AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305, and 211-f as added by Chapter 56 of the Laws of 2015

Section 100.19 of the Regulations of the Commissioner of Education is added, effective February 22, 2016, as follows:

§100.19 Takeover and restructuring of failing and persistently failing schools.

(a) Definitions. As used in this section:

(1) Failing school (hereafter referred to as "struggling school") shall mean a school that has been identified as a priority school for at least three consecutive school years, or as a priority school in each applicable year of the three consecutive school year period comprising 2012-2013, 2013-2014 and 2014-2015 except one school year in which the school was not identified because of an approved closure plan that was not implemented. Such term shall not include schools within a special act school district as defined in Education Law section 4001(8), charter schools established pursuant to Article 56 of the Education Law, schools that were removed from Priority School designation during the 2014-2015 school year, schools that ceased operation at the end of the 2014-2015 school year, or schools that the commissioner has determined pursuant to subdivision (b) of this section to have extenuating or extraordinary circumstances that should cause the school to not be identified as struggling.

(2) Persistently failing school (hereafter referred to as "persistently struggling school") shall mean a school that has been identified as a priority school for each applicable year from the 2012-2013 school year to the 2014-2015 school year, or for each applicable year from the 2012-2013 school year to the 2014-2015 school year

except one school year in which the school was not identified because of an approved closure plan that was not implemented, and has also been identified as a School Requiring Academic Progress Year 5, School Requiring Academic Progress Year 6, School Requiring Academic Progress Year 7 and/or a School in Restructuring for each applicable year from the 2006-2007 school year to the 2011-2012 school year. Such term shall not include schools within a special act school district as defined in Education Law section 4001(8), charter schools established pursuant to Article 56 of the Education Law, schools that were removed from Priority School designation during the 2014-2015 school year, schools that ceased operation at the end of the 2014-2015 school year or schools that the commissioner has determined pursuant to subdivision (b) of this section to have extenuating or extraordinary circumstances that should cause the school to not be identified as persistently struggling.

(3) Priority school shall mean a school identified as a priority school pursuant to section 100.18(g) of this Part.

(4) School district in good standing shall mean a school district that has not been identified pursuant to section 100.18(g) this Part as a focus district.

(5) School district superintendent receiver shall mean a superintendent of schools of a school district with one or more schools designated as struggling or persistently struggling pursuant to Education Law section 211-f(1)(a) or (b) who, in accordance with Education Law section 211-f(1)(c) or (d), is vested with all the powers granted to an independent receiver appointed pursuant to Education Law section 211-f; provided that the school district superintendent receiver shall not be required to create and implement a school intervention plan or to convert a struggling or persistently

struggling school to a community school; provided further that, in the case of a struggling school or persistently struggling school in which, pursuant to Education Law section 211-e, an educational partnership organization has assumed the powers and duties of the superintendent of schools for purposes of implementing the educational program of the school, such term shall mean the educational partnership organization, which shall be vested with all the powers of an independent receiver consistent with this section and further provided that the educational partnership organization may not override any decision of the board of education with respect to the contract of the educational partnership organization.

(6) Independent receiver shall mean a non-profit entity or an individual with a proven track record of improving school performance or another school district in good standing appointed by a school district and approved by the commissioner to manage and operate all aspects of a school that the commissioner has determined shall be placed into receivership pursuant to Education Law section 211-f and this section and to develop and implement a school intervention plan for such school pursuant to subdivision (f) of this section and convert such school to a community school, provided that, in the case of an independent receiver who is an individual, such individual shall not be an existing officer or employee of the school district at the time of such appointment.

(7) School district shall mean a common, union free, central, central high school or city school district. The definition of school district shall not include a special act school district as defined in Education Law section 4001(8).

(8) Community school shall mean a school that partners with one or more agencies with an integrated focus on rigorous academics and the fostering of a positive and supportive learning environment, and a range of school-based and school-linked programs and services that lead to improved student learning, stronger families, and healthier communities. At a minimum, programs must include, but are not limited, to:

(i) addressing social service, health and mental health needs of students in the school and their families in order to help students arrive and remain at school ready to learn;

(ii) providing access to services in the school community to promote a safe and secure learning environment;

(iii) encouraging family and community engagement to promote stronger home-school relationships and increase families' investment in the school community;

(iv) providing access to nutrition services, resources or programs to ensure students have access to healthy food and understand how to make smart food choices;

(v) providing access to early childhood education to ensure a continuum of learning that helps prepare students for success; and

(vi) offering access to career and technical education as well as workforce development services to students in the school and their families in order to provide meaningful employment skills and opportunities; and

(vii) offering expanded learning opportunities that include afterschool, summer school, Science, Technology, Engineering, Arts, and Math programs (STEAM) and mentoring and other youth development programs.

(9) Superintendent shall mean the superintendent of schools or other chief school officer of a school district, and for the purpose of receivership in the city school district of the City of New York, superintendent shall mean the chancellor or his/her designee.

(10) Board of education shall mean the trustees or board of education of a school district; provided that in the case of the city school district of the City of New York, such term shall also mean the chancellor of the city school district or his/her designee acting in lieu of the board of education of such city school district to the extent authorized by article 52-A of the Education Law. and, with respect to community school districts and New York City superintendencies, such term shall mean the chancellor or his/her designee.

(11) Department shall mean the New York State Education Department.

(12) Department-approved intervention model or comprehensive education plan shall mean a comprehensive education plan pursuant to section 100.18(h)(2)(iii) of this Part, a plan for a School Under Registration Review pursuant to section 100.18(l)(3) of this Part, or a school phase out or closure plan pursuant to section 100.18(m)(5) of this Part.

(13) School intervention plan shall mean a plan created by an independent school receiver and approved by the commissioner pursuant to Education Law section 211-f(3)-(7) and subdivision (f) of this section.

(14) School receiver shall mean a school district superintendent serving as a receiver and an independent receiver serving as a receiver pursuant to this section.

(15) Diagnostic Tool for School and District Effectiveness shall mean a rubric used in accordance with a process prescribed by the commissioner by which a determination is made regarding the degree to which the optimum conditions for learning have been established in a school based upon factors such as school leadership and capacity, school leader practices and decisions, curriculum development and support, teacher practices and decisions, student social and emotional developmental health, and family and community engagement.

(16) "Consultation and cooperation" and "consultation and collaboration" shall mean a process by which the commissioner or his or her designee seeks input and feedback through written correspondence and/or meetings (e.g., in-person meetings, site visits, telephone conferences, video conferences).

(17) "Consultation" or "consulted" shall mean a process by which the school receiver seeks input and feedback through written correspondence and meetings (e.g., in-person meetings, site visits, telephone conferences, video conferences).

(18) "Day" shall mean school day, unless otherwise specified.

