**Effective: April 1, 2012**

Mckinney's Consolidated Laws of New York Annotated [Currentness](#Document1zzI50013F6005FD11E2BD06962E9536)

Education Law [(Refs & Annos)](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=NY-ST-ANN&DocName=lk%28NYEDR%29+lk%28NYEDC16M%29+lk%28NYEDC16TIART5R%29+lk%28NYEDC16TIART5PTIR%29&FindType=l)

 Chapter 16. Of the Consolidated Laws [(Refs & Annos)](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=NY-ST-ANN&DocName=lk%28NYEDR%29+lk%28NYEDC16M%29+lk%28NYEDC16TIART5R%29+lk%28NYEDC16TIART5PTIR%29&FindType=l)

 Title I. General Provisions

[ Article 5](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=NY-ST-ANN&DocName=PRT%28%3E%0A%09%09%09%09%09%09%09%09002586396%29+%26+BEG-DATE%28%3C%3D12%2F19%2F2012%29+%26+END-DATE%28%3E%3D12%2F19%2F2012%29+%25+CI%28REFS+%28DISP+%2F2+TABLE%29+%28MISC+%2F2+TABLE%29%29&FindType=l&JH=+Article+5.+University+of+the+State+of+New+York+&JL=2&JO=McKinney%27s+Education+Law+s+211-d&SR=SB). University of the State of New York [(Refs & Annos)](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=NY-ST-ANN&DocName=lk%28NYEDR%29+lk%28NYEDC16M%29+lk%28NYEDC16TIART5R%29+lk%28NYEDC16TIART5PTIR%29&FindType=l)

[ Part I](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=NY-ST-ANN&DocName=PRT%28%3E%0A%09%09%09%09%09%09%09%09002586397%29+%26+BEG-DATE%28%3C%3D12%2F19%2F2012%29+%26+END-DATE%28%3E%3D12%2F19%2F2012%29+%25+CI%28REFS+%28DISP+%2F2+TABLE%29+%28MISC+%2F2+TABLE%29%29&FindType=l&JH=+Part+I.+General+Organization+&JL=2&JO=McKinney%27s+Education+Law+s+211-d&SR=SB). General Organization [(Refs & Annos)](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=NY-ST-ANN&DocName=lk%28NYEDR%29+lk%28NYEDC16M%29+lk%28NYEDC16TIART5R%29+lk%28NYEDC16TIART5PTIR%29&FindType=l)

 **§ 211-d. Contract for excellence**

1. a. Every school district that, as of April first of the base year, has at least one school identified as in need of comprehensive support : year two shall be required to prepare a contract for excellence if the school district is estimated to receive an increase in total foundation aid for the current year compared to the base year in an amount that equals or exceeds either fifteen million dollars or ten percent of the amount received in the base year, whichever is less, or receives a supplemental educational improvement plan grant. In school year nineteen--two thousand twenty such increase shall be the amount of the difference between total foundation aid received for the current year and the total foundation aid base, as defined in [paragraph j of subdivision one of section thirty-six hundred two](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=1000069&DocName=NYEDS3602&FindType=L&ReferencePositionType=T&ReferencePosition=SP_2add000034c06) of this chapter.

b. In addition to the school districts required to prepare a contract for excellence under paragraph a of this subdivision, every school district that filed a contract for excellence in the base year shall file a contract for excellence in the current year if such district is estimated to receive a two-year increase, equal to the positive difference of the total foundation aid apportioned for the current year less the total foundation aid base, as defined in [paragraph j of subdivision one of section thirty-six hundred two](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=1000069&DocName=NYEDS3602&FindType=L&ReferencePositionType=T&ReferencePosition=SP_2add000034c06) of this chapter, for the base year, in an amount that equals or exceeds either twenty-seven million five hundred thousand dollars or twenty percent of such total foundation aid base for the base year; provided however, that this requirement shall apply only to a school district that, as of April first of the base year, has at least one school that has been identified as in need of comprehensive support: year two or above or as a school in need of improvement: year two.

