

**ATTACHMENT 1**  
**State Statutes on Underperforming/Chronically Underperforming Schools and Districts**  
**Mass. General Laws c. 69, §§ 1J and 1K,**  
**as amended by Chapter 12 of the Acts of 2010**

**Chapter 69** of the General Laws is hereby amended by striking out sections 1J and 1K, as so appearing, and inserting in place thereof the following 2 sections:-

**Section 1J.** (a) The commissioner of elementary and secondary education may, on the basis of student performance data collected pursuant to section 1I, a school or district review performed under section 55A of chapter 15, or regulations adopted by the board of elementary and secondary education, designate 1 or more schools in a school district other than a Horace Mann charter school as underperforming or chronically underperforming. The board shall adopt regulations establishing standards for the commissioner to make such designations on the basis of data collected pursuant to section 1I or information from a school or district review performed under section 55A of chapter 15. Upon the release of the proposed regulations, the board shall file a copy thereof with the clerks of the house of representatives and the senate who shall forward the regulations to the joint committee on education. Within 30 days of the filing, the committee may hold a public hearing and issue a report on the regulations and file the report with the board. The board, pursuant to applicable law, may adopt final regulations making revisions to the proposed regulations as it deems appropriate after consideration of the report and shall forthwith file a copy of the regulations with the chairpersons of the joint committee on education and, not earlier than 30 days of the filing, the board shall file the final regulations with the state secretary. Schools that score in the lowest 20 per cent statewide among schools serving common grade levels on a single measure developed by the department that takes into account student performance data and, beginning on July 1, 2011, improvement in student academic performance, shall be deemed eligible for designation as underperforming or chronically underperforming. Not more than 4 per cent of the total number of public schools may be designated as underperforming or chronically underperforming at any given time.

In adopting regulations allowing the commissioner to designate a school as underperforming or chronically underperforming, the board shall ensure that such regulations take into account multiple indicators of school quality in making determinations regarding underperformance or chronic underperformance, such as student attendance, dismissal rates and exclusion rates, promotion rates, graduation rates or the lack of demonstrated significant improvement for 2 or more consecutive years in core academic subjects, either in the aggregate or among subgroups of students, including designations based special education, low-income, English language proficiency and racial classifications.

Before a school is designated chronically underperforming by the commissioner, a school must be designated underperforming and fail to improve.

An underperforming or chronically underperforming school described in the following subsections shall operate in accordance with laws regulating other public schools, except as such provisions may conflict with this section or any turnaround plans created thereunder. A student who is enrolled in a school at the time it is designated as underperforming or chronically underperforming shall retain the ability to remain enrolled in the school while remaining a resident of the district if the student chooses to do so.

(b) Upon the designation of a school as an underperforming school in accordance with regulations developed pursuant to this section, the superintendent of the district, with approval by the commissioner, shall create a turnaround plan for the school, under subsections (b) to (e), inclusive. The commissioner may allow for an expedited turnaround plan for schools that have been previously designated as underperforming and where the district has a turnaround plan that has had a public comment period and approval of the local school committee.

Before the superintendent creates the turnaround plan required in this subsection, the superintendent shall convene a local stakeholder group of not more than 13 individuals, for the purpose of soliciting recommendations on the content of such plan to maximize the rapid academic achievement of students at the school. The superintendent shall provide due consideration to the recommendations of the stakeholder group. The group shall include: (1) the commissioner, or a designee; (2) the chair of the school committee, or a designee; (3) the president of the local teacher's union, or a designee; (4) an administrator from the school, who may be the principal, chosen by the superintendent; (5) a teacher from the school chosen by the faculty of the school; (6) a parent from the school chosen by the local parent organization; (7) representatives of applicable state and local social service, health and child welfare agencies, chosen by the superintendent; (8) as appropriate, representatives of state and local workforce development agencies, chosen by the superintendent; (9) for elementary schools, a representative of an early education and care provider chosen by the commissioner of the department of early education and care and, for middle schools or high schools, a representative of the higher education community selected by the secretary; and (10) a member of the community appointed by the chief executive of the city or town. If the school or district does not have a parent organization or if the organization does not select a parent, the superintendent shall select a volunteer parent of a student from the school. The superintendent shall convene such group within 30 days of the commissioner designating a school as underperforming and the group shall make its recommendations to the superintendent within 45 days of its initial meeting. Meetings of the local stakeholder group shall be open to the public and the recommendations submitted to the superintendent under this subsection shall be publicly available immediately upon their submission.

(c) In creating the turnaround plan in subsection (b) the superintendent shall include, after considering the recommendations of the local stakeholder group, provisions intended to maximize the rapid academic achievement of students at the school and shall, to the extent practicable, base the plan on student outcome data, including, but not limited to: (1) data collected pursuant to section 11 or information from a school or district review performed under

section 55A of chapter 15; (2) student achievement on the Massachusetts Comprehensive Assessment System; (3) other measures of student achievement, approved by the commissioner; (4) student promotion and graduation rates; (5) achievement data for different subgroups of students, including low-income students as defined in chapter 70, limited English-proficient students and students receiving special education; and (6) student attendance, dismissal rates and exclusion rates.

The superintendent shall also include in the creation of the turnaround plan, after considering the recommendations of the local stakeholder group, the following: (1) steps to address social service and health needs of students at the school and their families, to help students arrive and remain at school ready to learn; provided, however, that this may include mental health and substance abuse screening; (2) steps to improve or expand child welfare services and, as appropriate, law enforcement services in the school community, in order to promote a safe and secure learning environment; (3) steps to improve workforce development services provided to students and their families at the school, to provide students and families with meaningful employment skills and opportunities; (4) steps to address achievement gaps for limited English-proficient, special education and low-income students; and (5) alternative English language learning programs for limited English proficient students, notwithstanding chapter 71A; and (6) a financial plan for the school, including any additional funds to be provided by the district, commonwealth, federal government or other sources.

The secretaries of health and human services, labor and workforce development, public safety and other applicable state and local social service, health and child welfare officials shall coordinate with the superintendent regarding the implementation of strategies under clauses (1) to (3), inclusive, of the second paragraph that are included in a final turnaround plan and shall, subject to appropriation, reasonably support such implementation consistent with the requirements of state and federal law applicable to the relevant programs that each such official is responsible for administering. The secretary of education and the commissioner of elementary and secondary education shall assist the superintendent in facilitating the coordination.