(b) Designation of schools as struggling or persistently struggling:

(1) On or about July 1, 2015 and, for each school year thereafter on a date prescribed by the commissioner, the commissioner shall preliminarily identify schools as struggling in accordance with paragraph (a)(1) of the this section.

(2) On or about July 1, 2015 and, for each year thereafter on a date prescribed by the commissioner, the commissioner shall preliminarily identify schools as persistently struggling in accordance with paragraph (a)(2) of this section.

(3) For each school preliminarily identified as struggling or persistently struggling pursuant to paragraphs (1) or (2) of this subdivision, the school district shall be given the opportunity to present to the commissioner additional data and relevant information concerning extenuating or extraordinary circumstances faced by the school that should be cause for the commissioner to not identify the school as struggling or persistently struggling (e.g., the district has submitted to the Commissioner a plan to close, phase-out or merge the school or to split the school based on grade configuration).

(4) The commissioner shall review any such additional information provided by the school district and determine which of the schools shall be identified as struggling or persistently struggling.

(c) Public Notice and Hearing and Community Engagement

(1) Upon the commissioner's designation of a school as struggling or persistently struggling pursuant to paragraph (4) of subdivision (b) of this section, the board of education of the school district or its designee shall:

(i) provide written notice to parents of, or persons in parental relation to, students attending a struggling or a persistently struggling school that the school has been so designated and may be placed into receivership and a description of the reason(s) the school has been so designated. Such notice shall be provided in English and translated, to the extent practicable, into the recipient's native language or mode of communication, and shall be provided as soon as practicable, but in no case later than 30 calendar days following such designation. In addition, the board of education or its designee shall also provide such written notification to the parents of, or persons in

parental relation to, students who enroll or seek to enroll in the school at the time they enroll or seek to enroll in the school;

(ii) by June 30 of each school year that a school remains identified as struggling or persistently struggling pursuant to subdivision (b) of this section, provide written notification to parents of, or persons in parental relation to, students attending the school that the school remains identified as struggling or persistently struggling and may be placed into receivership and a description of the reason(s) the school has been so designated. Such notice shall be provided in English and translated, when appropriate, into the recipient's native language or mode of communication. In addition, the board of education or its designee shall also provide such written notification to the parents of, or persons in parental relation to, students who enroll or seek to enroll in the school at the time they enroll or seek to enroll in the school during each school year that a school remains identified as struggling or persistently struggling; and

(iii) conduct at least one public meeting or hearing annually for purposes of discussing the performance of the designated school and the construct of receivership. Such initial meeting or hearing shall be held as soon as practicable, but in no case later than 30 calendar days following such designation. Subsequent annual hearings shall be held within 30 calendar days of the first day of student attendance in September of each school year that the school remains identified as struggling or persistently struggling. With respect to each such meeting or hearing, the school district shall:

(a) provide written notice at least 10 calendar days prior to such public meeting or hearing of the time and place of such public meeting or hearing to parents of, or persons in parental relation to, students attending the school that may be placed into

receivership. The district shall provide translators at the public meeting, as well as translations of the written notice into languages most commonly spoken in the school district and when appropriate, into the recipient's native language or mode of communication. In order to maximize opportunities for the participation of the public and parents of, or persons in parental relation to, students attending the school, the public meeting or hearing shall be held at the school building in the evening hours or on Saturday, to the extent practicable; and

(b) provide reasonable notice to the public of such public meeting or hearing by:

(1) posting the notice on a school district website, if one exists, posting the notice in schools and school district offices in conspicuous locations, publishing the notice in local newspapers or other local publications, and/or including the notice in school district mailings and distributions. A school district shall also provide translations of the notice into the languages other than English that are most commonly spoken in the school district; and

(2) providing public notice of the time and place of a public meeting or hearing scheduled at least one week prior thereto and giving such notice to the news media and conspicuously posting in one or more designated public locations at least 72 hours before such hearing; and

(c) provide members of the public who are not able to attend such public hearing with the opportunity to provide written comments and feedback in writing and/or electronically.

(2) The school district shall establish a community engagement team as soon as practicable but in no case later than 20 business days following designation of a school as struggling or persistently struggling, in accordance with the following:

(i) the community engagement team shall be comprised of community stakeholders with direct ties to the school including, but not limited to, the school principal, parents of or persons in parental relation to students attending the school, teachers and other school staff assigned to the school, and students attending the school, provided that membership of such team may be modified at any time so long as the team at all times includes the required community stakeholders specified in this subparagraph, and further provided that, in the case of a designated school that does not serve students in grade seven or above, the community engagement team need not include students;

(ii) the community engagement team shall develop recommendations for improvement of the school and shall solicit input through public engagement, which may include, but shall not be limited to, public hearings or meetings and surveys; provided that if the community engagement team elects to hold public hearings or meetings, the school district shall arrange for the hearings or meetings to be conducted in accordance with clauses (a) and (b) *of* subparagraph (iii) of paragraph (1) of this subdivision; and

(iii) the community engagement team shall present its recommendations, prior to the Commissioner's approval, and its assessment of the degree to which the school's comprehensive education plan or department-approved intervention plan is being successfully implemented, periodically, but at least twice annually, to the school leadership. All such recommendations and the efforts made to incorporate them,

including a description of which recommendations were incorporated and how they were incorporated and which recommendations were not incorporated and why they were not incorporated, must be included in the department-approved intervention model or comprehensive education plan.

(iv) where an independent receiver has been appointed for the school, the community engagement team shall present its recommendations on the school intervention plan, prior to the Commissioner's approval, and its assessment of the degree to which the school's school intervention plan is being successfully implemented, periodically, but at least twice annually, to the school leadership and the independent receiver. All such recommendations and the efforts made to incorporate them, including a description of which recommendations were incorporated and how they were incorporated and which recommendations were not incorporated and why they were not incorporated, must be included in the approved school intervention plan.

(3) The superintendent shall develop a community engagement plan in such form and format and according to such timeline as may be prescribed by the commissioner. The superintendent shall submit such community engagement plan to the commissioner for approval, and once approved, the community engagement plan shall be incorporated into the department-approved intervention model or comprehensive education plan submitted in accordance with subdivision (d) of this section. The plan shall include, but not be limited to, descriptions of the following:

(i) the process by which stakeholders were consulted in the development of the community engagement plan;

(ii) the way in which members of the community engagement team are selected, the community engagement team's membership is modified, or vacancies are filled, provided that administrator, teacher and parent members of the community engagement team must be selected through the process established in section 100.11(b) of this Part;

(iii) the manner and extent of the expected involvement of all parties;

(iv) the means by which the community engagement team shall conduct meetings and formulate recommendations;

(v) the means by which the community engagement team shall solicit public input;

(vi) the means by which the community engagement team shall make public its recommendations and shall be provided with the information necessary to assess the implementation of the comprehensive education plan or department-approved intervention model pursuant to paragraph (2)(iii) of this subdivision; and

(vii) the manner in which the community engagement team shall coordinate its work with any school based management/shared decision making team or school building leadership team that is operating in the school.