c. In a city school district located in a city of one million or more inhabitants, a contract for excellence shall be prepared for the city school district and each community district that meets criteria specified in this subdivision.

d. All computations pursuant to paragraphs a and b of this subdivision and subdivision two of this section shall be based upon data included in the computerized school aid run produced by the commissioner in support of the enacted state budget which established the foundation aid formulas for the current year. For purposes of this section, accountability status of schools shall be determined as of April first of the base year, except that if the commissioner determines that the accountability data on file for a school as of April first of the base year was in error and officially adjusts the accountability status of the school after such date, such adjusted data shall be used for the purposes of paragraphs a and b of this subdivision and subdivision two of this section.

e. Notwithstanding paragraphs a and b of this subdivision, a school district that submitted a contract for excellence for the two thousand eighteen--two thousand nineteen school year shall submit a contract for excellence for the two thousand nineteen--two thousand twenty school year in conformity with the requirements of subparagraph (vi) of paragraph a of subdivision two of this section unless all schools in the district are identified as in good standing and provided further that, a school district that submitted a contract for excellence for the two thousand nineteen--two thousand twenty school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty --two thousand twenty-one school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the product of the amount approved by the commissioner in the contract for excellence for the two thousand nineteen--two thousand twenty school year, multiplied by the district's gap elimination adjustment percentage and provided further that, a school district that submitted a contract for excellence for the two thousand twenty--two thousand twenty-one school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty-one--two thousand twenty-two school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twenty --two thousand twenty-one school year. For purposes of this paragraph, the “gap elimination adjustment percentage” shall be calculated as the sum of one minus the quotient of the sum of the school district's net gap elimination adjustment for two thousand twenty--two thousand twenty-one computed pursuant to chapter fifty-three of the laws of two thousand twenty, making appropriations for the support of government, plus the school district's gap elimination adjustment for two thousand twenty-one--two thousand twenty-two as computed pursuant to chapter fifty-three of the laws of two thousand twenty-one, making appropriations for the support of the local assistance budget, including support for general support for public schools, divided by the total aid for adjustment computed pursuant to chapter fifty-three of the laws of two thousand twenty-one, making appropriations for the local assistance budget, including support for general support for public schools. Provided, further, that such amount shall be expended to support and maintain allowable programs and activities approved in the two thousand nineteen--two thousand twenty school year or to support new or expanded allowable programs and activities in the current year.

2. a. (i) In a common, union free, central, central high school, or a city school district in a city having less than one hundred twenty-five thousand inhabitants, required to prepare a contract for excellence pursuant to subdivision one of this section and, as of April first of the base year, does not contain any schools identified in need of comprehensive support or requiring academic progress: year three or above, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, in excess of one hundred four percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or redesign or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to fifty percent of additional funding received in the current year may be used to maintain investments in programs and activities listed in paragraph a of subdivision three of this section.

(ii) In a common, union free, central, central high school, or a city school district in a city having less than one hundred twenty-five thousand inhabitants, required to prepare a contract for excellence pursuant to subdivision one of this section and, as of April first of the base year, has at least one school identified as in need of comprehensive support: year three or above, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, in excess of one hundred four percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or redesign or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to thirty-five percent of additional funding received in the current year may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(iii) In a city school district in a city having a population of one hundred twenty-five thousand or more inhabitants but less than one million inhabitants that either receives a supplemental educational improvement plan grant or is required to submit a contract for excellence based solely upon the criteria specified in paragraph b of subdivision one of this section, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, and as supplemental educational improvement plan grants, in excess of one hundred four percent of such aid apportioned to the district in the base year, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or redesign or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to fifty percent of additional funding received in the current year may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(iv) In a city school district in a city having a population of one hundred twenty-five thousand or more inhabitants but less than one million inhabitants that satisfies the criteria specified in paragraph a of subdivision one of this section and does not receive a supplemental educational improvement plan grant, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, in excess of one hundred three percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to twenty-five percent of additional funding received in the current year may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(v) In a city school district in a city having a population of one million or more inhabitants, each contract for excellence shall describe how the amounts apportioned to the school district in the current year as total foundation aid and academic achievement grants, in excess of one hundred three percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to thirty million dollars or twenty-five percent of additional funding received in the current year, whichever is less, may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(vi) Each contract for excellence for a school district that was required to prepare a contract for excellence in the base year shall provide for the expenditure of an amount equivalent to the total budgeted amount approved by the commissioner in the district's approved contract for excellence for the base year; provided that such amount shall be expended to support and maintain allowable programs and activities approved in the base year or to support new or expanded allowable programs and activities in the current year.