To assess the school across multiple measures of school performance and student success, the turnaround plan shall include measurable annual goals including, but not limited to: (1) student attendance, dismissal rates and exclusion rates; (2) student safety and discipline; (3) student promotion and graduation and dropout rates; (4) student achievement on the Massachusetts Comprehensive Assessment System; (5) progress in areas of academic underperformance; (6) progress among subgroups of students, including low-income students as defined by chapter 70, limited English-proficient students and students receiving special education; (7) reduction of achievement gaps among different groups of students; (8) student acquisition and mastery of twenty-first century skills; (9) development of college readiness, including at the elementary and middle school levels; (10) parent and family engagement; (11) building a culture of academic success among students; (12) building a culture of student support and success among school faculty and staff and; (13) developmentally appropriate child assessments from pre-kindergarten

through third grade, if applicable.

(d) Notwithstanding any general or special law to the contrary, in creating the turnaround plan required in subsection (b), the superintendent may, after considering the recommendations of the group of stakeholders: (1) 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; (2) reallocate the uses of the existing budget of the school; (3) provide additional funds to the school from the budget of the district, if the school does not already receive funding from the district at least equal to the average per pupil funding received for students of the same classification and grade level in the district; (4) provide funds, subject to appropriation and following consultation with applicable local unions, to increase the salary of any administrator, or teacher in the school, to attract or retain highly-qualified administrators, or teachers or to reward administrators, or teachers who work in underperforming schools that achieve the annual goals set forth in the turnaround plan; (5) expand the school day or school year or both of the school; (6) for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes; (7) following consultation with applicable local unions, require the principal and all administrators, teachers and staff to reapply for their positions in the school, with full discretion vested in the superintendent regarding his consideration of and decisions on rehiring based on the reapplications. (8) limit, suspend or change 1 or more provisions of any contract or collective bargaining agreement, as the contract or agreement applies to the school; provided, that the superintendent shall not reduce the compensation of an administrator, teacher or staff member unless the hours of the person are proportionately reduced; (9) limit, suspend or change 1 or more school district policies or practices, as such policies or practices relate to the school; (10) include a provision of job-embedded professional development for teachers at the school, with an emphasis on strategies that involve teacher input and feedback; (11) provide for increased opportunities for teacher planning time and collaboration focused on improving student instruction; (12) 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; (13) establish steps to assure a continuum of high-expertise teachers by aligning the following processes with a common core of professional knowledge and skill: hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure; (14) develop a strategy to search for and study best practices in areas of demonstrated deficiency in the school; (15) establish strategies to address mobility and transiency among the student population of the school; and (16) include additional components based on the reasons why the school was designated as underperforming and the recommendations of the group of stakeholders in subsection (b).

If the superintendent does not approve a reapplication submitted by an employee pursuant to clause (7) for a position in the school or if an employee does not submit a reapplication for a position in the school, the employee shall retain such rights as may be provided under law or any

applicable collective bargaining agreement in relation to the employee's ability to fill another position in the district; provided, however, that the employee shall not have the right to displace any teacher with professional teacher status in any other school during a school year.

A teacher with professional teacher status in a school declared underperforming or chronically underperforming may be dismissed for good cause; provided, however, that the teacher receives 5 days written notice of the decision to terminate which shall include, without limitation, an explanation of the reason why the superintendent is not retaining the teacher in the school; provided, further, that the teacher may seek review of a termination decision within 5 days after receiving notice of the teacher's termination by filing a petition for expedited arbitration with the commissioner; provided, further, that except as otherwise provided herein section 42 of chapter 71 shall apply to a petition filed pursuant to this section; provided, further, that the commissioner shall cause an arbitrator to be selected pursuant to the procedures in section 42 of chapter 71 within 3 days of receipt of petition and shall conduct and complete a hearing within 10 days of receipt of the petition; provided, further, that in reviewing dismissal decisions, the arbitrator shall consider the components of the turnaround plan and shall also consider any personnel evaluations conducted that are consistent with the guidelines established pursuant to section 1B; and provided, further, that the arbitrator's decision shall be issued within 10 days from the completion of the hearing.

For a school with limited English-proficient students, the professional development and planning time for teachers and administrators identified in clauses (10) to (12), inclusive, shall include specific strategies and content designed to maximize the rapid academic achievement of limited English-proficient students at the school.

(e) Within 30 days of the local stakeholder group making recommendations under subsection (b), the superintendent shall submit a turnaround plan to the local stakeholder group, the school committee and the commissioner, all of whom may propose modifications to the plan. The superintendent shall make such plan immediately available to the public upon the submission. The stakeholder group, the school committee and the commissioner shall submit any proposed modifications to the superintendent not more than 30 days after the date of submission of the turnaround plan and the proposed modifications shall be made public immediately upon their submission to the superintendent. The superintendent shall consider and may incorporate the modifications into the plan if the superintendent determines that inclusion of the modifications would further promote the rapid academic achievement of students at the school or may alter or reject the proposed modifications submitted under this subsection. Within 30 days of receiving any proposed modifications under this subsection, the superintendent shall issue a final turnaround plan for the school and the plan shall be made publicly available.

(f) Within 30 days of the issuance of a final turnaround plan under subsection (e) a school committee or local union may appeal to the commissioner regarding 1 or more components of the plan, including the absence of 1 or more modifications proposed under subsection (e). The

commissioner may, in consultation with the superintendent, modify the plan if the commissioner determines that: (1) such modifications would further promote the rapid academic achievement of students in the applicable school; (2) a component of the plan was included, or a modification was excluded, on the basis of demonstrably-false information or evidence; or (3) the superintendent failed to meet the requirements of subsections (b) to (e), inclusive. The decision of the commissioner regarding an appeal under this subsection shall be made within 30 days and shall be final.

(g) If, after considering the recommendations of the group of stakeholders, the superintendent considers it necessary to maximize the rapid academic achievement of students at the applicable school by altering the compensation, hours and working conditions of the administrators, teachers, principal and staff at the school or by altering other provisions of a contract or collective bargaining agreement applicable to the administrators, teachers, principal and staff, the superintendent may request that the school committee and any union bargain or reopen the bargaining of the relevant collective bargaining agreement to facilitate such achievement. The bargaining shall be conducted in good faith and completed not later than 30 days from the point at which the superintendent requested that the parties bargain. The agreement shall be subject to ratification within 10 business days by the bargaining unit members in the school. If the parties are unable to reach an agreement within 30 days or if the agreement is not ratified within 10 business days by the bargaining unit members of the school, the parties shall submit remaining unresolved issues a joint resolution committee for dispute resolution process on the next business day following the end of the 30-day bargaining period or failure to ratify.