(d) School District Receivership.

(1) Commencing with the 2015-2016 school year, the school district shall continue to operate a school that has been identified as persistently struggling pursuant to subdivision (b) of this section for an additional school year and a school that has been identified as struggling pursuant to subdivision (b) of this section for an additional two years, provided that there is a department-approved intervention model or comprehensive education plan in place that includes rigorous performance metrics and

goals, including but not limited to measures of student academic achievement and outcomes including those set forth in subdivision (f) of this section, and a community engagement plan pursuant to paragraph (c)(3) of this section.

(2) By September 1, or as soon as practicable thereafter, of each school year in which a school is identified as persistently struggling or struggling pursuant to subdivision (b) of this section, the commissioner shall provide the school district and superintendent with annual goals that must be met in order for the school to make demonstrable improvement pursuant to subparagraph (ii) of paragraph (5) of this subdivision. In making a determination regarding whether a school has made demonstrable improvement, the Commissioner shall consider, in addition to the metrics specified in paragraph (6) of subdivision (f) of the section, the number of years that a school has been identified as a struggling or persistently struggling school, and the degree to which the superintendent has successfully utilized the powers of a school receiver to implement the school's approved comprehensive education plan or department-approved intervention plan.

(3) Upon the department's approval of a model or plan, the superintendent shall be vested with all the powers granted to an independent receiver pursuant to subdivision (g) of this section for a period of one school year for a persistently struggling school and for a period of two school years for a struggling school, provided that the superintendent shall not be allowed to supersede any decision of the board of education with respect to his or her employment status, except that the school district superintendent receiver shall not be required to create and implement a school intervention plan or to convert a struggling or persistently struggling school to a

community school, further provided that any board of education decision with respect to the superintendent's employment status shall be consistent with applicable laws and regulations and his or her employment contract and shall not be taken in retaliation for acts taken as a school receiver consistent with Education Law section 211-f and the provisions of this section.

(4) The school district superintendent receiver shall provide a quarterly written report to the board of education, the commissioner and the Board of Regents no later than October 30, January 31, April 30, and July 31 of each year. Quarterly reports shall be in such form and format and shall at a minimum contain such specific information about the progress being made in the implementation of the department-approved intervention model or the school comprehensive education plan as may be prescribed by the commissioner. Quarterly reports, together with a plain-language summary thereof, shall be made publicly available in the school district's offices and posted on the school district's website, if one exists.

(5) At the end of one school year for a persistently struggling school and at the end of two school years for a struggling school, and annually for a school which the commissioner has determined, pursuant to paragraph (2) of this subdivision, to have made demonstrable progress and shall continue under district operation with the superintendent vested with the powers of a receiver consistent with this section, the department shall conduct a performance review of such school in consultation and collaboration with the school district, the school staff and the community engagement team to determine whether:

(i) the designation of persistently struggling or struggling shall be removed;

(ii) the school shall remain under continued school district operation with the superintendent vested with the powers of a receiver pursuant to Education Law section 211-f and this section; or

(iii) the school shall be placed under independent receivership.

(6) With respect to a performance review conducted in accordance with paragraph (5) of this subdivision:

(i) at the end of a school year in which a school has been removed from priority school status, pursuant to section 100.18(i)(1) of this Part, the commissioner shall remove the school's designation as persistently struggling or struggling, except that, for a school that has been placed into independent receivership, the independent receiver shall continue to implement the school intervention plan consistent with subdivision (h) of this section; and

(ii) the commissioner shall continue a school under district operation with the superintendent vested with the powers of a receiver consistent with this section if a school has made demonstrable improvement as determined by the commissioner in consultation and collaboration with the school district based on performance metrics and goals described in paragraph (2) of this subdivision and shall continue to be subject to annual review by the department as provided in paragraph (5) of this subdivision.

(7) In the event that the department revokes the provisional approval or approval of an intervention model or comprehensive education plan, the commissioner shall require the school district to appoint and submit for the commissioner's approval no later than 45 calendar days from the revocation of the provisional approval or approval an

independent receiver to manage and operate the school in accordance with subdivision (e) of this section.

(8) Schools newly designated as struggling after the 2016-2017 school year and thereafter shall, upon such designation, be immediately eligible for the appointment of an independent receiver pursuant to Education Law section 211-f(2) and subdivision (e) of this section, provided that the commissioner may determine that the school district shall continue to operate the school for a two additional school years pursuant to subdivision (d) of this section.

(9) Nothing in this section shall limit a school district's ability to modify, subject to approval by the department, its department-approved intervention model or comprehensive education plan or the commissioner's ability to require a school district to modify such department-approved intervention model or comprehensive education plan and require his or her approval of such modifications, provided that, in proposing any such modifications, the district shall consult with the community engagement team in accordance with the community engagement plan approved by the commissioner pursuant to paragraphs (2) and (3) of subdivision (c) of this section.

(e) Appointment of an independent receiver.

(1) Within 60 days of the commissioner's determination to place a school into receivership pursuant to subdivision (d) of this section, the school district shall appoint an independent receiver and submit the appointment in such form and format as the commissioner may prescribe to the commissioner for approval.

(2) The school district may appoint an independent receiver from among the department's list of independent receivers approved pursuant to a request for

qualifications issued by the department. The school district may also appoint an independent receiver not on the department's approved list provided that such district submits, for approval, evidence to the commissioner within 40 days of the commissioner's determination to place a school into receivership that the prospective receiver meets the minimum qualifications set forth in this subdivision and in the department's request for proposals.

(3) If the school district fails to appoint an independent receiver that meets the commissioner's approval within 60 days of such determination, the commissioner shall appoint the independent receiver. In the event that, subsequent to the appointment of an independent receiver, such appointment is vacated or otherwise terminated, the commissioner shall, as soon as practicable but no later than 15 business days after such vacancy or termination, appoint a new independent receiver or appoint an interim independent receiver until such time as an independent receiver is appointed pursuant to the provisions of this subdivision. During any such interim appointment, an interim independent receiver shall meet all the requirements and have all the powers of an independent receiver in accordance with Education Law section 211-f and subdivision (g) of this section, except that the interim receiver may not make material changes, which may include but not be limited to changes to the plan's scope of work, budget and/or timelines, to the approved school intervention plan without the prior approval of the commissioner.

