

18A:7A-55 Appointment of State monitor in certain school districts; duties.

2. a. In addition to the powers provided pursuant to P.L.2005, c.235, P.L.1996, c.138 (C.18A:7F-1 et al.), and P.L.2007, c.260 (C.18A:7F-43 et al.) or any other law, the Commissioner of Education shall have the authority to appoint a State monitor and additional staff, as necessary, to provide direct oversight of a board of education's business operations and personnel matters if: the school district receives an adverse or a disclaimer of opinion by its independent auditor in the annual audit required pursuant to N.J.S.18A:23-1; or any two or more of the following circumstances apply to the school district:

(1) the school district ends the fiscal year with a deficit balance as calculated for budgetary purposes in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;

(2) the school district receives a qualified opinion by its independent auditor in the annual audit required pursuant to N.J.S.18A:23-1;

(3) the school district receives an adverse, disclaimer, or qualified opinion by its independent auditor under the single audit section for State or federal awards in the annual audit required pursuant to N.J.S.18A:23-1;

(4) the school district receives any audit findings by its independent auditor identified as material weaknesses in internal controls;

(5) the school district fails to develop and implement a plan acceptable to the commissioner or his designee to address a potential or actual deficit balance in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;

(6) the school district fails to implement a plan from the prior year which causes any findings from the independent auditor to be repeated;

(7) the school district is required to return federal funds once it is determined that the school district's expenditures are not in compliance with the grant requirements; or

(8) the school district submits the annual audit after the submission date required pursuant to N.J.S.18A:23-1.

b. The State monitor shall:

(1) oversee the fiscal management and expenditures of school district funds, including, but not limited to, budget reallocations and reductions, approvals of purchase orders, budget transfers, and payment of bills and claims;

(2) oversee the operation and fiscal management of school district facilities, including the development and implementation of recommendations for redistricting and restructuring of schools;

- (3) ensure development and implementation of an acceptable plan to address the circumstances set forth in subsection a. of this section which resulted in the appointment of the State monitor. The plan shall include measurable benchmarks and specific activities to address the deficiencies of the school district;
- (4) oversee all district staffing, including the ability to hire, promote, and terminate employees;
- (5) have authority to override a chief school administrator's action and a vote by the board of education on any of the matters set forth in this subsection, except that all actions of the State monitor shall be subject to the education, labor, and employment laws and regulations, including the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), and collective bargaining agreements entered into by the school district;
- (6) attend all meetings of the board of education, including closed sessions; and
- (7) meet with the board of education on at least a quarterly basis to discuss with the members of the board the past actions of the board which led to the appointment of the State monitor and to provide board members with education and training that address the deficiencies identified in board actions.

c. The Commissioner of Education shall notify the State Board of Education following the appointment of a State monitor pursuant to subsection a. of this section. The State monitor shall report directly to the commissioner or his designee on a weekly basis. The State monitor shall also report monthly to the board of education and members of the public at the regularly scheduled board of education meeting.

d. For purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the State monitor shall be considered a State officer, but for all other purposes the State monitor shall be considered an employee of the district.

e. The State monitor shall provide oversight in the school district until the commissioner determines that all remedial actions required under the plan have been implemented and the necessary local capacity and fiscal controls have been restored to school district operations.

f. The salary of the State monitor shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The school district shall assume the total cost of the State monitor and necessary additional staff appointed pursuant to subsection a. of this section. The State monitor shall have the authority to appoint legal counsel if legal action is taken against him while acting in his official duties as a State monitor or as needed upon approval of the commissioner.

L.2006, c.15, s.2; amended 2007, c.53, s.16; 2007, c.260, s.24.

18A:7A-56 Recommendation of advance State aid payment to school district; repayment.

3. a. The Commissioner of Education shall recommend to the State Treasurer whether an advance State aid payment should be made to a school district for which a State monitor has been appointed. The commissioner's recommendation shall be based on whether the payment is necessary to ensure the provision of a thorough and efficient education. An advance State aid payment shall be recorded by the school district as revenue for budget purposes in the school year in which the advance State aid payment is provided.

b. The advance State aid payment shall be repaid by the school district through automatic

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reductions in the State aid provided to the school district in subsequent years. The term of the repayment shall not exceed 10 years, but may be for a shorter term as determined by the State Treasurer. At any time during the term of the repayment the State Treasurer, in consultation with the Commissioner of Education, may determine to impose interest on the unpaid balance ; except that interest shall not be imposed in the case of a school district for which a State monitor is appointed within 90 days of the effective date of this act. The commissioner shall transfer the amount of the reduction in State aid to the account established pursuant to section 5 of this act.

c. In any year in which the school district's undesignated general fund balance is greater than 1.5% of general fund expenditures, the amount which exceeds 1.5% shall be an additional amount applied to the following year's repayment of the advance State aid payment and the school district's State aid shall be reduced by this additional amount in that following year.