The joint resolution committee shall be comprised of 3 members, 1 of whom shall be appointed by the employee organization within 3 business days following the submission of unresolved issues to the joint resolution committee, 1 of whom shall be appointed by the school committee within 3 business days following the submission of unresolved issues to the joint resolution committee and 1 who shall be selected through the American Arbitration Association who shall forthwith forward to the parties a list of 3 conciliators, each of whom shall have professional experience in elementary and secondary education, from which the parties may agree upon a single conciliator provided, however, that if the parties cannot select a conciliator from among the 3 within 3 business days, the American Arbitration Association shall select a conciliator from the remaining names. The joint resolution committee shall conduct a dispute resolution process to be concluded within 10 business days of selection. This process shall be conducted in accordance with the rules of the American Arbitration Association and consistent with this section. The fee for the process shall be shared equally between the 2 parties involved. The joint resolution committee shall consider the positions of the parties, the designation of the school as underperforming and the needs of the students in the school. Notwithstanding any other provision of this chapter, the decision of the joint resolution committee shall be dispositive of all the issues in dispute and shall be submitted to the parties within 10 business days of the completion of the process. Under no circumstance, shall a time extension be granted beyond 10 business days of the completion of the process. If a decision is not submitted to the parties within 10 business days, the commissioner will resolve all outstanding issues.

(h) The superintendent may select an external receiver to operate the school and implement the turnaround plan or to assist the superintendent with the implementation. The superintendent may appoint the receiver if the superintendent determines that conditions exist in the district that are likely to negatively affect his ability to implement the plan successfully. A school committee may appeal to the commissioner the decision of the superintendent to appoint an external receiver. The commissioner may reverse such decision only if he determines that the superintendent made the decision on the basis of demonstrably-false information or evidence. A receiver shall be a non-profit entity or an individual with a demonstrated record of success in improving low-performing schools or the academic performance of disadvantaged students. A receiver shall be subject to section 11A ½ of chapter 30A and chapter 66. A receiver who is an individual shall also be subject to chapter 268A.

(i) An external receiver selected by the superintendent to operate a school shall have full managerial and operational control over the school as provided in the turnaround plan. For all other purposes, the school district in which the school is located shall remain the employer of record.

(j) Each turnaround plan shall be authorized for a period of not more than 3 years, subject to subsection (k). The superintendent or external receiver, as applicable, may develop additional components of the turnaround plan pursuant to subsections (b) to (g) inclusive and shall develop annual goals for each component of the plan, in a manner consistent with subsections (b) to (g), inclusive. The superintendent or external receiver, as applicable, shall be responsible for meeting the goals of the plan.

(k) Each school designated by the commissioner as underperforming under subsection (a) shall be reviewed by the superintendent, in consultation with the principal of the school, at least annually. The purpose of the review shall be to determine whether the school has met the annual goals in its turnaround plan and to assess the overall implementation of the turnaround plan. The review shall be in writing and shall be submitted to the commissioner and the relevant school committee not later than July 1 for the preceding school year. The review shall be submitted in a format determined by the department of elementary and secondary education.

If the commissioner determines that the school has met the annual performance goals stated in the turnaround plan, the review shall be considered sufficient and the implementation of the turnaround plan shall continue. If the commissioner determines that the school has not met 1 or more goals in the turnaround plan and that the failure to meet the goals may be corrected through reasonable modification of the plan, the superintendent may amend the turnaround plan in a manner consistent with the provisions of subsection (b) to (g) inclusive. If the commissioner determines that the school has substantially failed to meet 1 or more goals in the plan, the commissioner may appoint an examiner to conduct an evaluation of the school's implementation of the turnaround plan.

If the commissioner determines that the school has substantially failed to meet multiple goals in the plan, the commissioner may require changes to the turnaround plan to be implemented by the superintendent in the following year or the appointment of an external partner to advise and assist the superintendent in implementing the plan the following year. If the changes to the turnaround plan require changes in a collective bargaining agreement applicable to administrators, teachers or staff in the school, the bargaining procedure in subsection (g) shall be used. If an underperforming school is operated by an external receiver, the commissioner may require the superintendent to terminate the receiver and develop a new turnaround plan; provided, however, that the superintendent shall not terminate the receiver before the completion of the first full school year of the operation of the underperforming school.

(l) Upon the expiration of a turnaround plan, the commissioner shall conduct a review 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 may determine that: (1) the school has improved sufficiently for the designation of the school as underperforming to be removed; (2) the school has improved, but the school remains underperforming, in which case the superintendent may, with the approval of the commissioner, renew the plan or create a new or modified plan for an additional period of not more than 3 years, consistent with the requirements of subsections (a) to (g); or (3) consistent with the requirements of subsection (a), the school is chronically underperforming. The commissioner may recommend the appointment of an external receiver by the superintendent if the commissioner believes that a new or modified turnaround plan implemented by the superintendent will not result in rapid improvement. In carrying out this subsection, the superintendent shall: (1) in the case of a renewal of a turnaround plan, determine subsequent annual goals for each component of the plan with the input of the local stakeholder group as defined in subsection (b); or (2) create a new or modified turnaround plan as necessary, consistent with the requirements of this section.