(4) All appointments of an independent receiver or an interim independent receiver, as applicable, shall be made in accordance with the following:

(i) the commissioner shall contract with the independent receiver, provided that such contract may be terminated by the commissioner for a violation of law or commissioner's regulations or neglect of duty, and the compensation and reasonable and necessary costs of such receiver shall be paid pursuant to Education Law section 211-f;

(ii) the independent receiver and any of its employees providing services in the receivership shall be entitled to defense and indemnification by the school district to the same extent as a school district employee;

(iii) the school district and board of education shall fully cooperate with the independent receiver and willful failure to cooperate with or interference with the functions of the independent receiver shall constitute willful neglect of duty for purposes of Education Law section 306;

(iv) the independent receiver or the independent receiver's designee shall be an ex officio non-voting member of the board of education entitled to attend all meetings of the board of education except that, in accordance with subdivision (1) of section 105 of the Public Officers Law, the independent receiver or the independent receiver's designee shall not be entitled to attend properly convened executive sessions of the board of education pertaining to personnel and/or litigation matters involving the receiver; and

(v) the powers of the independent receiver, and any restrictions or limitations thereof, shall be those authorized by Education Law section 211-f and subdivision (g) of this section, which include but are not limited to the development and implementation of the school intervention plan for the designated school.

(5) Any independent receiver appointed pursuant to this subdivision shall, in addition to the qualifications set forth in the department's request for proposals, meet the following minimum qualifications:

(i) a demonstrated record of successful experience in education within the past three years including, but not limited to, at least five years of successful experience in improving student academic performance in low performing schools and/or districts or dramatically raising the achievement of high needs students in moderate to high performing schools and/or districts;

(ii) a demonstrated record of successful experience with at risk student populations in closing achievement gaps;

(iii) a demonstrated record of successful experience forming collaborative relationships or partnerships with school community stakeholders, including but not limited to parents, teachers, administrators, school staff, collective bargaining units, school boards, and community members;

(iv) be a school district in good standing under the accountability system; or, for individuals and, with respect to non-profit entities, the individual designated by the entity to oversee and manage the implementation of the provisions of Education Law section 211-f and this section, have New York State certification as a school district administrator or school district leader, or school administrator and supervisor, or school building leader or a substantially equivalent certification, as determined by the commissioner, issued by a jurisdiction outside the state; and

(v) a demonstrated ability to successfully convert a school to a community school.

(f) School Intervention Plan. Within six months of appointment, the independent receiver shall issue a final school intervention plan, approved by the commissioner, in accordance with Education Law section 211-f and the provisions of this section.

(1) Local stakeholder consultation plan.

(i) Before developing the school intervention plan pursuant to paragraph (3) of this subdivision, but in no case later than 20 business days after the effective date of a contract to serve as a receiver, the independent receiver shall submit to the commissioner for approval a local stakeholder consultation plan in a form and format as may be prescribed by the commissioner. Such plan shall include, but not be limited to a description of the following:

(a) the process by which stakeholders will be consulted in the development of the school intervention plan;

(b) The manner in which persons will be selected to engage in consultation, provided that the administrator, teacher and parent members of the community engagement team, which must be consulted pursuant to subparagraph (xii) of paragraph (2) of this subdivision, must be selected through the process established in section 100.11(b) of this Part; and

(c) The manner and extent of the expected involvement of all parties.

(ii) Upon submission of the stakeholder consultation plan, the department shall approve the plan or return it to the receiver for revision and resubmission.

(2) In developing the school intervention plan, the receiver shall consult with local stakeholders, including but not limited to:

(i) the board of education;

(ii) the superintendent of schools;

(iii) the school principal;

(iv) teachers assigned to the school and their collective bargaining representative;

(v) school administrators assigned to the school and their collective bargaining representative;

(vi) parents of, or persons in parental relation to, students attending the school;

(vii) representatives of applicable state and local social service, health and mental health agencies and community based organizations providing services in the school, where applicable;

(viii) as appropriate, representatives of local career education providers, state and local workforce development agencies and the local business community;

(ix) for elementary schools, representatives of local prekindergarten programs;

(x) students attending the school as appropriate; provided that in the case of a designated school that does not serve students in grade seven or above, such local stakeholder consultation need not include students;

(xi) as needed for middle schools, junior high schools, central schools or high schools, representatives of local higher education institutions; and

(xii) the community engagement team established pursuant to subdivision (c) of this section; provided that with respect to consultation with students attending the school as appropriate, in the case of a designated school serving students up to and including grade seven, the community engagement team need not include students.

(3) In creating the school intervention plan, the receiver shall:

(i) consult with and consider all recommendations developed by the community engagement team;

(ii) include provisions intended to maximize the rapid academic achievement of students at the school; and

(iii) ensure that the plan addresses the tenets of the Diagnostic Tool For School and District Effectiveness.

(4) The receiver shall, to the extent practicable, base the school intervention plan on the findings of any recent diagnostic review or assessment (e.g., needs assessment) of the school that has been conducted, or shall administer a diagnostic review or assessment (e.g., needs assessment) if one has not been recently conducted, and, as applied to the school, student outcome data including but not limited to:

(i) student achievement growth data based on state measures;

(ii) other measures of student achievement;

(iii) student promotion and graduation rates;

(iv) achievement and growth data for the subgroups of students used in the state's accountability system;

(v) student attendance; and

(vi) long-term and short-term suspension rates.

(5) The receiver shall create the school intervention plan in accordance with Education Law section 211-f and any applicable collective bargaining agreement(s) and provision(s) of article fourteen of the Civil Service Law. In creating the school intervention plan, the receiver shall ensure that the plan includes the following research-based components:

(i) strategies to address the tenets of the Diagnostic Tool for School and District Effectiveness;

(ii) strategies to address social service, health and mental health needs of students in the school and their families in order to help students arrive and remain at school ready to learn; provided that this may include mental health and substance abuse screening;

(iii) strategies to improve or expand access to child welfare services and, as appropriate, services in the school community to promote a safe and secure learning environment;

(iv) as applicable, strategies to provide greater access to career and technical education and workforce development services provided to students in the school and their families in order to provide students and families with meaningful employment skills and opportunities;

(v) strategies to address achievement gaps for English language learners, students with disabilities and economically disadvantaged students, as applicable;

(vi) strategies to address school climate and positive behavior support, including mentoring and other youth development programs;

(vii) strategies to provide professional development and other supports to the staff of the school to ensure that they have the capacity to successfully implement the school intervention plan and to sustain the components of the plan after the period of the school receivership has ended;

(viii) a budget for the school intervention plan, including a description of how any funds provided through a persistently struggling schools transformation grant will not be

used to fund, in whole or in part, existing programs and services including but not limited to staff salaries;

(ix) strategies to improve student achievement through development of collaborative partnerships with the local school community that are designed to develop and sustain the capacity of the local school community to implement such strategies to ensure continued improvement in student achievement after the period of the school receivership has ended; and

(x) strategies by which the independent receiver will apply for allocational and competitive grants and other resources for the school to the extent practicable.

