including updated data for the current audit year, seven preceding audit years and the estimated year, to coincide with each such update and by September first with respect to payments due for the preceding school year.

22. The commissioner shall establish the procedures for a statewide system of assigning unique student identification numbers for all students in public and nonpublic schools within the state for purposes of student tracking and for state reporting purposes. Students shall retain their numbers until they attain the age of twenty-one. As new students enter schools in New York, they shall be assigned a unique number. The commissioner shall include in such system appropriate procedures for insuring security and confidentiality of student information. The commissioner shall adopt regulations to provide for the implementation of such statewide system by school districts and nonpublic schools.

23. The commissioner shall have primary responsibility for the development and implementation of integrated employment opportunities including short-term and intensive supported employment services and, as appropriate, long-term extended support services and shall coordinate with the commissioner of social services, the commissioner of the office of mental health and the commissioner of the office of mental retardation and

developmental disabilities under an integrated employment implementation plan, pursuant to article twenty-one of this chapter.

24. Notwithstanding any inconsistent provision of this chapter, the commissioner may, by regulation, provide for a system whereby schools, school districts and municipalities submit required certifications electronically or in any other media form which the commissioner reasonably determines offers the same degree of accountability and control provided by paper certifications. The certifications described in this subdivision shall constitute written instruments, computer data or statements within the meaning of articles one hundred seventy, one hundred seventy-five and one hundred seventy-six of the penal law.

25. The commissioner shall conduct periodic fiscal audits of boards of cooperative educational services as defined in section nineteen hundred fifty of this chapter and, to the extent sufficient resources are provided the department for such purpose, shall assure that each such board of cooperative educational services is audited at least once every three years.

26. The commissioner is authorized and directed to promulgate rules and regulations to require that any statement prepared to satisfy the provisions of sections sixteen hundred eight, seventeen hundred sixteen and twenty-six hundred one-a of this chapter, any district-wide mailing distributed which in whole or part related to such statement, and any report prepared to satisfy the requirements of sections sixteen hundred ten, seventeen hundred twenty-one and twenty-five hundred twenty-eight of this chapter, commencing in the nineteen hundred ninety-seven--ninety-eight school year, be in plain language and that categorization of and format for revenue including payments in lieu of taxes, property tax refunds from certiorari proceedings, expenditure, transfer, and fund balance information and changes in such data from the prior year and, in the case of a resubmitted or amended budget, changes in such information from the prior year's submitted budget, shall be complete and accurate and set forth in such a manner as to best promote public comprehension and readability.

27. The commissioner shall promulgate regulations in consultation with the New York state energy research and development authority concerning the development and approval of energy performance contracts for school districts and boards of cooperative educational services in accordance with subdivision eight of section 9-103 of the energy law.

28. On or before April first, two thousand, the commissioner shall develop and implement an automated board of cooperative educational services state aid reporting system for the purpose of tracking and reporting state and local expenditures for aidable shared services pursuant to subdivision five of section nineteen hundred fifty of this chapter. Such system shall track state and local expenditures in the manner prescribed by the commissioner, provided that, at a minimum, such system shall report such expenditures by board of cooperative educational services, by type of cooperative service agreement (CO-SER) and by component school district. In addition, such system shall report expenses and aid totals, as well as expenditures and aid per resident weighted average daily attendance.

29. The commissioner shall develop a program whereby any veteran of the armed forces who served in world war II and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

29.a. The commissioner shall develop a program whereby any veteran of the armed forces who served in the Korean conflict and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

29.b. The commissioner shall develop a program whereby any veteran of the armed forces who served in the Vietnam war and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

30. (a) The commissioner, in cooperation with the division of criminal justice services and in accordance with all applicable provisions of law, shall promulgate rules and regulations to require the fingerprinting of prospective employees, as defined in section eleven hundred twenty-five of this chapter, of school districts, charter schools and boards of cooperative educational services and authorizing the fingerprinting of prospective employees of nonpublic and private elementary and secondary schools, and for the use of information derived from searches of the records of the division of criminal justice services and the federal bureau of investigation based on the use of such fingerprints. The commissioner shall also develop a form for use by school districts, charter schools, boards of cooperative educational services, and nonpublic and private elementary and secondary schools in connection with the submission of fingerprints that contains the specific job title sought and any other information that may be relevant to consideration of the applicant. The commissioner shall also establish a form for the recordation of allegations of child abuse in an educational setting, as required pursuant to section eleven hundred twenty-six of this chapter. No person who has been fingerprinted pursuant to section three thousand four-b of this chapter or pursuant to section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law and whose fingerprints remain on file with the division of criminal justice services shall be required to undergo fingerprinting for purposes of a new criminal history record check. This subdivision and the rules and regulations promulgated pursuant thereto shall not apply to a school district within a city with a population of one million or more.