(m) Upon the designation of a school as a chronically underperforming school in accordance with the regulations developed under this section, the commissioner shall create a turnaround plan for the school under this subsection and subsections (n) to (p), inclusive. Before creating the turnaround plan required in this subsection, the commissioner shall convene a local stakeholder group of not more than 13 individuals for the purpose of soliciting recommendations on the content of such plan in order to maximize the rapid academic achievement of students. The commissioner shall provide due consideration to the recommendations of the stakeholder group. The group shall include: (1) the superintendent, or a designee; (2) the chair of the school committee, or a designee; (3) the president of the local teacher's union, or a designee; (4) an administrator from the school, who may be the principal, chosen by the superintendent; (5) a teacher from the school chosen by the faculty of the school; (6) a parent from the school chosen by the local parent organization; (7) representatives of applicable state and local social service, health and child welfare agencies, chosen by the commissioner; (8) as appropriate, representatives of state and local workforce development agencies, chosen by the commissioner; (9) for elementary schools, a representative of an early education and care provider chosen by the commissioner of the department of early education

and care and, for middle schools or high schools, a representative of the higher education community selected by the secretary of education; and (10) a member of the community appointed by the chief executive of the city or town. If the school or district does not have a parent organization or if the organization does not select a parent, the commissioner shall select a volunteer parent of a student from the school. The commissioner shall convene the group within 30 days of the designation of a school as chronically underperforming and the group shall make its recommendations to the commissioner within 45 days of its initial meeting. Meetings of the local stakeholder group shall be open to the public and the recommendations submitted to the commissioner under this subsection shall be publicly available immediately upon their submission.

(n) In creating the turnaround plan required in subsection (m), the commissioner shall include, after considering the recommendations of the local stakeholder group, provisions intended to maximize the rapid academic achievement of students at the school and shall, to the extent practicable, base the plan on student outcome data, including, but not limited to: (1) data collected under section 1I or information from a school or district review performed under section 55A of chapter 15; (2) student achievement on the Massachusetts Comprehensive Assessment System; (3) other measures of student achievement, approved by the commissioner, as appropriate; (4) student promotion and graduation rates; (5) achievement data for different subgroups of students, including low-income students as defined by chapter 70, limited English-proficient students and students receiving special education; and (6) student attendance, dismissal rates and exclusion rates.

The commissioner shall include in the creation of the turnaround plan, after considering the recommendations of the local stakeholder group, the following: (1) steps to address social service and health needs of students at the school, and their families, in order to help students arrive and remain at school ready to learn; provided, however, that this may include mental health and substance abuse screening; (2) steps to improve or expand child welfare services and, as appropriate, law enforcement services in the school community, in order to promote a safe and secure learning environment; (3) steps to improve workforce development services provided to students at the school, and their families, in order to provide students and families with meaningful employment skills and opportunities; (4) steps to address achievement gaps for limited English-proficient, special education and low-income students; (5) alternative English language learning programs for limited-English proficient students, notwithstanding chapter 71A; and (6) a financial plan for the school, including any additional funds to be provided by the district, commonwealth, federal government or other sources.

The secretaries of health and human services, labor and workforce development, public safety and other applicable state and local social service, health and child welfare officials shall coordinate with the secretary of education and the commissioner regarding the implementation of strategies under clauses (1) to (3), inclusive, of the second paragraph that are included in a final turnaround plan and shall, subject to appropriation, reasonably support the implementation consistent with the requirements of state and federal law applicable to the relevant programs that

each official is responsible for administering.

In order to assess the school across multiple measures of school performance and student success, the turnaround plan shall include measurable annual goals including, but not limited to, the following: (1) student attendance, dismissal rates and exclusion rates; (2) student safety and discipline; (3) student promotion and graduation and dropout rates; (4) student achievement on the Massachusetts Comprehensive Assessment System; (5) progress in areas of academic underperformance; (6) progress among subgroups of students, including low-income students as defined by chapter 70, limited English-proficient students and students receiving special education; (7) reduction of achievement gaps among different groups of students; (8) student acquisition and mastery of 21st-century skills; (9) development of college readiness, including at the elementary and middle school levels; (10) parent and family engagement; (11) building a culture of academic success among students; (12) building a culture of student support and success among school faculty and staff; and (13) developmentally appropriate child assessments from pre-kindergarten through third grade, if applicable.

(o) Notwithstanding any general or special law to the contrary, in creating the turnaround plan required in subsection (m), the commissioner may, after considering the recommendations of the group of stakeholders: (1) 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; (2) reallocate the uses of the existing budget of the school; (3) provide additional funds to the school from the budget of the district, if the school does not already receive funding from the district at least equal to the average per pupil funding received for students of the same classification and grade level in the district; (4) provide funds, subject to appropriation, to increase the salary of an administrator, or teacher in the school, in order to attract or retain highly-qualified administrators or teachers or to reward administrators, or teachers who work in chronically underperforming schools that achieve the annual goals set forth in the turnaround plan; (5) expand the school day or school year or both of the school; (6) for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes; (7) limit, suspend, or change 1 or more provisions of any contract or collective bargaining agreement, as the contract or agreement applies to the school; provided, however, that the commissioner shall not reduce the compensation of an administrator, teacher or staff member unless the hours of the person are proportionately reduced; and provided further, that the commissioner may require the school committee and any applicable unions to bargain in good faith for 30 days before exercising authority pursuant to this clause; (8) following consultation with applicable local unions, require the principal and all administrators, teachers and staff to reapply for their positions in the school, with full discretion vested in the superintendent regarding his consideration of and decisions on rehiring based on the reapplications; (9) limit, suspend or change 1 or more school district policies or practices, as such policies or practices relate to the school; (10) include a provision of job-embedded professional development for teachers at the school, with an emphasis on strategies that involve

teacher input and feedback; (11) provide for increased opportunities for teacher planning time and collaboration focused on improving student instruction; (12) 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; (13) establish steps to assure a continuum of high expertise teachers by aligning the following processes with the common core of professional knowledge and skill: hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure; (14) develop a strategy to search for and study best practices in areas of demonstrated deficiency in the school; (15) establish strategies to address mobility and transiency among the student population of the school; and (16) include additional components, at the discretion of the commissioner, based on the reasons the school was designated as chronically underperforming and the recommendations of the local stakeholder group in subsection (m).

If the commissioner does not approve a reapplication submitted by an employee pursuant to clause (7) for a position in the school or if an employee does not submit a reapplication for a position in the school, the employee shall retain such rights as may be provided under law or any applicable collective bargaining agreement, in relation to the employee's ability to fill another position in the district; provided, however, that the employee shall not have the right to displace any teacher with professional teacher status in any other school during a school year.