(6) The school intervention plan shall include measurable annual goals established through such methodology as may be prescribed by the commissioner on metrics that shall be defined by the commissioner and shall include, but not be limited to, the following:

(i) student attendance;

(ii) student discipline including but not limited to short-term and long-term suspension rates;

(iii) student safety;

(iv) student promotion and graduation and drop-out rates;

(v) student achievement and growth on state measures;

(vi) progress in areas of academic underperformance;

(vii) progress among the subgroups of students used in the state's accountability system;

(viii) reduction of achievement gaps among specific groups of students;

(ix) development of college and career readiness, including at the elementary and middle school levels;

(x) parent and family engagement;

(xi) building a culture of academic success among students;

(xii) building a culture of student support and success among faculty and staff;

(xiii) using developmentally appropriate child assessments from pre-kindergarten through third grade, if applicable, that are tailored to the needs of the school; and

(xiv) measures of student learning.

(7) The school intervention plan may also include measurable annual goals on locally-selected measures, provided that such locally-determined measures shall be submitted to the commissioner for approval in such form and format as may be prescribed by the commissioner.

(8) In creating and implementing the school intervention plan, the independent receiver shall, consistent with the provisions of Education Law section 211-f and any applicable collective bargaining agreement(s) and provision(s) of article fourteen of the Civil Service Law, and after consulting with stakeholders and the community engagement team pursuant to paragraph (c)(2) of this section, convert schools to community schools to provide expanded health, mental health and other services to students and their families. In order for the independent receiver to convert the school to a community school, the independent receiver shall implement the following process and meet the following minimum requirements:

(i) partner with families and relevant community agencies to integrate these partners into the community engagement team;

(ii) designate a full-time staff person who participates in school leadership and community engagement team meetings and reports to the school receiver and whose sole job responsibility is to manage the development of the community school strategy for that school and subsequently ensure the maintenance and sustainability of the community school;

(iii) conduct a comprehensive school and community needs assessment in such form and format and according to such timeline as may be prescribed by the commissioner;

(iv) complete a thorough analysis of the needs assessment results;

(v) incorporate into the school intervention plan short-term strategies to improve student learning while establishing the community school. Short term strategies that may be implemented prior to completion of the needs assessment include, but are not limited to:

(a) reviewing attendance data for opportunities to reduce chronic absenteeism and implement evidence based strategies for reducing such chronic absenteeism; and

(b) instituting school climate surveys to students, school personnel and families;

(vi) incorporate into the school intervention plan a three-year strategy for meeting the requirements of a community school pursuant to this paragraph that includes annual goals and measurable benchmarks and is informed by the analysis of the needs assessment pursuant to subparagraph (iv) of this paragraph and ensure that at least three program elements of a community school pursuant to paragraph (8) of subdivision (a) of this section are implemented in Year 1 of the community school model;

(vii) ensure that the independent receiver at a minimum:

(a) conducts frequent reviews of community school program implementation data;

(b) conducts regular reviews of community school program impact data (e.g., measures of climate, student academic progress, student social and emotional health, discipline referrals, individual attendance);

(c) revises strategies, annual goals and/or benchmarks as necessary based on the reviews conducted pursuant to subparagraph (vii) of this paragraph; and

(d) regularly consults with the school community, including but not limited to the community engagement team, the principal, teachers and staff assigned to the school, students and parents of or persons in parental relation to students attending the school, community based organizations providing services to the school, and other stakeholders regarding program implementation.

(viii) continue to use the same criteria and processes to enroll students in the school and only make alterations to such criteria and processes with the prior written approval of the commissioner.

(9) The independent receiver shall submit a final school intervention plan, in such form and format as may be prescribed by the commissioner, to the commissioner for approval no later than five months after the independent receiver's appointment. Upon the commissioner's approval, and within six months of the independent receiver's appointment, the plan shall be issued by the independent receiver in accordance with Education Law section 211-f and the provisions of this section. If the independent receiver is unable to create an approvable plan as required by this section, the commissioner may appoint a new or interim independent receiver pursuant to

subdivision (e) of this section or direct the school district to develop a plan in such form or format and according to such timeline as the commissioner may prescribe to phase out or close the school pursuant to section 100.18(l) of this Part and to implement the plan once approved by the Commissioner.

(10) Each approved school intervention plan shall be authorized for a period of not more than three school years, provided that the independent receiver may develop additional components of the plan and shall develop annual goals for each component of the plan in accordance with this section and Education Law section 211-f, all of which must be approved by the commissioner.

(11) In accordance with Education Law section 211-f(10), the independent receiver is responsible for meeting the goals set forth in the approved school intervention plan; in accordance with Education Law section 211-f(2)(c), the independent receiver's contract may be terminated by the commissioner for violation of the law or the commissioner's regulations, including but not limited to Education Law section 211-f and the provisions of this section, or for neglect of duty.

(12) The independent receiver shall ensure that, no later than 5 business days after the commissioner's approval of the school intervention plan:

(i) such plan is made publicly available in the school district's offices and is posted on the school district's website, if one exists;

(ii) the school district provides written notice to parents of, or persons in parental relation to students attending the school, in the manner set forth in subdivision (b) of this section, that the approved school intervention plan is publicly available in the school district's offices and is posted on the school district's website, if one exists; and

(iii) copies of such plan are provided to the board of education, the superintendent, the collective bargaining representatives of the school district's teacher and administrators, the community engagement team, and the elected officers of the parent-teacher association and/or parent association for the school.

(13) During each year of the independent receiver's term of appointment, the independent receiver shall provide a quarterly written report to the board of education, the commissioner and the Board of Regents no later than October 30, January 31, April 30, and July 31 of each year; provided that the July 31 report shall be the annual evaluation of the school intervention plan as provided in subdivision (b) of this section, and further provided that the independent receiver shall not be required to provide a quarterly report if the date for provision of such quarterly report is less than 45 calendar days from the date on which the commissioner approved the independent receiver's appointment and entered into a contract with the independent receiver. Quarterly reports shall be in such form and format and shall at a minimum contain such specific information about the progress being made in the implementation of the school intervention plan as may be prescribed by the commissioner. Quarterly reports, together with a plain-language summary thereof, shall be made publicly available in the school district's offices and posted on the school district's website, if one exists.

(g) Powers and duties of a receiver.

(1) A school receiver, as defined in paragraph (14) of subdivision (a) of this section, shall have all of the powers and duties and any restrictions or limitations thereof specified in Education Law section 211-f and this section and shall have the authority to manage and operate the school, provided that, when acting as the school receiver, the

school district superintendent shall not be required to create and implement a school intervention plan or to convert a struggling or persistently struggling school to a community school.