30. (b) The commissioner, in cooperation with the division of criminal justice services, shall promulgate a form to be provided to all such prospective employees of school districts, charter schools, boards of cooperative educational services, and nonpublic and private elementary and secondary schools that elect to fingerprint and seek clearance for prospective employees that shall:

- (i) inform the prospective employee that the commissioner is required or authorized to request his or her criminal history information from the division of criminal justice services and the federal bureau of investigation and review such information pursuant to this section, and provide a description of the manner in which his or her fingerprint cards will be used upon submission to the division of criminal justice services;
- (ii) inform the prospective employee that he or she has the right to obtain, review and seek correction of his or her criminal history information pursuant to regulations and procedures established by the division of criminal justice services.

30. (c) The prospective employer shall obtain the signed, informed consent of the prospective employee on such form supplied by the commissioner which indicates that such person has:

(i) been informed of the right and procedures necessary to obtain, review and seek correction of his or her criminal history information;

(ii) been informed of the reason for the request for his or her criminal history information;

(iii) consented to such request for a report;

(iv) supplied on the form a current mailing or home address for the prospective employee;

(v) been informed that he or she may withdraw his or her application for employment pursuant to this section, without prejudice, at any time before employment is offered or declined, regardless of whether the prospective employee or employer has reviewed such prospective employee's criminal history information;

(vi) where the applicant is to be fingerprinted pursuant to section three thousand thirty-five of this chapter, the process for seeking a waiver of the fees associated with conducting a criminal history records check, pursuant to paragraph (b) of subdivision four of section three thousand thirty-five of this chapter, (vii) been informed that in the event his or her employment is terminated and such person has not become employed in the same or another school district, charter school, board of cooperative educational services, or nonpublic or private elementary or secondary school within twelve-months of such termination, the commissioner shall notify the division of criminal justice services of such termination, and the division of criminal justice services shall destroy the fingerprints of such person. Such person may request that the commissioner notify the division of criminal justice services that his or her fingerprints shall be destroyed prior to the expiration of such twelve month period in which case the commissioner shall notify the division of criminal justice services and the division shall destroy the fingerprints of such person promptly upon receipt of the request; and

(viii) been informed of the manner in which he or she may submit to the commissioner any information that may be relevant to the consideration of his or her application for clearance including, where applicable, information in regard to his or her good conduct and rehabilitation.

30.* (d) The commissioner shall develop forms to be provided to all school districts, charter schools, boards of cooperative educational services, and to all nonpublic and private elementary and secondary schools that elect to fingerprint their prospective employees, to be completed and signed by prospective employees when conditional appointment or emergency conditional appointment is offered. * NB Repealed July 1, 2010

30.* (e) The commissioner may promulgate rules and regulations regarding the conditional appointment and emergency conditional appointment of a prospective employee. * NB Repealed July 1, 2010

* **31.** The commissioner shall direct that each school district, charter school, and private elementary and secondary school appoint a designated educational official for the purposes set forth in section 380.90 of the criminal procedure law, subdivision seventeen of section 301.2 and subdivision three of section 380.1 of the family court act. In addition, the commissioner shall promulgate rules and regulations, in consultation with the office of court administration, to facilitate electronic access by the courts to the names and addresses of such designated educational officials. * NB There are 2 sub 31's

* **31.** The commissioner shall cooperate with the commissioner of agriculture and markets in establishing a farm-to-school program and coordinating New York Harvest For New York Kids Week as described in subdivision five-b of section sixteen of the agriculture and markets law. The commissioner's responsibilities shall include, but not be limited to, compiling information for the department of agriculture and markets from school districts and other educational institutions under the department's jurisdiction interested in

purchasing New York farm products and disseminating to those districts and institutions information from the department of agriculture and markets about the availability of New York farm products, and contact information for farmers and other businesses marketing such products. The commissioner shall report to the legislature about the need for changes in law to facilitate the purchase of such products by schools and other institutions. * NB There are 2 sub 31's

32. On or before June first, two thousand three, the commissioner shall complete a review of all applications, plans and reports required of school districts or boards of cooperative educational services by the department. This review shall be undertaken with a focus on streamlining all programmatic reporting requirements with the aim of eliminating or reducing excess reporting requirements and to determine the need for continued annual submission of such documents. Upon completion of such review, the commissioner shall submit his or her findings to the director of the budget, the chair of the assembly ways and means committee and the chair of the senate finance committee.

* **33. a.** The commissioner shall establish procedures for the approval of providers of supplemental educational services in accordance with the provisions of subsection (e) of section one thousand one hundred sixteen of the No Child Left Behind Act of 2001 and shall adopt regulations to implement such procedures. Notwithstanding any other provision of state or local law, rule or regulation to the contrary, any local educational agency that receives federal funds pursuant to title I of the Elementary and Secondary Education Act of nineteen hundred sixty-five, as amended, shall be authorized to contract with the approved provider selected by a student's parent, as such term is defined in subsection thirty-one of section nine thousand one hundred one of the No Child Left Behind Act of 2001, for the provision of supplemental educational services to the extent required under such section one thousand one hundred sixteen. Eligible approved providers shall include, but not be limited to, public schools, BOCES, institutions of higher education, and community based organizations.

