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§ 1. Short title

This chapter shall be known as the "Education Law".

§ 2. Definitions

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

1. Academy. The term "academy" means an incorporated institution for instruction in secondary education, and such high schools, academic departments in union free school districts and similar unincorporated schools as are admitted by the regents to the university as of academic grade.

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

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

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

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

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

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

8. Higher education. The term "higher education" means education in advance of secondary education, and includes

*Bracketed language inserted by the Publisher.

*Another Article 24 (§§ 1120-1126), repealed, L 1972, ch 679, eff May 30, 1972.

the work of colleges, universities, professional and technical schools, and educational work connected with libraries, museums, university and educational extension courses and similar agencies.

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

10. Parental relation. The term "persons in parental relation" to a child includes the parents, guardians or other persons, whether one or more, lawfully having the care, custody or control of such child.

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

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

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

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

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

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

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

the children of the city between birth and eighteen years of age, as shown by the school census.

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

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

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

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

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

20-23. [Repealed]

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

§ 2-a. Release of directory information; access to institutions

Notwithstanding any other provision of law to the contrary, if a trustee, president, principal, or officer of any institution belonging to the University of the State of New York, or a board of education of any public school, in any city, union free, common or central school district or the administrator of any non-public school of secondary education receiving state funds permits the release of directory information relating to pupils or permits access to school buildings, school grounds or other school property to persons who inform pupils of educational, occupational or career opportunities, such trustee, president, principal, officer, board or administrator shall provide access to directory information relating to pupils and access to such school property on the same basis for official representatives of the state militia and the armed forces of the United States for the purpose of informing pupils of educational, occupa-

*There are two subs 17.

tional or career opportunities within the state militia or armed forces of the United States. Pursuant to this section, access provided to school property or directory information shall not be used for purposes other than informing students of educational, occupational or career opportunities.

§ 2-b. Use of student social security numbers restricted

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

ARTICLE 3 Education Department

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§ 101. Education department; regents of the university

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

§ 101-a. Promulgation of rules and regulations of commissioner relating to the supervision of services for the public good conducted under supervision of school districts

The commissioner of education shall promulgate rules and regulations for the supervision, by school districts, of programs of performing services for the public good by certain infants pursuant to the provisions of sections seven hundred fifty-eight-a and 353.6 of the family court act. Such rules and regulations, shall include, but not be limited to, provisions (a) assuring that the conditions of work, including wages, meet the standards therefore prescribed pursuant to the labor law; (b) affording coverage to the

*Bracketed language inserted by the Publisher.

*State Departments Law, repealed.

child under the workers' compensation law; (c) assuring that the entity receiving such services shall not utilize the same to replace its regular employees; and (d) providing for reports to the family court not less frequently than every six months, unless the family court orders otherwise.

§ 102. Associate and assistant commissioners

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

§ 103. Divisions of department

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

§ 104. Other officers and employees

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

§ 105. Removals and suspensions

With the approval of the regents, the commissioner of education may, at his pleasure, remove from office any assistant commissioner, or other appointive officer or employee; and, when the regents are not in session, the commissioner may, during his pleasure, suspend, without salary, any such officer or employee, but not longer than till the adjournment of the succeeding meeting of the regents.

§ 106. Joint seal

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

§ 107. Compact for education

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

COMPACT FOR EDUCATION

PREAMBLE

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

WHEREAS, the increasing demands of our whole national life for improving and expanding educational services require a broad exchange of research data and infor-

mation concerning the problems and practices of education; and,

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

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

Article I.

Purpose and Policy.

A. It is the purpose of this compact to:

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

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

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

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

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

C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

Article II.

State Defined.

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

Article III.

The Commission.

A. The educational commission of the states, hereinafter called "the commission", is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor;

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

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

C. The commission shall have a seal.

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

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

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

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

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

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

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

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

Article IV.

Powers

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

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

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

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

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

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

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

Article V.

Cooperation With Federal Government.

A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be

drawn from any one or more branches of the federal government, but no such representatives shall have a vote on the commission.

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

Article VI.

Committees.

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

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

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

Article VII.

Finance.

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

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

C. The commission shall not pledge the credit of any party states. The commission may meet any of its obliga-

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

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

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

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

Article VIII.

Eligible Parties; Entry Into and Withdrawal.

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

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

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

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

Article IX.

Construction and Severability.

This compact shall be liberally construed so as to effec-

tuate the purposes thereof. 1. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

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

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

§ 108. State education building

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

§ 109. [Use of auditorium in state education building; fee]*

Any person, association, organization or corporation may be permitted to use the auditorium in the state education building at Albany for such purposes as may be authorized by regulations of the commissioner of education upon payment of such fee as may be required pursuant to a schedule for such purpose adopted by the commissioner of education and approved by the director of the division of the budget.

§ 110. Refunds

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

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

§ 111. Indian affairs

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

§ 112. Children in care; responsibility for education

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

2. The commissioner shall prepare a report and submit it to the governor, the speaker of the assembly and the temporary president of the senate by December thirty-first, nineteen hundred ninety-six and on December thirty-first of each successive year. Such report shall contain, for each facility operated by or under contract with the office of children and family services that provides educational programs, an assessment of each facility's compliance with the rules of the board of regents, the regulations of the commissioner, and this chapter. Such report shall include, but not be limited to: the number of youth receiving services under article eighty-nine of this chapter; the office's activities undertaken as required by subdivisions one, two, four and eight of section forty-four hundred three of this chapter; the number of youth receiving bilingual education services; the number of youth eligible to receive limited English proficient services; interviews with facility residents conducted during site visits; library services; the ratio of teachers to students; the curriculum; the length of stay of each youth and the number of hours of instruction pro-

*Bracketed language inserted by the Publisher.

vided; instructional technology utilized; the educational services provided following the release and conditional release of the youth, including, but not limited to, the implementation of requirements for the enrollment of such youth in school contained in plans for release and conditional release submitted to the family court pursuant to paragraph (c) of subdivision seven of section 353.3 of the family court act and the compliance by local school districts with the regulations promulgated pursuant to subdivision one of this section; and any recommendations to ensure compliance with the rules of regents, regulations of the commissioner, and this chapter.