(2) An independent receiver shall be required, pursuant to subdivision (f) of this section, to develop and implement a school intervention plan and to convert schools to community schools to provide expanded health, mental health and other services to the students and their families, pursuant to a plan based on a comprehensive school and community needs assessment.

(3) In order to implement a school intervention plan or a department-approved intervention model or comprehensive education plan, as applicable, a school receiver may take the following actions consistent with the provisions of Education Law section 211-f and, with respect to issues related to such actions for which collective bargaining is required, consistent with any applicable collective bargaining agreement(s) and provisions of article fourteen of the Civil Service Law:

(i) review and if necessary expand, alter or replace the curriculum and program offerings of the school, including the implementation of research-based early literacy programs, early interventions for struggling readers and the teaching of advanced placement courses or other rigorous nationally or internationally recognized courses, if the school does not already have such programs or courses;

(ii) replace teachers and administrators, including school leadership who are not appropriately certified or licensed;

(iii) increase salaries of current or prospective teachers and administrators to attract and retain high-performing teachers and administrators;

(iv) establish steps to improve hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure (e.g., instructional coaches or research-based instructional plans);

(v) reallocate the uses of the existing budget of the school;

(vi) expand the school day or school year or both of the school, which may include establishing partnerships with community based organizations and youth development programs that offer appropriate programs and services in expanded learning time settings;

(vii) for a school that offers first grade, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes;

(viii) include a provision of a job-embedded professional development for teachers at the school, with an emphasis on strategies that involve teacher input and feedback;

(ix) establish a plan for professional development for administrators at the school, with an emphasis on strategies that develop leadership skills and use the principles of distributive leadership; and

(x) order the conversion of a school in receivership that has been designated as struggling or persistently struggling pursuant to this section into a charter school; provided that such conversion shall be subject to Article 56 of the Education Law and that such conversion charter school shall operate pursuant to such article, and shall operate consistent with a community schools model, and shall be subject to the provisions of subdivisions (3), (4), (5), (6), (9), (10), (11), (12) and (13) of Education Law section 211-f.

(4) In accordance with Education Law section 211-f(7)(b) and (c), a school receiver may abolish the positions of all members of the teaching and administrative and supervisory staff assigned to the struggling or persistently struggling school and terminate the employment of any principal assigned to such a school, and require such staff members to reapply for their positions in the school if they so choose, provided that:

(i) in determining whether to implement an abolition, the school receiver shall conduct a comprehensive school needs assessment which shall include, but not be limited to, an analysis of the professional development provided for staff in the abolished positions pursuant to section 100.2(dd) of this Part during the preceding two school years and an analysis of how the planned abolition will result in improved student performance, and complete a thorough analysis of the needs assessment results;

(ii) no later than 90 days prior to any planned abolition, the school receiver shall provide to the school staff and their collective bargaining representatives, the superintendent of schools or chief school officer, and the board of education written notice of:

(a) the specific positions to be abolished and the timeline for such abolition and for the rehiring process;

(b) the results and analysis of the needs assessment that is the basis for the abolishment, and

(c) the expected impact of the abolishment of positions on the educational program of the school and of other schools in the district and a description of the efforts

to be made to minimize disruption to the educational program of the school or of other schools in the district, if any.

(iii) Upon receipt of the school receiver's notice of abolition, a notified party shall have 14 days to submit a request in writing to the school receiver for reconsideration of the abolition of positions.

(iv) No later than 30 days following the issuance of written notification, the school receiver shall inform the school board in writing of the determination of the school receiver whether to implement the plan for abolition of positions.

(v) The school receiver shall provide the commissioner with an electronic copy of all correspondence related to abolition of staff positions.

(vi) Upon completion of the abolition and rehiring process set forth in this paragraph and Education Law section 211-f(7), no further abolition of the positions of all members of the teaching and administrative and supervisory staff assigned to the struggling or persistently struggling school in accordance with this paragraph and Education Law section 211-f(7) shall occur without the prior approval of the commissioner.

(5) Receivership Agreement.

(i) In accordance with Education Law section 211-f(8), in order to maximize the rapid achievement of students at the applicable school, the school receiver may request that the collective bargaining unit or units representing teachers and administrators and the school receiver, on behalf of the board of education, negotiate a receivership agreement that modifies the applicable collective bargaining agreement or agreements with respect to any persistently struggling or struggling schools in receivership

applicable during the period of receivership. The receivership agreement may address the following subjects:

(a) the length of the school day;

(b) the length of the school year;

(c) professional development for teachers and administrators;

(d) class size; and

(e) changes to the programs, assignments, and teaching conditions in the school in receivership.

(ii) The receivership agreement shall not provide for any reduction in compensation unless there shall also be a proportionate reduction in hours and the receivership agreement shall provide for a proportionate increase in compensation where the length of the school day or school year is extended. The receivership agreement shall not alter the remaining terms of the existing/underlying collective bargaining agreement, which shall remain in effect.

(iii) Collective bargaining.

(a) Upon the request of the school receiver pursuant to subparagraph (i) of this paragraph, the bargaining between the school receiver and the collective bargaining unit or units representing teachers and administrators shall be conducted in good faith pursuant to the bargaining process set forth in Education Law section 211-f(8)(b) and (c).

(b) Such bargaining process shall be completed no later than thirty calendar days following receipt of a written request from the school receiver; provided that, upon mutual agreement of the parties, such thirty-day period may be extended to allow the

parties to complete negotiations and reach agreement. If the parties mutually agree to extend the thirty-day period or if the receiver withdraws a request for negotiations, the parties shall send notice of such extension or withdrawal to the commissioner by electronic mail to receivership@nysed.gov.

(c) The receivership agreement shall be subject to ratification by the bargaining unit members of the school within ten business days after the receivership agreement is reached.

(d) Request for resolution.

(1) In the event that any issues remain unresolved regarding the receivership agreement as a result of the bargaining process set forth in Education Law section 211-f(8)(b) and (c), or if such agreement is not ratified within ten business days by the bargaining unit members of the school, any remaining issues shall be submitted to the commissioner as a request for resolution in such form and format as the commissioner may prescribe and the commissioner shall resolve any remaining unresolved issues within five calendar days after the deadline for filing with the commissioner of the reply papers (or the responding papers in the case of a joint submission), in accordance with standard collective bargaining principles; except that In the case of a struggling school where Education Law section 211-f(8)(c) applies, any remaining unresolved issues shall first be submitted to the American Arbitration Association (AAA) for selection of a conciliator pursuant to Education Law section 211-f(8)(c), who shall resolve any remaining unresolved issues within five calendar days of his or her selection. After such five days, any remaining unresolved issues shall be submitted to the commissioner, who shall resolve such issues within five calendar days after the deadline for filing with

the commissioner of the reply papers (or the responding papers in the case of a joint submission), in accordance with standard collective bargaining principles.