(vii)(A) Notwithstanding any other provision of this section to the contrary, a school district that submitted a contract for excellence for the two thousand eighteen--two thousand nineteen school year and the two thousand nineteen--two thousand twenty school year and is required to submit a contract for excellence for the two thousand twenty--two thousand twenty-one school year but did not fully expend all of its two thousand eighteen--two thousand nineteen foundation aid subject to the contract for excellence restrictions during the two thousand eighteen--two thousand nineteen school year may re-allocate and expend such unexpended funds during the two thousand nineteen--two thousand twenty and two thousand twenty--two thousand twenty-one school years for allowable contract for excellence programs and activities as defined in subdivision three of this section in a manner prescribed by the commissioner. For purposes of determining maintenance of effort pursuant to subparagraph (vi) of this paragraph for the two thousand nineteen--two thousand twenty school year, funds expended pursuant to this subparagraph shall be included in the total budgeted amount approved by the commissioner in the district's contract for excellence for the two thousand eighteen--two thousand nineteen school year; provided that such amount shall not be counted more than once in determining maintenance of effort for the two thousand twenty-two--thousand twenty-one school year or thereafter.

(B) Notwithstanding any other provision of this section to the contrary, a school district that submitted a contract for excellence for the two thousand twenty--two thousand twenty-one school year but did not fully expend all of its two thousand twenty--two thousand twenty-one foundation aid subject to the contract for excellence restrictions during the two thousand twenty--thousand twenty-one school year may re-allocate and expend such unexpended funds during the two thousand twenty-two- -two thousand twenty-three school year for allowable contract for excellence programs and activities as defined in subdivision three of this section in a manner prescribed by the commissioner; provided that such amount shall not be counted more than once in determining any maintenance of effort pursuant to this section.

b. (i) The contract shall specify the new or expanded programs for which additional amounts of such total foundation aid, or grant shall be used and shall affirm that such programs shall predominately benefit students with the greatest educational needs including, but not limited to, those students with limited English proficiency, students in poverty and students with disabilities.

(ii) In a city school district in a city having a population of one million or more inhabitants such contract shall also include a plan to reduce average class sizes, as defined by the commissioner, by July 1 2024 for the following grade ranges: (A) pre-kindergarten-third grade; (B) fourth-eighth grade; and (C) high school. Such plan shall include annual class size reduction for low performing and overcrowded schools and also include the methods to be used to achieve such class sizes, such as the creation or construction of more classrooms and school buildings, the placement of more than one teacher in a classroom or methods to otherwise reduce the student to teacher ratio but only as a temporary measure until more classrooms can be built or leased to provide small classes.;.

