School Receivership for 2023ï 2024 to 2025ï 2026: Frequently Asked Questions

Contents

A. Commissioner's Regulation §100.19 3

A.1. How are schools identified as Schools under Receivership? 3

A.2. What is the difference between Cohort 1 and Cohort 2 Schools under Receivership? 4

A.3. How many schools are in Receivership? 4

A.4. How can a school exit Receivership? 4

H.13. Once the respondent has served the responding papers, can the submitting party reply? 17

H.14. Can a party submit additional papers beyond the responding papers or reply papers? 17

H.15. How are responding papers and reply papers filed with the Commissioner? 18

H.16. When must the Commissioner resolve the unresolved issues? 18

H.17. After the Commissioner has resolved the unresolved issues submitted to her/him, must the agreement be submitted to the members of the collective bargaining members for ratification? 18

I. Determination of Demonstrable Improvement 18

I.1. How will the Commissioner make the 2023 2024 determination regarding Demonstrable Improvement? 18

I.2. How and when is the Demonstrable Improvement Index calculated? 19

I.3. Will DI determinations be made for both Cohort 1 schools and for Cohort 2 schools? 19

I.4. What is the process for making final Demonstrable Improvement determinations? 19

I.5. How are the indicators assigned or selected? 19

I.6. What factors are used by the Commissioner to determine Demonstrable Improvement when a Demonstrable Improvement Index is below 67%? 20

I.7. How should a district choose the Level 2 indicators for each of its schools? 20

I.8. How does a district go about proposing and receiving approval to use Local indicators? 20

J. Additional Technical Assistance and Resources for School Communities 21

J.1. Where can districts find resources and technical assistance for implementing Receivershi(r)5(shi)-6((r)5(shi)-6((r)

B. Receivership Powers and Responsibilities

B.1. What is required of the Superintendent Receiver when a school is newly identified as a School under Receivership, and by when must these requirements be completed?

no later than 30 calendar days after a school has been identified as a School under Receivership, the district is required to notify parents The notification must be made in writing and explain why it was designated as a School under Receivership. The notices must be provided in English and translated, to the extent practicable, Parents who enroll students in identified schools must be provided with this notification at the time of enrollment. Each year that the school remains identified, the notification must be provided to parents or guardians no later than June 30th.

In addition, the Superintendent Receiver is responsible for the following:

- Forming a Community Engagement Team (CET) for each identified school

- 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.
- Order the conversion of a School under Receivership that has been designated pursuant to this section into a charter school; provided that such conversion shall be subject to Article 56 of the Education Law (including the requirement of a vote by parents of students attending the school) and that such conversion charter school shall operate pursuant to such article, and shall operate consistent with a Community Schools Model, and shall be subject to the provisions of subdivisions (3), (4), (5), (6), (9), (10), (11), (12) and (13) of Education Law section 211-f.

The Receiver also has additional powers and responsibilities as they relate to abolishment of staff positions at the identified school, and supersession of local board of education decisions related to employment of the staff and administration at the identified school and the school budget. For a complete description of the processes related to abolishment of staff positions and supersession of

be found here.

Back to the Top

C. Public Hearing and Notification Requirements

C.1. What are the public hearing and notification requirements for districts with schools that remain under Receivership in subsequent years after being identified?

Each year that a school remains under Receivership, the district must hold a public meeting or hearing to discuss the performance of the designated school and the concept of Receivership no later than 30 calendar days after the first day students are in attendance for the new school year, unless the district has been approved for an extension by the Department. These public meetings or hearings must be offered in the form of a documentable, advertised, in-person format where constituent/community engagement affords input and information exchange.

During the 2020 2021 and 2021 2022 school years, due to the COVID-19 pandemic, the Department waived the 30-day timeline requirement for holding the public meetings or hearings and granted extensions until December 1 to discuss the performance of the designated schools. Beginning with the 2022 2023 school year, the 30-day timeline requirement was reinstated, with in-person meetings required. However, moving forward, this does not preclude a district from offering, but not holding in singular form, simultaneous online access to the same in-person/live meeting or hearing. If such a hybrid option is hosted by the school/district, equitable access to the receipt and exchange of information must be afforded to both in-person and online participants, along with the opportunity to share their voice in real-time.

There are additional public notification and hearing requirements that must be met by the district. The Community Engagement Plan Template and the Public Notification and Hearing Requirements Template have been developed by the Department as guidance for fulfilling these requirements, as well as for districts to use when providing information about how the required

Continuation Plan submitted to the Department for the school year and determine whether revisions are necessary. After the plan receives Department approval, the CET will work to assess t -approved intervention plan is being successfully implemented and provide on-going recommendations at least twice annually to school leadership. All such recommendations and the efforts made to incorporate them, including a description of which recommendations were incorporated and how they were incorporated, and which recommendations were not incorporated and why they were not incorporated, must be included as an attachment to the Department-approved Continuation Plan. Such plan must be agreed upon and signed by a representative CET member other than the members of the school leadership team.

D.3. How many parents can the Community Engagement Team have? The regulations specify the process by which the representatives will be elected, but not the number of representatives.

The number of parents or any stakeholder group on the Community Engagement Team (CET) is determined by the receiver. However,
100.11 plan requires that representatives be selected. For example, if the Regulations Part 100.11 plan specifies that each family with a child at the school shall have one vote in selecting parent representatives and the top three vote getters shall serve on the Part 100.11 team, then the families shall appoint their representative(s) in this manner, but the superintendent could decide to have more or fewer than three parents on the CET. However, if the Part 100.11 plan states that two persons selected by the members of the Parent Organization and two persons selected by the Special Education Parent Teacher Association shall serve on the Part 100.11 team, then the receiver must provide for at least one member selected by the members of these organizations to serve on the CET.