(2) Submission and content of request for resolution.

(i) Either party or both parties jointly ("submitting party"), may submit a request for resolution to the commissioner or the AAA, as applicable, pursuant to (d)(1) of this subparagraph.

(ii) A request for resolution shall specifically describe the unresolved issues and the position of the submitting party on each unresolved issue, including the specific contract language recommended by the party for the receivership agreement and an explanation of the rationale for the proposed contract language and how adoption of the proposed language would be consistent with collective bargaining principles, such as any applicable factors set forth in Civil Service Law section 209(4)(c)(v).

(iii) Where the parties agree on what the unresolved issues are, but not on how they should be resolved, the parties may jointly submit a request for resolution describing their respective positions, with each party presenting its own recommended contract language with an explanation of the rationale for the proposed contract language and how adoption of the proposed language would be consistent with collective bargaining principles, such as any applicable factors set forth in Civil Service Law section 209(4)(c)(v).

(iv) The request for resolution shall include an e-mail address at which responding papers may be served by the other party.

(v) The submitting party may submit a memorandum of law and supporting affidavits or declarations with its request for resolution.

(3) Proof of service. If a request for resolution is not jointly submitted, the submitting party must include within its submission proof that a copy of the request for resolution and all supporting documentation have been served on the other party in the same manner as a petition in an appeal to the commissioner pursuant to Education Law section 310 and section 275.8(a) of this Title, or proof that the other party admits that such service has been made. Where personal service is made, the submitting party shall submit as proof of service an affidavit in substantially the form prescribed in section 275.9(a) of this Title. In the event the submitting party is unable, after making two attempts, to effect personal service within 24 hours during regular business hours at the main office of the other party, the submitting party may serve the request for resolution and all supporting documentation by substituted service, in the same manner as a petition in an appeal to the commissioner pursuant to Education Law section 310 and section 275.8(a) of this Title.

(4) Filing.

(i) The submitting party shall file an electronic copy of the request for resolution with the commissioner at Legal@nysed.gov and file the original request for resolution with the commissioner by express mail, next day delivery or the equivalent, addressed to the Office of Counsel, New York State Education Department, State Education Building Room 148, 89 Washington Avenue, Albany, N.Y. 12234. Filing is complete upon receipt of the original request for resolution and the electronic copy thereof.

(ii) The responding party shall file an electronic copy of any responding papers with the commissioner at Legal@nysed.gov and file the original responding papers with the commissioner by express mail, next day delivery or the equivalent, addressed to the

Office of Counsel, New York State Education Department, State Education Building Room 148, 89 Washington Avenue, Albany, N.Y. 12234. Filing is complete upon receipt of the original responding papers and the electronic copy thereof.

(ii) The submitting party shall file an electronic copy of any reply papers with the commissioner at Legal@nysed.gov and file the original reply papers with the commissioner by express mail, next day delivery or the equivalent, addressed to the Office of Counsel, New York State Education Department, State Education Building Room 148, 89 Washington Avenue, Albany, N.Y. 12234. Filing is complete upon receipt of the original reply papers and the electronic copy thereof.

(5) Responding papers.

(i) Except for joint submissions, the party responding to a request for resolution ("responding party") may file responding papers within five calendar days after service of the request for resolution upon such party; provided that if the five-day period ends on a weekend or holiday, the time to file responding papers shall be extended to the next business day pursuant to General Construction Law section 25-a.

(ii) The responding papers shall specifically describe the unresolved issues and the position of the responding party on such unresolved issues, including the specific contract language recommended by the responding party for the receivership agreement and an explanation of the rationale for the proposed contract language and how adoption of the proposed language would be consistent with collective bargaining principles, such as any applicable factors set forth in Civil Service Law section 209(4)(c)(v) and, if applicable, why the submitting party's proposed contract language is not consistent with collective bargaining principles.

(iii) The responding papers shall include an e-mail address at which service of any reply or additional papers may be made.

(iv) The responding party may submit a memorandum of law and supporting affidavits or declarations with its responding papers.

(6) Reply.

(i) The submitting party may submit reply papers within two calendar days of its receipt of the responding papers; provided that if the two-day period ends on a weekend or holiday, the time to file reply papers shall be extended to the next business day pursuant to General Construction Law section 25-a. If the parties jointly submit the request for resolution, no reply papers may be submitted; provided that responding papers may be submitted pursuant to (d)(5) of this subparagraph.

(ii) The reply papers shall be limited to a response to the position of the responding party, the responding party's proposed contract language and any legal arguments made by the responding party.

(7) Additional papers. No additional papers shall be permitted except upon direction of the Commissioner.

(6) The school receiver shall have the power to supersede any decision, policy or regulation of the superintendent of schools or chief school officer, or of the board of education or another school officer or the building principal that in the sole judgment of the receiver conflicts with the approved school intervention plan or the approved intervention model or comprehensive education plan, as applicable; provided however that the school receiver may not supersede decisions that are not directly linked to such approved plan or model, including but not limited to building usage plans, co-location

decisions and transportation of students to the extent such building usage plans, co-location decisions and transportation of students impact other schools in the district; and further provided that the school district receiver may not override any decision of the board of education with respect to his or her employment status.

(7) School Receiver supersession of decisions, policies, or local school district regulation.

(i) In order for the school receiver to supersede a decision, policy or local school district regulation of the superintendent of schools or chief school officer, or of the board of education or another school officer, or the school principal, the school receiver shall notify in writing the board of education, superintendent of schools or chief school officer, and the principal not fewer than ten business days prior to the effective date of the supersession of the specific decision, policy or regulation that the receiver plans to supersede; the reasons for supersession; the specific decision, policy, or regulation that will replace the one that shall be superseded; and the time period during which the supersession shall remain in effect.

(ii) The school receiver shall give the notified parties at least five business days from the receipt of the notice of supersession to respond in writing to such notice and the school receiver shall consider any response received before implementing the supersession. At any time subsequent to the supersession of a decision, policy or regulation, the superintendent or chief school officer, or the board of education may request in writing that the school receiver terminate the supersession. Within 15 business days of receipt of any such request, the school receiver shall respond in writing with the school receiver's decision and rationale.

(iii) Notwithstanding the provisions of subparagraph (ii), if the school receiver determines that a decision, policy, or regulation must be superseded pursuant to this section on an emergency basis in order to protect the health or welfare of the school's students or staff or to ensure that the school complies with the Education Law or commissioner's regulations, the school receiver may waive the required notification period but shall, within 24 hours or as soon as practicable thereafter, inform the board of education, the superintendent or chief state school officer, and the principal of the action taken and provide them with an opportunity to respond in accordance with the provisions of subparagraph (ii) of this subdivision.