A teacher with professional teacher status in a school declared underperforming or chronically underperforming may be dismissed for good cause; provided, however, that the teacher receives 5 days written notice of the decision to terminate which shall include without limitation an explanation of the reason why the commissioner or superintendent is not retaining the teacher in the school; provided, further, that the teacher may seek review of a termination decision within 5 days after receiving notice of the teacher's termination by filing a petition for expedited arbitration with the commissioner; provided further, that except as otherwise provided herein section 42 of chapter 71 shall apply to a petition filed pursuant to this section; provided further, that the commissioner shall cause an arbitrator to be selected pursuant to the procedures in section 42 of chapter 71 within 3 days of receipt of petition and shall conduct and complete a hearing within 10 days of receipt of the petition; provided, further, that in reviewing dismissal decisions, the arbitrator shall consider the components of the turnaround plan and shall also consider any personnel evaluations conducted that are consistent with the guidelines established pursuant to section 1B; and provided, further, that the arbitrator's decision shall be issued within 10 days from the completion of the hearing.

For a school with limited English-proficient students, the professional development and planning time for teachers and administrators identified in clauses (10) to (12), inclusive, shall include specific strategies and content designed to maximize the rapid academic achievement of the limited English-proficient students.

If the commissioner proposes to reallocate funds to the school from the budget of the district under clause (3), the commissioner shall notify the school committee, in writing, of the amount

of and rationale for the reallocation.

(p) Within 30 days of the local stakeholder group making recommendations under subsection (m), the commissioner shall submit a turnaround plan to the local stakeholder group, the superintendent and the school committee, all of whom may propose modifications to the plan. The commissioner shall make the plan immediately available to the public upon submission. The stakeholder group, the superintendent and the school committee shall submit any proposed modifications to the commissioner within 30 days after the date of submission of the turnaround plan and the proposed modifications shall be made public immediately upon their submission to the commissioner. The commissioner shall consider and incorporate the modifications into the plan if the commissioner determines that inclusion of the modifications would further promote the rapid academic achievement of students at the applicable school. The commissioner may alter or reject modifications submitted pursuant to this subsection. Within 30 days of receiving any proposed modifications, the commissioner shall issue a final turnaround plan for the school and the plan shall be made publicly available.

(q) Within 30 days of the issuance of a final turnaround plan under subsection (p), a superintendent, school committee or local union may appeal to the board of elementary and secondary education regarding 1 or more components of the plan, including the absence of 1 or more modifications proposed under subsection (p). A majority of the board, may vote to modify the plan if the board determines that: (1) such modifications would further promote the rapid academic achievement of students in the applicable school; (2) a component of the plan was included, or a modification was excluded, on the basis of demonstrably-false information or evidence; or (3) the commissioner failed to meet the requirements of subsections (m) to (p), inclusive. The decision of the board regarding an appeal under this subsection shall be made within 30 days and shall be final.

(r) In the case of a chronically underperforming school, the commissioner may, under the circumstances described in this subsection, send a targeted assistance team to the school to assist the superintendent with the implementation of the turnaround plan, require the superintendent to implement the turnaround plan, or select an external receiver to operate the school and implement the turnaround plan. The commissioner may appoint such receiver if the commissioner determines that: (1) the superintendent is unlikely to implement the plan successfully; or (2) conditions exist in the district that are likely to negatively affect the ability of the superintendent to implement such plan successfully. A receiver shall be a non-profit entity or an individual with a demonstrated record of success in improving low performing schools or the academic performance of disadvantaged students. A receiver shall be subject to section 11A½ of chapter 30A and chapter 66. A receiver who is an individual shall also be subject to chapter 268A.

The commissioner may select the external receiver upon the designation of a school as chronically underperforming. The external receiver may serve as the commissioner's designee

for the purpose of creating a school's turnaround plan under subsections (m) to (p), inclusive.

(s) An external receiver selected by the commissioner to operate a chronically underperforming school shall have full managerial and operational control over the school as provided in the turnaround plan. For all other purposes, the school district in which the school is located shall remain the employer of record.

(t) Each turnaround plan shall be authorized for a period of not more than 3 years, subject to subsection (v). The superintendent or external receiver, as applicable, may develop additional components of the plan and shall develop annual goals for each component of the plan in a manner consistent with subsection (n), all of which must be approved by the commissioner. The superintendent or external receiver, as applicable, shall be responsible for meeting the goals of the turnaround plan.

(u) The commissioner or external receiver, as applicable, shall provide a written report to the school committee on a quarterly basis to provide specific information about the progress being made on the implementation of the school's turnaround plan. One of the quarterly reports shall be the annual evaluation under subsection (v).

(v) The commissioner shall evaluate each chronically underperforming school at least annually. The purpose of the evaluation shall be to determine whether the school has met the annual goals in its turnaround plan and assess the implementation of the plan at the school. The review shall be in writing and shall be submitted to the superintendent and the school committee not later than July 1 for the preceding school year. The review shall be submitted in a format determined by the department of elementary and secondary education.

If the commissioner determines that the school has met the annual performance goals stated in the turnaround plan, the review shall be considered sufficient and the implementation of the turnaround plan shall continue. If the commissioner determines that the school has not met 1 or more goals in the plan, the commissioner may modify the plan in a manner consistent with subsection (n).

If the commissioner determines that the school has substantially failed to meet multiple goals in the plan, the commissioner may: (1) if the school is operated by a superintendent, appoint an external receiver, as defined in subsection (r), to operate the school; or (2) if the school is operated by an external receiver terminate the contract of the external receiver; provided, however, that the commissioner shall not terminate the receiver before the completion of the first full school year of the operation of the chronically underperforming school.

(w) Upon the expiration of a turnaround plan for a chronically underperforming school, the commissioner shall conduct a review 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 may: (1) on the basis of a superintendent's or external receiver's success in meeting the terms of the plan, renew the plan with the superintendent or external receiver for an additional period of not more than 3 years; (2) if a school that is operated by a superintendent and remains chronically underperforming, appoint an external receiver, as defined in subsection (r), to operate the school; (3) if a chronically underperforming school that is operated by an external receiver and remains chronically underperforming, transfer the operation of the school from the receiver to the applicable superintendent or to another external receiver; or (4) determine that the school has improved sufficiently for the designation of chronically underperforming to be removed. The commissioner shall: (1) in the case of a renewal of an turnaround plan, jointly determine subsequent annual goals for each component of the plan with the superintendent or external receiver, as applicable; or (2) create a new or modified turnaround plan as necessary, consistent with the requirements of this section.

