

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE XII. EDUCATION

CHAPTER 69. POWERS AND DUTIES OF THE DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

GENERAL PROVISIONS

Chapter 69: Section 1J. Chronic failure by school or district to improve educational program; regulations; remedial plan; determination of school's chronic under-performance; dismissal of principal; dismissal of teachers

Section 1J. The board shall establish regulations defining when a school or school district has chronically failed to improve the educational program provided to students served by the school or district. Such regulations shall be consistent with the goals and standards adopted by the board and the basis for the determination of chronic failure shall include, but not be limited to, the evaluations performed pursuant to section one I. The regulations adopted by the board shall take into account the turnover of students in particular schools and districts.

[Second paragraph effective until August 14, 2008. For text effective August 14, 2008, see below.]

Schools that have consistently failed to improve the academic performance of their students shall be deemed under-performing, in accordance with the board's regulations. Upon determination that a school is under-performing, the commissioner shall immediately appoint an independent fact-finding team which shall forthwith assess the reasons for the under-performance and the prospects for improvement and report its findings to the commissioner and the district in which the school is located no later than ninety days from the date of its appointment. No more than six months after the determination that a school is under-performing, the district in which the school is located shall present to the board a remedial plan that shall set forth specific goals for improvement, specific means for attaining such goals, and a timetable, not to exceed twenty-four months, for carrying out the plan. The district shall implement said remedial plan, with such changes or amendments as the board shall direct. During the period of implementation, the commissioner shall provide to the school technical assistance for the improvement of the educational program provided to the students served therein.

[Second paragraph as amended by 2008, 311, Sec. 5 effective August 14, 2008. For text effective until August 14, 2008, see above.]

Schools that have consistently failed to improve the academic performance of their students shall be deemed under-performing, in accordance with the board's regulations.

Upon determination that a school is under-performing, the commissioner shall immediately appoint an independent fact-finding team which, pursuant to section 55A of chapter 15, shall forthwith assess the reasons for the under-performance and the prospects for improvement and report its findings to the commissioner and the district in which the school is located no later than ninety days from the date of its appointment. No more than six months after the determination that a school is under-performing, the district in which the school is located shall present to the board a remedial plan that shall set forth specific goals for improvement, specific means for attaining such goals, and a timetable, not to exceed twenty-four months, for carrying out the plan. The district shall implement said remedial plan, with such changes or amendments as the board shall direct. During the period of implementation, the commissioner shall provide to the school technical assistance for the improvement of the educational program provided to the students served therein.

If the school fails to demonstrate significant improvement as dictated by its remedial plan within twenty-four months after the approval of its remedial plan, the board may declare the school to be chronically under-performing. Upon a determination that a school is chronically under-performing, the following steps may be taken:

(1) The principal of the school shall be immediately removed and shall not be assigned to the school for the following school year unless the board finds that the principal did not play a significant role in the under-performance of the school;

(2) The superintendent may designate a new principal for the school. Any principal of a chronically under-performing school shall have such extraordinary powers, including the power to dismiss, in accordance with paragraph (4), any teacher or other employee assigned to the school without regard to the procedures set forth under sections forty-one and forty-two of chapter seventy-one or the provisions of any collective bargaining agreement. Such dismissed teachers shall otherwise retain such rights as may be provided under law or any applicable collective bargaining agreement, except that they shall not have the right to displace any teacher in any other school;

(3) In order to recruit and retain talented personnel, the commissioner may make available funds, subject to appropriation, to permit the superintendent during the period of remediation to increase the salary of any principal or teacher assigned to the school by not more than one percent for every ten percent of the enrollment of the chronically under-performing school comprised of low-income students, as that term is used in chapter seventy;

(4) If the school does not 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, the district shall provide additional funding sufficient to bring funding for that school to such level;

(5) Such other actions determined by the board of education, to be reasonably calculated to increase the number of students attending the school who satisfy the student performance standards.

A principal appointed to a chronically under-performing school may dismiss a teacher with professional teacher status for good cause, provided that the teacher has received five school days written notice of the decision to terminate. The teacher with professional teacher status may seek review of a termination decision within five school days after receiving notice of his termination by filing a petition for expedited arbitration with the commissioner. An arbitrator shall be selected according to the procedures set forth in section forty-two of chapter seventy-one. In reviewing dismissal decisions, the arbitrator shall consider the chronic under-performance of the school to the degree that such under-performance is not due to factors beyond the control of the teacher, and the arbitrator shall consider any report from the fact-finding team that evaluates the teacher's performance. The arbitrator's decision shall be issued within ten school days from the completion of the hearing.

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GENERAL PROVISIONS

Chapter 69: Section 1K. Determination of district's chronic under-performance; designation of receiver; failure of municipality to fulfill fiscal responsibilities; petition for modification or removal of receivership or extraordinary measures

[First paragraph effective until August 14, 2008. For text effective August 14, 2008, see below.]

Section 1K. Upon a determination by the board pursuant to regulations adopted by the board that a school district has consistently failed to improve the performance of students attending school in the district, the commissioner shall appoint an independent fact-finding team to assess the reasons for the under-performance and the prospects for improvement. Upon review of the conclusions of the fact-finding team, the board may declare the district chronically under-performing. 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 report directly to the commissioner.

[First paragraph as amended by 2008, 311, Sec. 6 effective August 14, 2008. For text effective until August 14, 2008, see above.]

Upon a determination by the board pursuant to regulations adopted by the board that a school district has consistently failed to improve the performance of students attending school in the district, the commissioner shall appoint an independent fact-finding team, pursuant to section 55A of chapter 15, to assess the reasons for the under-performance and the prospects for improvement. Upon review of the conclusions of the fact-finding team, the board may declare the district chronically under-performing. 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 report directly to the commissioner.

If a municipality has failed to fulfill its fiscal responsibilities to education under chapter seventy, the commissioner shall recommend to the board that the district be declared chronically under-performing. 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 under-performing 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 said community 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 under chapter seventy, if any, and issue an order compelling the community to provide a sum of money equal to such deficiency. If the community does not provide a sum of money equal to such deficiency, the commissioner of revenue, in accordance with his powers in section twenty-three of chapter fifty-nine, shall not approve the tax rate of the community for the fiscal year until the deficiency is alleviated. This section shall not be construed to create a cause of action for educational malpractice by students or their parents, guardians or persons acting as parents.

At any time after the imposition under this section or section one J of extraordinary measures at any school or of a receiver for any district, the school committee of the affected district, acting on the recommendation of the superintendent, may petition the commissioner for a determination whether such measures or receivership should be modified or eliminated and whether the school or school district is no longer chronically under-performing. A school district may seek review by the board of any adverse determination. The determination of the board shall be subject to judicial review in accordance with the provisions of section fourteen of chapter thirty A.