(iv) The school receiver shall provide the commissioner with an electronic copy of all correspondence upon its issuance related to supersession pursuant to this subdivision.

(8) School Receiver Review of school budgets

(i) No later than 30 business days prior to the presentation to the district voters of a school budget at the budget hearing, or by no later than 5 business days prior to the date that the superintendent in a city school district in a city having a population of one hundred twenty-five thousand inhabitants or more submits the budget to the school board, the school board shall provide the school receiver with a copy of the proposed district budget including any school-based budget, that shall include a specific delineation of all funds and resources that the school receiver shall have available to manage and operate the school and the services and resources that the school district shall provide to the school.

(ii) No later than five business days after receiving the proposed budget, the school receiver shall inform the school board and superintendent or chief school officer of any modification to the proposed budget that the school board must make in order for the receiver to implement the approved school intervention plan or intervention model or comprehensive education plan, provided that such modification(s) shall not require the school board seek voter approval of a budget that exceeds the tax levy limit pursuant to Education Law section 2023-a. The school receiver shall identify the specific modifications that must be made, the rationale for the modifications, an explanation of the way(s) in which the modifications are limited in scope and effect to the school(s) designated as struggling or persistently struggling and/or under receivership, and a description of how such modifications will not unduly impact other schools in the district.

(iii) Upon receipt of the school receiver's proposed budget modifications, the school board shall:

(a) incorporate the modifications into the proposed budget and present it to the public; or

(b) return the modifications within 5 business days to the school receiver for reconsideration with the reasons for reconsideration specified in writing.

(iv) Upon receipt of a request for reconsideration, the school receiver shall:

(a) withdraw the direction to modify the budget;

(b) revise the budget modification; or

(c) resubmit the original budget modification

(v) The school receiver shall notify the school board in writing of the decision within five business days of receipt of the request for reconsideration and the determination of the school receiver shall be incorporated into the budget.

(vi) The school receiver and school board shall provide the commissioner with an electronic copy of all correspondence related to modification of the school budget.

(vii) Upon approval of the school district budget, any changes to budgets that would adversely impact the ability of the school receiver to implement the approved school intervention plan or intervention model or comprehensive education plan must be approved by the school receiver.

(9) Supersession of Board of Education Employment Decisions Regarding Staff Employed in Receivership Schools

(i) No later than ten business days after a school board has acted upon an employment decision pertaining to staff assigned to a school designated as struggling or persistently struggling or that the commissioner has determined shall be placed into receivership, the school board shall provide the school receiver with a copy of the action taken, which shall not go into effect until it has been reviewed by the school receiver.

(ii) No later than ten business days after receiving the notification of an employment decision, the school receiver shall inform the school board, superintendent or chief school officer, impacted staff, and their collective bargaining representative, if any, of any modification to the employment decision that the school board must make in order for the school receiver to approve the employment decision. The school receiver shall identify the specific modifications that must be made, the rationale for the modifications, an explanation of the way(s) in which the modifications are limited in

scope and effect to the school(s) designated as struggling or persistently struggling and/or under receivership, and a description of how such modifications will not unduly impact other schools in the district.

(iii) Upon receipt of any proposed modifications to an employment decision, the school board shall:

(a) adopt the modifications at the board of education's next regularly scheduled meeting; or

(b) return the modifications within ten days to the school receiver for reconsideration with the reasons for reconsideration specified in writing.

(iv) Upon receipt of a request for reconsideration, the school receiver shall:

(a) withdraw the direction to modify the employment decision;

(b) revise the employment decision; or

(c) resubmit the original employment decision;

(v) The school receiver shall notify the school board, superintendent, impacted staff and their collective bargaining representative, if any, in writing of the decision within ten business days of receipt of the request for reconsideration, which shall be approved by the board of education at its next regularly scheduled meeting if modifications are required by the school receiver.

(vi) The school receiver and school board shall provide the commissioner with an electronic copy of all correspondence related to such employment decisions.

(h) Annual evaluation of schools with an appointed independent receiver.

(1) The commissioner shall, in consultation and cooperation with the school district, the school staff, and the community engagement team, evaluate each school

with an appointed independent receiver at least annually in order to determine whether the school has met the annual goals in its school intervention plan and to assess the implementation of the plan at the school. The evaluation shall be in writing and shall be submitted to the superintendent and the board of education not later than September first for the preceding school year. The evaluation shall be submitted in a format determined by the commissioner.

(2) If, based on the annual review, the commissioner determines that the school has met the annual performance goals stated in the school intervention plan, the evaluation shall be considered sufficient and the implementation of the school intervention plan shall continue. If the commissioner determines that the school has not met one or more goals in the plan, the commissioner may require modification of the plan. In accordance with Education Law section 211-f(10), the independent receiver is responsible for meeting the goals set forth in the approved school intervention plan and, in accordance with Education Law section 211-f(2)(c), the independent receiver's contract may be terminated by the commissioner for violation of the law or the commissioner's regulations, including but not limited to Education Law section 211-f and the provisions of this section, or for neglect of duty.

(i) Expiration of school intervention plan.

(1) Upon the expiration of a school intervention plan for a school with an appointed independent receiver, the commissioner, in consultation and cooperation with the district, shall conduct an evaluation of the school to determine whether the school has improved sufficiently, requires further improvement or has failed to improve. On the

basis of such review, the commissioner, in consultation and cooperation with the school district and the community engagement team, may:

(i) renew the plan with the independent receiver for an additional period of not more than three years;

(ii) terminate the contract with the independent receiver and appoint a new independent receiver if the struggling or persistently struggling school remains identified as a priority school and the terms of the plan have not been substantially met, or

(iii) determine that the school has improved sufficiently for the designation of struggling or persistently struggling to be removed.

(2) If the commissioner determines that the contract with the independent receiver shall be terminated, the commissioner may appoint an interim independent receiver pursuant to subdivision (e) of this section.

(3) A new independent receiver appointed pursuant to paragraph (1) of this subdivision shall be required to implement the existing school intervention plan until a new school intervention shall be developed in accordance with subdivision (f) of this section and approved by the commissioner.

(j) Phase out and Closure of Struggling and Persistently Struggling School. Nothing in this section shall prohibit the commissioner from directing a school district to phase out or close a school pursuant to paragraph (f)(6) of this section or subdivision (l) of section 100.18 of this Part, or prohibit the Board of Regents from revoking the registration of school pursuant to such paragraph, or prohibit a school district from closing or phasing out a school with the approval of the commissioner.

(k) Commissioner’s Evaluation of School Receivership Program.

The school receiver shall provide the commissioner with any reports or other information requested by the commissioner, in such form and format and according to such timeline as may be prescribed by the commissioner, in order for the commissioner to conduct an evaluation of the school receivership program.