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

NOTES:

Editor's Notes:

It is the opinion of the Counsel of the Legislative Bill Drafting Commission that the 1994 amendments to this section made by chapter 63 of the laws of 1994 do not expire pursuant to section 133 of such chapter. The language of such section 133 provides that certain provisions shall not expire if "indicated otherwise". It is necessary to apply rules of liberal construction in order to allow for implementation when attempting to interpret the intent of the legislature in a case such as this. The first report was scheduled for submission on December 31, 1996. The language requiring and detailing the content of such report was added in a chapter scheduled to expire March 31, 1995, "unless indicated otherwise". It may be implied from the language of subdivision 2 of section 112 of the education law making reference to future dates that this provision was not intended to expire. Additionally, the detailed nature of the required reports also tends to indicate that the legislature did not intend for this legislation to expire on March 31, 1995.

Laws 2000, ch 181, §§ 1 and 24, eff Nov 1, 2000, provide as follows:

Section 1. This act shall be known and may be cited as "Project SAVE, Safe Schools Against Violence in Education Act"

§ 24. This act shall take effect November 1, 2000 provided that school districts shall be in full compliance with the provisions of this act by July 1, 2001, except that section seven of this act shall take effect July 1, 2001; section eight of this act shall take effect September 1, 2000; section twelve of this act shall apply to proceedings on or after such effective date; and sections nineteen through twenty-two of this act shall take effect on the first day of January next succeeding the date on which this act shall have become a law; provided, however that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

§ 113. Leaves of absence to professional members of the department

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

§ 114. Reduction of salaries for investment in custodial accounts

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

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

this section.

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

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

5. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.

§ 140. Historical documentary heritage grants and aid

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

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

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

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

c. "Institutions eligible for historical records program grants". Chartered or incorporated nonprofit archives, libraries, historical societies and museums and other nonprofit institutions in New York state which operate historical records programs and which meet standards to be established by the commissioner pursuant to regulations adopted for such purposes. Institutions operated by state or federal government agencies, and local government archives shall not be eligible for historical records project grants, except that an institution of the state university of New York or the city university of New York may apply for historical records project grants with regard to records other than internal records generated by the institution after July first, nineteen hundred forty-eight if it is a component of the state university of New York or after July first, nineteen hundred seventy-nine if it is a component of the city university of New York or after the subsequent date on which the institution became a component of such university.

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

e. "Cooperative project". A collaborative effort undertaken by two or more historical records programs, to meet shared needs or to accomplish a common purpose, or a

project undertaken by a service provider to address the historical records needs of more than one historical records program.

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

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

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

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

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

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

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

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

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

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

(iii) the central administration of the city university of New York shall be eligible for two and one-half percent of the total amount available.

b. Notwithstanding the provisions of subparagraphs one and two of paragraph a of this subdivision, the commissioner, taking into account the recommendations of the

New York state historical records advisory board, may distribute funds designated for one purpose to address the needs of another purpose, provided that the commissioner determines that the significance of the contributions to be realized from the proposals in one category outweighs the significance of the contributions to be realized from the proposals in another category.

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

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

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

- (1) a statement describing the applicant's need for the funding requested;
- (2) collection statements and policies used by the institution to guide its acquisition efforts;
- (3) a summary description of the records included in the historical records program of the institution;
- (4) the status of finding aids and published guides for the historical records held by the institution;
- (5) the current and/or anticipated level of use and audience for the historical records;
- (6) the importance of the historical records for documenting life in New York;
- (7) the expected impact of the grant upon the historical records program;
- (8) the plan of work for the activities for which the funding is sought;
- (9) the proposed project budget, including cost-sharing which would be committed to the project; and
- (10) the staff and other resources devoted to the institution's historical records program on an ongoing basis.

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

- (1) information in the proposal as set forth in paragraph b of this subdivision;
- (2) the capacity of the institution to make the historical records known and accessible for research, education, public programs, improved policy making and other public benefits;
- (3) the potential for improving the documentation of the heritage of any racial and ethnic group; and
- (4) the potential for improving the documentation of under documented subjects, institutions, or activities.

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

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

- (1) a statement describing the applicant's need for the funding requested;
- (2) a description of the issue, problem, or need that the project will address;
- (3) a description of the historical records programs to be

served and how the effort to be undertaken in a cooperative project relates to and will strengthen these programs;

- (4) description of the plan of work for the project;
- (5) outcome or product of the project and how it will improve the identification and administration of historical records or contribute to the strengthening of historical records programs; and
- (6) the proposed budget, including cost-sharing that would be contributed to the project.

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

- (1) information in the proposal as set forth in paragraph b of this subdivision;
- (2) the importance of the records involved for the documentation of life in New York state;
- (3) the importance of the project and the intended outcome or product in terms of strengthening the programs of the cooperating institutions and promoting improved historical records management;
- (4) the capacities of the cooperating institutions or service providers for carrying out the project, including prior experience with cooperative or service projects; and
- (5) the potential for cooperating institutions to sustain an ongoing productive cooperative relationship as a result of the project.

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

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

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

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

10. [Repealed]

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

PART II [Repealed]

Section