D.4. In the case that the public notice process for the Community Engagement Team creation as well as the Receivership hearing (where parents are informed that the school has been placed in

- An analysis of the professional development provided for the staff during the preceding two school years:
-

E.5. If a staff person is deemed not qualified to work in a school, could the district be required to rehire that person from the Preferred Eligibility List if a vacancy subsequently occurs in that school?

Yes. -
f(7)(c) requires that they be placed on a Preferred Eligibility List (PEL) in accordance with the applicable provisions of Education Law §§ 2510, 2585, 2588 or 3013. Each of those tenure statutes create a right to reinstatement to fill a vacancy in the tenure area of the position that was

faithful, competent service. Therefore, if a future vacancy occurs, a teacher who was not rehired by the Receiver will have a right to the position if he or she is the most senior teacher on the PEL in the tenure area and is determined to have provided faithful, competent service. In this regard, Education Law §211-f(7)(b), provides that a teacher who has received two Ineffective ratings on the APPR (Annual Professional Performance Review) shall be deemed not to have rendered faithful, competent service.

E.6. If re-staffing occurs, can the Receiver abolish only some positions, or must all positions be abolished?

Education Law §211-f(7)(c) indicates *may* does not indicate she or he *must* The statute is interpreted to authorize the Receiver to abolish some or all positions in the school. Accordingly, §100.19(g)(4)(ii)(a) says that before the abolition, the receiver has to

Back to the Top

F. Supersession

F.1. What process must the School Receiver follow to supersede the decisions, policies, or local school district regulations of the Superintendent (if an independent receiver is in place); the school board, or the school principal?

Not fewer than 10 business days prior to the effective date of the supersession action the School Receiver must notify the Superintendent (if an independent receiver is in place), the school board, or the school principal, of the specific decision, policy or regulation that the Receiver plans to supersede. The Receiver must also include in the notification the reasons for supersession; the specific decision, policy or regulation that will replace the one being superseded; and the time period during which the supersession will remain in effect.

The notified parties have at least five business days from the receipt of notice of supersession to respond in writing to the notice. The Receiver must consider these responses before implementing the supersession.

At any point prior to the supersession of a decision, policy or regulation, the Superintendent (if an independent receiver is in place) or the board of education can request in writing that the School Receiver terminate the supersession. Within 15 business days of the request, the School Receiver

rejecting the request.

F.2. What process must the Superintendent follow to supersede the school board regarding employment decisions?

H.2. If a receiver requests the collective bargaining representatives of teachers or administrators to negotiate a receivership agreement that modifies the applicable collective bargaining

H.5. May the receiver request collective negotiations on any subject?

No.

H.9. What will happen after a request for resolution is submitted to American Arbitration Association?

Upon receipt of a completed request for conciliation/arbitration form, American Arbitration Association will provide the parties with a list of three conciliators/arbitrators with professional experience in elementary and secondary education. The list of conciliators/arbitrators will include a resume/curriculum vita and hourly rate for each individual listed. The parties then have three

must select and appoint a conciliator/arbitrator within one business day. The conciliator/arbitrator must resolve the outstanding issues within five days and will contact the parties to arrange a conference at which the outstanding issues will be presented and discussed.

AAA bills parties equally for all costs unless the parties agree otherwise.

AAA Customer Service can be reached at 800.778.7879.

H.10. What needs to be submitted with the request for resolution of unresolved issues by the Commissioner?

There is no specific form for a request for resolution. The request must be filed with the Commissioner and specifically describe the unresolved issues and the position of the submitting party on each unresolved issue, including the specific contract language recommended by the party for the receivership agreement.

H.11. Where should the submission for resolution by the Commissioner and supporting documentation be filed?

An electronic copy of the submission for resolution must be filed with the Commissioner at Legal@nysed.gov. The original of the submission for resolution by the Commissioner must be filed through express mail, next day delivery or the equivalent with the Office of Counsel, New York State Education Department, State Education Building, 89 Washington Avenue, Albany, N.Y. 12234.
the electronic copy.

H.12. What is the process by which the other party may respond to a submission by the submitting party?

The other party (the respondent) may file responding papers within five days after service upon the respondent of the submission for resolution. If the five-day period ends on a weekend or holida

H.15. How are responding papers and reply papers filed with the Commissioner?

The originals of the responding papers and reply papers must be submitted to the Commissioner by express mail delivery or equivalent means, with next day delivery.

An electronic copy must be filed with the Commissioner at Legal@nysed.gov.

papers or reply papers and the electronic copy or copies.

H.16. When must the Commissioner resolve the unresolved issues?

The Commissioner must resolve the issues within five days after the parties have fully submitted the request for resolution.

I.2. How and when is the Demonstrable I

- Performance on the indicator can be measured, and the results provided to the department in the prescribed timeframe.
- The district currently reports results on the indicator or will pledge to do so, including all data necessary to calculate performance on the indicator.
- There is a means by which the Department can audit the application of the methodology and the business rules to determine if they have been applied correctly.

Back to the Top

J. Additional Technical Assistance and Resources for School Communities

J.1. Where can districts find resources and technical assistance for implementing Receivership?

The Department will continue to post resources on the School Receivership webpage and the OISR webpage.

- Questions regarding additional support the Department provides to Schools under Receivership should be sent to OISR@nysed.gov.
- Questions regarding the Demonstrable Improvement process for Schools under Receivership should be sent to ACCOUNTINFO@nysed.gov.
- Questions concerning Student Information Repository System (SIRS) annual reporting requirements should be sent to the Office of Information Reporting Services (IRS) at DATASUPPORT@nysed.gov.
- As questions that are relevant to multiple districts are received, the answers will be added to this FAQ (Frequently Asked Questions).

Back to the Top