(x) Notwithstanding any general or special law to the contrary, any underperforming or chronically underperforming school operating a limited-English proficient program or programs for limited English proficient students in any 1 language group shall establish a limited English proficient parent advisory council. The parent advisory council shall be comprised of parents or legal guardians of students who are enrolled in limited English proficient programs within the school. Each parent advisory council shall have at least 1 representative from every language group in which a program is conducted in a given school. Membership shall be restricted to parents or legal guardians of students enrolled in limited English proficient programs within the school. The duties of the parent advisory council shall include, but not be limited to, advising the school on matters that pertain to the education of students in limited English proficient programs, meeting regularly with school officials to participate in the planning and development of a plan to improve educational opportunities for limited English proficient students, and to participate in the review of school improvement plans established under section 59C of chapter 71 as they pertain to limited English proficient students. Any parent advisory council may, at its request, meet at least once annually with the school council. The parent advisory council shall establish by-laws regarding officers and operational procedures. In the course of its duties under this section, the parent advisory council shall receive assistance from the director of limited English proficient programs for the district or other appropriate school personnel as designated by the superintendent.

(y) The board of elementary and secondary education shall adopt regulations regarding: (1) the conditions under which an underperforming or chronically underperforming school shall no longer be designated as an underperforming or chronically underperforming school; and (2) the transfer of the operation of an underperforming or a chronically underperforming school from a superintendent or an external receiver, as applicable, to the school committee. The regulations shall include provisions to allow a school to retain measures adopted in an turnaround plan for a transitional period if, in the judgment of the commissioner, the measures would contribute to the continued improvement of the school. Such regulations shall also include provisions that clearly identify the conditions under which such a transitional period shall end and the powers granted to the commissioner and board under this section shall cease to apply to a district previously

designated as chronically underperforming.

(z) The commissioner shall report annually to the joint committee on education, the house and senate committees on ways and means, the speaker of the house of representatives and the senate president on the implementation and fiscal impact of this section and section 1K. The report shall include, but not be limited to, a list of all schools currently designated as underperforming or chronically underperforming, a list of all districts currently designated as chronically underperforming, the plans and timetable for returning the schools and districts to the local school committee and strategies used in each of the schools and districts to maximize the rapid academic achievement of students.

**Section 1K.** (a) A district shall be deemed eligible for designation as chronically underperforming upon a determination by the board of elementary and secondary education, pursuant to regulations adopted by the board, that a school district, other than a single school district, has scored in the lowest 10 per cent statewide when compared to other districts of the same grade levels based on a single measure developed by the department that takes into account student achievement data collected pursuant to 1I, and, beginning on July 1, 2011, improvement over time in student academic achievement. Following such determination, the commissioner shall appoint a district review team pursuant to section 55A of chapter 15 to assess and report on the reasons for the underperformance and the prospects for improvement, unless such an assessment has been completed by a district review team within the previous year that the commissioner considers adequate. The district review team shall include at least 1 person with expertise in the academic achievement of limited English-proficient students. Upon review of the findings of the district review team, the board may declare the district chronically underperforming.

Following such a declaration, the board shall designate a receiver for the district with all the powers of the superintendent and school committee. The receiver shall be a non-profit entity or an individual with a demonstrated record of success in improving low-performing schools or districts or the academic performance of disadvantaged students who shall report directly to the commissioner. An external receiver designated by the board to operate a district under this subsection shall have full managerial and operational control over such district; provided, however, that the school district shall remain the employer of record for all other purposes. A receiver shall be subject to section 11A ½ of chapter 30A and chapter 66. A receiver who is an individual shall also be subject to chapter 268A.

Not more than 2.5 per cent of the total number of school districts may be designated as chronically underperforming at any given time.

In adopting regulations allowing the board to designate a district as chronically underperforming, the board must ensure that the regulations account for multiple indicators of district

quality including student attendance, dismissal rates, exclusion rates, student promotion and graduation rates in the district, or the lack of demonstrated significant improvement for 2 or more consecutive years in core academic subjects, either in the aggregate or among subgroups of students, including designations based on special education classification, low-income, English language proficiency and racial classifications.

(b) The commissioner and the receiver shall jointly create an turnaround plan to promote the rapid improvement of the chronically underperforming district. The plan shall specifically focus on the school or schools in the district that have been designated as chronically underperforming under section 1J and the district policies or practices that have contributed to chronic underperformance.

Before creating the turnaround plan required in this subsection, the commissioner and receiver shall convene a local stakeholder group of not more than 13 individuals for the purpose of soliciting recommendations on the content of such plan in order to maximize the rapid improvement of the academic achievement of students. The commissioner shall provide due consideration to the recommendations of the local stakeholder group. The group shall include: (1) the superintendent, or a designee; (2) the chair of the school committee, or a designee; (3) the president of the local teacher's union, or a designee; (4) a selection of administrators from the district, chosen by the commissioner from among volunteers from the district; (5) a selection of teachers from the district, chosen by the local teacher's union; (6) a selection of parents from the district chosen by the local parent organization; (7) representatives of applicable state and local social service, health, and child welfare agencies chosen by the commissioner; (8) as appropriate, representatives of state and local workforce development agencies chosen by the commissioner; (9) a representative of an early education and care provider chosen by the commissioner of the department of early education and care, or for middle or high schools, a representative of the higher education community selected by the secretary of education; and (10) a member of the community appointed by the chief executive of the city or town. If the district does not have a parent organization or if the organization does not select a parent, the commissioner shall select a volunteer parent of a student from the district. The commissioner and receiver shall convene the group within 30 days of the board designating a district as chronically underperforming and the group shall make its recommendations to the commissioner and receiver within 45 days of its initial meetings. Meetings of the local stakeholder group shall be open to the public and the recommendations submitted to the commissioner and receiver shall be publicly available immediately upon their submission.