* **33. b.** Notwithstanding any other provision of law to the contrary, for purposes of article twenty-three-B of this chapter and for purposes of a criminal history record check pursuant to section three thousand thirty-five or subdivision twenty of section twenty-five hundred ninety-h of this chapter, any individual who is employed by or associated with a supplemental educational services provider approved by the commissioner other than a school district, board of cooperative educational services or charter school, and who will provide supplemental educational services through direct contact with eligible children shall be deemed to be an employee of the school district in which he or she provides such services for purposes of article twenty-three-B of this chapter and shall be deemed to be a prospective employee of each school district in which such provider is authorized to provide services and shall be required to be fingerprinted pursuant to section three thousand thirty-five or subdivision twenty of section twenty-five hundred ninety-h of this chapter, regardless of the location in which such services are delivered. * NB Repealed June 30, 2010

34. The commissioner is hereby authorized and directed to apply school bus safety practices instruction and retraining requirements prescribed pursuant to the provisions of section thirty-six hundred twenty-four of this chapter to drivers who operate transportation which is owned, leased or contracted for by private and parochial schools to the same extent as such requirements shall apply to drivers who operate transportation which is owned, leased or contracted for by public school districts. The chief school administrator of every private and parochial school shall approve the employment of each driver for each school bus operated

for such private or parochial school and shall ensure that each such driver shall meet the school bus safety practices instruction and retraining requirements prescribed pursuant to section thirty-six hundred twenty-four of this chapter. Nothing in this subdivision shall be construed to apply such provisions to volunteer drivers who transport pupils on other than a regularly established route on an occasional basis.

*** 35.** The commissioner shall develop guidelines by which school districts may establish a program to make available to parents or persons in parental relation of children attending schools in such districts, an internet based electronic communications system to provide for the transmission of individual personalized messages or group communication over the internet, to communicate with the teachers of such children. * NB There are 2 sb 35's

*** 35.** The commissioner shall, in cooperation with the commissioner of mental health, develop guidelines for voluntary implementation by school districts, that incorporate social and emotional development into elementary and secondary school educational programs as prescribed in paragraph (b) of subdivision one of section three of the children's mental health act of 2006. * NB There are 2 sb 35's

36. The commissioner shall ensure that by July first, two thousand eight, a student progress report, written in plain English and in a form prescribed by the commissioner, is prepared for all students. Such progress report shall provide parents or persons in parental relation with information on their child's performance on state assessments over multiple years of testing and shall also explain the process by which parents or persons in parental relation may inquire further about their child's progress. All school districts and charter schools shall prepare and disseminate the student progress report to parents or persons in parental relation in a timely manner.

37. The commissioner shall develop methods to support educators in the use of performance data to assist in student learning, which shall be periodically improved based on feedback from educators.

38. The commissioner shall develop informational materials to assist parents or persons in parental relation and teachers in understanding the regents learning standards and the results of state assessments.

39. The commissioner shall develop a school leadership report card and a separate school progress report card to assist boards of education, the state and the public in assessing the performance of school leaders, including superintendents of schools and building principals, and the schools that they lead. The report cards shall include an assessment of the school's progress in achieving standards of excellence. By January first, two thousand nine, the commissioner shall develop such standards of excellence which shall include, but not be limited to, parent involvement, curriculum, teacher quality, and accountability measures as set forth in section two hundred eleven-a of this title. The commissioner shall promulgate regulations requiring the trustees or boards of education of every common, union free, central, central high school and city school district, and the chancellor of a city school district in a city of one million or more inhabitants, to attach copies of such report cards to the statement of estimated expenditures pursuant to section sixteen hundred eight or seventeen hundred sixteen of this chapter, where applicable, and to otherwise make the report cards publicly available in the same manner as a school district report card.

40. The board of regents shall explore the development of a pre kindergarten through post secondary (P-16) data system that tracks student performance from pre kindergarten

through attendance at public colleges in this state and links students to teachers or instructors. The commissioner shall consult with other relevant state departments, agencies and instrumentalities of the state about the feasibility of linking the system to other data collection systems containing information relevant to the education of children, including but not limited to social services information; and to identify barriers to the exchange of data between the P-16 system and social services and other systems under their control and collaborate to facilitate the free exchange of data. Such data system shall be maintained consistent with applicable confidentiality requirements, so as to prevent disclosures that would constitute an unwarranted invasion of personal privacy. The commissioner shall report to the board of regents on activities conducted pursuant to this subdivision.

41. The commissioner shall establish a program to evaluate various methods used by schools to identify students receiving a free or reduced price meal under programs authorized by the National School Lunch Act, as amended, or the Child Nutrition Act of 1966, as amended. The commissioner shall identify methodologies and practices utilized by schools and school districts, within the state and nationally, to:

- a. simplify student access to meal programs; and
- b. identify students through an electronic payment system, or through other means, in order to eliminate the overt identification of students receiving a free or reduced price meal.

On or before July first, two thousand nine, the commissioner shall disseminate detailed information on the best practices utilized by such schools and school districts which simplify access and eliminate the distinction between students receiving a free or reduced price meal and those paying full price so as to more effectively operate the program. The commissioner shall also submit a report containing such information to the legislature on or before such date.