(iii) A city school district in a city having a population of one million or more inhabitants shall prepare annual reports, on the dates set forth below, to the commissioner on the status of the implementation of its plan to reduce average class sizes pursuant to subparagraph (ii) of this paragraph. Such report shall be publicly released and posted on the websites of the city school district and the state education department and will identify all schools that received funds targeted at class size reduction efforts pursuant to the requirements of this section and provide the following information regarding such schools:

(A) the amount of contract for excellence funds received by each school and the school year in which it received such funds;

(B) a detailed description of how contract for excellence funds contributed to achieving class size reduction in each school that received such funding including specific information on the number of classrooms in each school that existed prior to receiving contract for excellence funds and the number of new classes that were created in each school for each year such funding was received, the number of classroom teachers that existed in each school prior to receiving contract for excellence funds and the number of new classroom teachers in each school for each year such funding was received, the student to teacher ratio in each school prior to receiving contract for excellence funds and the student to teacher ratio in each school for each year such funding was received;

(C) the actual student enrollment for the two thousand nineteen--two thousand twenty school year, the actual student enrollment for the two thousand twenty –two thousand twenty-one school year, two thousand twenty-one--two thousand twenty-two school year, the actual student enrollment for the two thousand twenty-two--two thousand twenty-three school, and the projected student enrollment for the two thousand twenty-three--two thousand twenty-four school year for each school by grade level;

(D) the actual average class sizes for the two thousand nineteen--two thousand twenty school year, the actual average class sizes for the two thousand twenty--two thousand twenty-one school year, the actual average class sizes for the two thousand twenty-one--two thousand twenty-two school year, and the projected average class sizes for the two thousand —twenty-two – two thousand twenty-three school year for each school by grade level and for each year thereafter; until the class size goals are achieved;

(E) The annual capital plan for school construction and leasing to show how many classrooms will be added and where, in order to provide the space to achieve the class size reduction goals;

(F) the schools that have made insufficient progress toward achieving the class size reduction goals outlined in the approved class size reduction plan pursuant to subparagraph (ii) of this paragraph and a detailed description of the actions that will be taken to reduce class sizes in such schools.

The first report shall be submitted to the commissioner on or before November 15 of each year and made available to the public by that date. If the State Education Department determines that the November 15 report does not demonstrate sufficient decreases in class size, the City must immediately submit a plan for corrective action, which plan must also be made available to the public upon submission to the State Education Report. The final corrective action plan shall be made available to the public upon approval by the State Education Department. The final report shall also be certified by the state or city comptroller that the city’s capital and education funding plans will provide sufficient space and staffing for the reduction in class size set forth in this subsection and if not, what measures and/or funding should be added to the plan to achieve these goals.]

c. The contract for excellence shall state, for all funding sources, whether federal, state or local, the instructional expenditures per pupil, the special education expenditures per pupil, and the total expenditures per pupil, projected for the current year and actually incurred in the base year.

3. a. The commissioner shall adopt regulations establishing allowable programs and activities intended to improve student achievement which shall be limited to: (i) class size reduction, (ii) programs that increase student time on task, including but not limited to, academic after-school programs, (iii) teacher and principal quality initiatives, (iv) middle school and high school re-structuring, (v) expansion or replication of effective model programs for students with limited English proficiency, and (vi) full-day kindergarten or prekindergarten. Provided, however, that districts may use up to fifteen percent of the additional funding they receive for experimental programs designed to demonstrate the efficacy of other strategies to improve student achievement consistent with the intent of this section and, in school year two thousand nineteen--two thousand twenty, up to thirty million dollars or twenty-five percent of such additional funding, whichever is less, may be used to maintain investments in programs and activities listed in this subdivision. Any such district seeking to implement an experimental program shall first submit a plan to the commissioner setting forth the need for such experimental program and how such program will improve student performance.

b. The commissioner shall assist school districts that include in their contract for excellence the implementation of incentives, developed in collaboration with teachers in the collective bargaining process, for highly qualified and experienced teachers to work in low performing schools to ensure that such incentives are effective.