(c) In creating the turnaround plan, the commissioner and receiver shall include measures intended to maximize the rapid improvement of the academic achievement of students in the district and shall, to the extent practicable, base the plan on student outcome data, including, but not limited to: (1) data collected pursuant to section 1I, or information from a school or district review performed under section 55A of chapter 15; (2) student achievement on the Massachusetts Comprehensive Assessment System; (3) other measures of student achievement, approved by the commissioner; (4) student promotion and graduation rates; (5) achievement

data for different subgroups of students, including low-income students as defined in chapter 70, limited English-proficient students and students receiving special education; and (6) student attendance, dismissal rates and exclusion rates. In creating the turnaround plan required in subsection (b), the commissioner and receiver shall include, after considering the recommendations of the local stakeholder group, the following: (1) steps to address social service and health needs of students in the district and their families in order to help students arrive and remain at school ready to learn; provided, however, that this may include mental health and substance abuse screening; (2) steps to improve or expand child welfare services and, as appropriate, law enforcement services in the school district community, in order to promote a safe and secure learning environment; (3) as applicable, steps to improve workforce development services provided to students in the district and their families in order to provide students and families with meaningful employment skills and opportunities; (4) steps to address achievement gaps for limited English-proficient, special education and low-income students, as applicable; (5) alternative English language learning programs for limited-English proficient students, notwithstanding chapter 71A; and (6) a budget for the district including any additional funds to be provided by the commonwealth, federal government or other sources.

The secretaries of health and human services, public safety, labor and workforce development and other applicable state and local social service, health and child welfare officials shall coordinate with the secretary of education and the commissioner regarding the implementation of strategies pursuant to clauses (1) to (3), inclusive, of this subsection that are included in an turnaround plan and shall, subject to appropriation, reasonably support the implementation consistent with the requirements of state and federal law applicable to the relevant programs that each such official is responsible for administering.

In order to assess the district across multiple measures of district performance and student success, the turnaround plan shall include measurable annual goals including, but not limited to, the following: (1) student attendance, dismissal rates and exclusion rates; (2) student safety and discipline; (3) student promotion and graduation and dropout rates; (4) student achievement on the Massachusetts Comprehensive Assessment System; (5) progress in areas of academic underperformance; (6) progress among subgroups of students, including low-income students as defined by chapter 70, limited English-proficient students and students receiving special education; (7) reduction of achievement gaps among different groups of students; (8) student acquisition and mastery of 21st-century skills; (9) development of college readiness, including at the elementary and middle school levels; (10) parent and family engagement; (11) building a culture of academic success among students; (12) building a culture of student support and success among faculty and staff; and (13) developmentally appropriate child assessments from pre-kindergarten through third grade, if applicable.

(d) Notwithstanding any general or special law to the contrary, in creating the turnaround plan under subsection (b), the commissioner and the receiver may, after considering the recommendations of the group of stakeholders: (1) expand, alter or replace the curriculum and program offerings of the district or of a school in the district, 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 district or schools in the district do not already have such programs or courses; (2) reallocate the uses of the existing budget of the district; (3) provide funds, subject to appropriation, to increase the salary of an administrator, or teacher in the district working in an underperforming or chronically underperforming school, in order to attract or retain highly-qualified administrators, or teachers or to reward administrators or teachers who work in chronically underperforming districts that achieve the annual goals set forth in the turnaround plan; (4) expand the school day or school year or both of schools in the district; (5) limit, suspend or change 1 or more provisions of any contract or collective bargaining agreement in the district, including the adoption of model provisions identified by the commissioner from among existing contracts or collective bargaining agreements in the commonwealth; provided, however, that the commissioner shall not reduce the compensation of an administrator, teacher or staff member unless the hours of the person are proportionately reduced; (6) add pre-kindergarten and full-day kindergarten classes, if the district does not already have the classes; (7) following consultation with applicable local unions, require the principal and all administrators, teachers and staff to reapply for their positions in the district, with full discretion vested in the receiver regarding any such reapplications. turnaround plan; (8) limit, suspend or change 1 or more school district policies or practices, as such policies or practices relate to the underperforming schools in the district; (9) include a provision of job-embedded professional development for teachers in the district, with an emphasis on strategies that involve teacher input and feedback; (10) provide for increased opportunities for teacher planning time and collaboration focused on improving student instruction; (11) establish a plan for professional development for administrators in the district, with an emphasis on strategies that develop leadership skills and use the principles of distributive leadership; (12) establish steps to assure a continuum of high expertise teachers by aligning the following processes with the common core of professional knowledge and skill: hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure; (13) develop a strategy to search for and study best practices in areas of demonstrated deficiency in the district; (14) establish strategies to address mobility and transiency among the student population of the district; and (15) include additional components, at the discretion of the commissioner and the receiver, based on the reasons the district was designated as chronically underperforming and based on the recommendations of the local stakeholder group in subsection (b).

If the commissioner does not approve a reapplication submitted by an employee pursuant to clause (7) for a position in a school or if an employee does not submit a reapplication for a position in a school, the employee shall retain such rights as may be provided under law or any applicable collective bargaining agreement in relation to the employee's ability to fill another position in the district; provided, however, that the employee shall not have the right to displace any teacher with professional teacher status in any other school during a school year.

A teacher with professional teacher status in a school declared underperforming or chronically underperforming may be dismissed for good cause; provided, however, that the teacher receives 5 days written notice of the decision to terminate which shall include without limitation an explanation of the reason why the commissioner/superintendent is not retaining the teacher in the school; provided, further, that the teacher may seek review of a termination decision within 5

days after receiving notice of the teacher's termination by filing a petition for expedited arbitration with the commissioner; provided, further, that except as otherwise provided herein section 42 of chapter 71 shall apply to a petition filed pursuant to this section; provided further, that the commissioner shall cause an arbitrator to be selected pursuant to the procedures in section 42 of chapter 71 within 3 days of receipt of petition and shall conduct and complete a hearing within 10 days of receipt of the petition; provided further, that in reviewing dismissal decisions, the arbitrator shall consider the components of the turnaround plan and shall also consider any personnel evaluations conducted that are consistent with the guidelines established pursuant to section 1B; and provided, further, that the arbitrator's decision shall be issued within 10 days from the completion of the hearing.

For a district with limited English-proficient students, the professional development and planning time for teachers and administrators identified in clauses (9) to (11), inclusive, shall include specific strategies and content designed to maximize the rapid academic achievement of limited English-proficient students in the district.

(e) if, after considering the recommendations of the group of stakeholders, pursuant to subsection (d) the commissioner considers it necessary to maximize the rapid academic achievement of students at an underperforming or chronically underperforming school by altering the compensation, hours and working conditions of the administrators, teachers, principals and staff at the school or by altering other provisions of a contract or collective bargaining agreement applicable to the administrators, teachers, principals and staff, the commissioner may request that the school committee and any union bargain or reopen the bargaining of the relevant collective bargaining agreements to facilitate such achievement. The bargaining shall be conducted in good faith and completed not later than 30 days from the point at which the commissioner requested that the parties bargain. The agreement shall be subject to ratification within 10 business days by the bargaining unit members in the school. If the parties are unable to reach an agreement within 30 days or if the agreement is not ratified within 10 business days by the bargaining unit members of the school, the parties shall submit remaining unresolved issues to a joint resolution committee for dispute resolution process on the next business day following the end of the 30 day bargaining period or failure to ratify.

The joint resolution committee shall be comprised of 3 members, 1 of whom shall be appointed by the employee organization within 3 business days following the submission of unresolved issues to the joint resolution committee, 1 of whom shall be appointed by the school committee within 3 business days following the submission of unresolved issues to the joint resolution committee and 1 who shall be selected through the American Arbitration Association who shall forthwith forward to the parties a list of three conciliators, each of whom shall have professional experience in elementary and secondary education, from which the parties may agree upon a single conciliator; provided, however, that if the parties cannot select a conciliator from among the 3 within 3 business days, the American Arbitration Association shall select a conciliator from the remaining names. The joint resolution committee shall conduct a dispute resolution process to be concluded within 10 business days of selection. This process shall be conducted in

accordance with the rules of the American Arbitration Association and consistent with this section; provided however, that all members of the joint resolution committee must agree to any resolution. The fee for the process shall be shared equally between the 2 parties involved. The joint resolution committee shall consider the positions of the parties, the designation of the school as underperforming or chronically underperforming, the designation of the district as chronically underperforming, and the needs of the students in the school. Notwithstanding any other provision of this chapter, the unanimous decision of the joint resolution committee shall be dispositive of all the issues in dispute and shall be submitted to the parties within 10 business days of the close of the hearing. Under no circumstance, shall a time extension be granted beyond 10 business days of the close of the hearing. In the event that a unanimous decision is not submitted to the parties within 10 business days, the commissioner will resolve all outstanding issues.

(f) The turnaround plan shall be authorized for a period of not more than 3 years, subject to subsection (g). The commissioner and receiver may jointly develop additional components of the plan and shall jointly develop annual goals for each component of the plan in a manner consistent with the provisions of subsection (d). The receiver shall be responsible for meeting the goals of the turnaround plan.

(g) The commissioner and receiver shall provide a written report to the school committee on a quarterly basis to provide specific information about the progress being made on the implementation of the district's turnaround plan. One of the quarterly reports shall be the annual evaluation required in subsection (g).

(h) The commissioner shall evaluate the performance of the receiver on not less than an annual basis. The purpose of such evaluation shall be to assess the implementation of the turnaround plan and determine whether the district has met the annual goals contained in the turnaround plan. The evaluation shall be in writing and submitted to the board and the local school committee no later than July 1 for the preceding school year.

If the commissioner determines that the district has met the annual performance goals stated in the turnaround plan, the evaluation shall be considered sufficient and the implementation of the turnaround plan shall continue.

If the commissioner determines that the receiver has not met 1 or more goals in the plan and the failure to meet the goals may be corrected through reasonable modification of the plan, the commissioner may amend the turnaround plan, as necessary. After assessing the implementation of the turnaround plan in the district, the commissioner may amend the plan if the commissioner determines that the amendment is necessary in view of subsequent changes in the district that affect 1 or more components of the plan, including, but not limited to, changes to contracts, collective bargaining agreements, or school district policies, in manner consistent with the

provisions of subsection (d). If the commissioner determines that the receiver has substantially failed to meet multiple goals in the turnaround plan, the commissioner may terminate such receiver; provided, however, that the termination shall not occur before the completion of the first full school year of the receivership of the district.

(i) After the period of receivership, there shall be a reevaluation of a district's status under this section. The board of elementary and secondary education shall adopt regulations providing for: (1) the removal of a designation of a district as chronically underperforming; and (2) the transfer of the operation of a chronically underperforming district from an external receiver to the superintendent and school committee, based on the improvement of the district. The regulations shall include provisions to allow a district to retain measures adopted in a turnaround plan for a transitional period if, in the judgment of the commissioner, the measures would contribute to the continued improvement of the district. Such regulations shall also include provisions that clearly identify the conditions under which such a transitional period shall end and the powers granted to the commissioner and board under this section shall cease to apply to a district previously designated as chronically underperforming. At any time after a chronically underperforming district has been placed in receivership, the school committee of the district may petition the commissioner for a determination as to whether the turnaround plan adopted under subsection (b) should be modified or eliminated and whether the school district shall no longer be designated as chronically underperforming. The decision of the commissioner shall be based on regulations adopted by the board. A school committee may seek review by the board of elementary and secondary education of an adverse determination.

(j) If, on the basis of the regulations adopted by the board pursuant to subsection (h), a district has not improved sufficiently to remove the designation of the district as chronically underperforming, the commissioner may: (1) jointly determine subsequent annual goals for each component of the turnaround plan with the receiver and renew the turnaround plan for an additional period of not more than 3 years; or (2) create a new turnaround plan, consistent with the requirements of this section.

(k) If a municipality has failed to fulfill its fiscal responsibilities pursuant to chapter 70, the commissioner may declare the school district as chronically underperforming, subject to the approval of the board. The municipality's mayor or chairman of the board of selectmen shall have the opportunity to present evidence to the board. A vote by the board that a school district is chronically underperforming for fiscal reasons shall authorize the commissioner to petition the commissioner of revenue to require an increase in funds for the school district, alleging that the amount necessary in the municipality for the support of public schools has not been included in the annual budget appropriations. The commissioner of revenue shall determine the amount of any deficiency pursuant to the sums required pursuant to chapter 70, if any, and issue an order compelling the municipality to provide a sum of money equal to such deficiency. If the municipality does not provide a sum of money equal to such deficiency, the commissioner of revenue, pursuant to section 23 of chapter 59, shall not approve the tax rate of the municipality for the fiscal year until the deficiency is alleviated. Nothing in this subsection shall be construed

as creating a cause of action for educational malpractice by students or their parents, guardians or persons acting as parents.

If the district is designated as chronically underperforming pursuant to this subsection, the provisions of this subsection shall supersede those in subsections (a) to (j), inclusive.