4. a. A district's contract for excellence each year shall be developed through a public process, in consultation with parents or persons in parental relation, teachers, administrators, and any distinguished educator appointed pursuant to [section two hundred eleven-c](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=1000069&DocName=NYEDS211-C&FindType=L) of this chapter.

b. Such process shall include at least one public hearing. In a city school district in a city of one million or more inhabitants, a public hearing shall be held within each county of such city. A transcript of the testimony presented at such public hearings shall be included when the contract for excellence is submitted to the commissioner, for review when making a determination pursuant to subdivision five of this section.

c. In a city school district in a city of one million or more inhabitants, each community district contract for excellence shall be consistent with the citywide contract for excellence and shall be submitted by the community superintendent to the community district education council for review and comment at a public meeting.

d. The public process set forth in subparagraphs (a) through (c) shall commence no later than thirty days after a state budget is enacted and be completed no later than 30 days thereafter. Notice of the public process shall be provided fifteen days prior to the commencement of the first public hearing.

5. Each contract for excellence shall be subject to approval by the commissioner. No contract for excellence shall be approved and no contract for excellence funds awarded until the public process set forth in subdivision four of this section has been completed. Upon approval the plan shall be made public and posted on the state educationwebsite. No contract for excellence funds shall be released to the school district until said contract is approved by the commissioner. Each contract for excellence is also subject to the commissioner’s certification that the expenditure of additional aid or grant amounts is in accordance with subdivision two of this section.

1. In a city school district of one million or more inhabitants, upon approval of the contract for excellence, one-third of the contract for excellence funds shall be released to the school district. The remainder of the funds shall be released to the school district upon submission of the November 15 report described in subsection two of this section, only if such report demonstrates sufficient reduction in class sizes. If such report does not demonstrate sufficient reduction in class sizes, the remainder of the funds shall be released upon submission by the school district of the corrective action plan described in subsection two of this section.
2. In the following year no contract for excellence funds will be provided by the state until and unless the corrective action plan as described above is fully implemented.

6. The school district audit report certified to the commissioner by an independent certified public accountant, or an independent accountant, but in the case of a school district of one million inhabitants or more shall be the comptroller of the city of New York pursuant to [section twenty-one hundred sixteen-a](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=1000069&DocName=NYEDS2116-A&FindType=L) of this chapter shall include a certification by such accountant or comptroller in a form prescribed by the commissioner and that the increases in total foundation aid and supplemental educational improvement plan grants have been used to supplement, and not supplant funds allocated by the district in the base year for such purposes. Such audit shall also include a certification by such accountant or comptroller in a form prescribed by the commissioner that the increases in total foundation aid and supplemental educational improvement plan grants have been used in a manner prescribed by the district’s contract for excellence. All audits conducted pursuant to this subsection shall be made available to the public when completed and shall be consulted by the Commissioner when considering approval of subsequent plans.

7. The trustees or board of education of each school district subject to this section, or the chancellor in the case of a city school district in a city of one million or more inhabitants, shall assure that procedures are in place by which parents or persons in parental relation may bring complaints concerning implementation of the district's contract for excellence.

a. In a city school district in a city of one million or more inhabitants, such procedures shall provide that complaints may be filed with the building principal with an appeal to the community superintendent, or filed directly with the community superintendent, and that any appeal of the determination of a community superintendent shall be made to the chancellor.

b. In all other districts, such procedures shall either provide for the filing of complaints with the building principals with an appeal to the superintendent of schools or for filing of the complaint directly with the superintendent of schools, and shall provide for an appeal to the trustees or board of education from the determination of the superintendent of schools.

c. The determination of the trustees or a board of education or the chancellor may be appealed to the commissioner pursuant to [section three hundred ten](http://www.westlaw.com/Find/Default.wl?rs=dfa1.0&vr=2.0&DB=1000069&DocName=NYEDS310&FindType=L) of this title.

d. For complaints concerning the development of the district’s contract, the public process, the content of the contract itself, its approval by the state or the district-wide implementation of the contract, complainants may bring either a commissioner’s appeal or an action in the state supreme court.

8. School districts subject to the provisions of this section shall publicly report the expenditure of total foundation aid in the form and manner prescribed by the commissioner which shall ensure full disclosure of the use of such funds.

9. The department shall develop a methodology for reporting school-based expenditures by all school districts subject to the provisions of this section.