



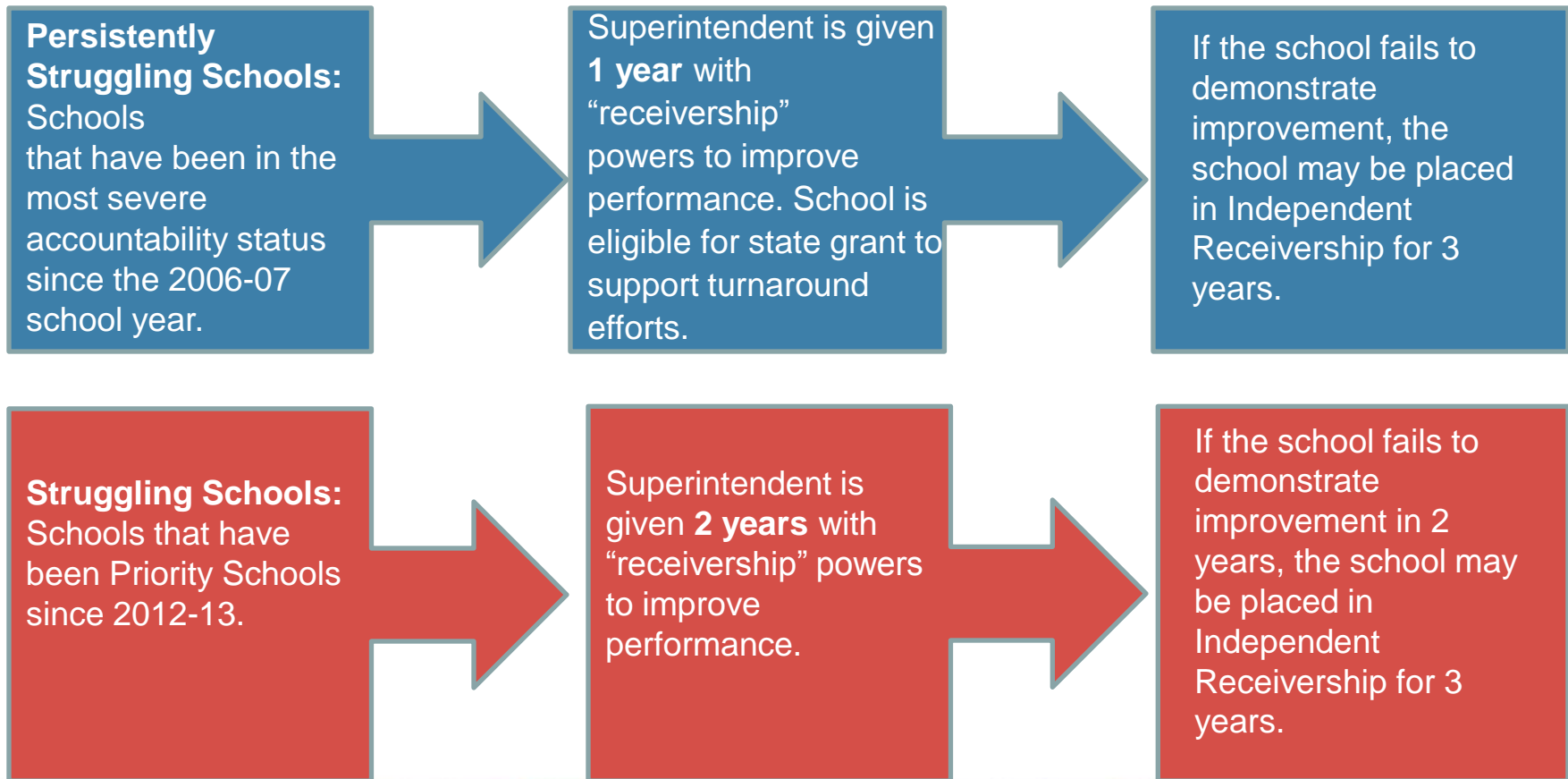
Our Students. Their Moment.

**Proposed Commissioner's Regulation 100.19 –
Establishment and Implementation of Receivership
in Persistently Struggling and Struggling Schools**

June 15, 2015

Receivership – Intervention in Struggling Schools

Section 211-f of Education Law establishes a new intervention authority for districts and the Department to turn around struggling schools through receivership.



Powers of a School Receiver

Both Superintendent Receivers and Independent Receivers Can:

- Review and make changes to the school budget.
- Create/change school program and curriculum.
- Create an intervention plan for approval by the Commissioner.
- Supersede a decision made by the Board of Education.
- Require all staff to reapply for their positions.
- Implement professional development for staff.
- Expand the school day or year.
- Convert the school to a charter school, pursuant to the law.
- Request changes to the collective bargaining agreement.
- Convert the school to a community school.

Superintendent Receivers Cannot:

- Override the Board of Education regarding hiring decisions for the Superintendent.

Proposed Revisions to Draft Regulations

The feedback received from stakeholders over the last month has prompted the Department to make additions and revisions to the draft regulations, in order to:

- Promote greater engagement of parents and local communities.
- Provide clarification regarding demonstrable improvement, appointment of an Independent Receiver, and Community School requirements.
- Provide clear direction to School Receivers regarding exercising the powers conferred by Education Law 211-f.
- Replace the terms “Persistently Failing Schools” and “Failing Schools,” which is found in Education Law 211-f, with the terms “Persistently Struggling Schools” and “Struggling Schools.”

Public Notice & Community Engagement Team Creation Requirements

- “Consultation” and “consulted” have been defined, requiring the school receiver to seek feedback both in writing and through meetings.
- Hearings are to be held in the evening, at the school building and people who are not able to attend public hearings must be able to provide feedback in writing and/or electronically. The district must post notices of public hearings on the school district website.
- The Community Engagement Team (CET) must be created in accordance with the provisions of Commissioner’s Regulation 100.11 and include representatives with direct ties to the school.
- When the membership of the CET is modified, or vacancies are filled, it must be done through the process established in section 100.11(b).
- The School Receiver’s quarterly reports must be publicly available in the school district’s offices and posted on the school district’s website, if one exists.

Expanded Role of Community Engagement Team

The role of the Community Engagement Team (CET) has been expanded:

- The CET will review, assess, and report on the implementation of the school's plan.
- The CET's recommendations must be attached to the school plan and the School Receiver must attach such recommendations and identify which recommendations were incorporated in the plan and how; as well as, which recommendations were not incorporated in the plan and why.
- The district will consult with the CET before proposing to the Commissioner any plan modifications. The CET may hold hearings, which must be arranged by the district, to solicit feedback.
- The plan must be provided to the local school board, the Superintendent, and representatives of the collective bargaining units, CET, and elected representatives of the parent teacher association and/or parent association.
- The Commissioner will annually consult and cooperate with the district, school staff, and CET in determining whether the school has met its annual goals and in assessing the implementation of the plan.
- Upon expiration of the school intervention plan, the Commissioner will consult with the district and CET to determine whether to renew the plan, terminate the contract with the Independent Receiver, or remove the school from designation.

Demonstrable Improvement

- The Commissioner will inform districts of the annual progress targets that must be met in order for a school to make demonstrable improvement.
- In determining demonstrable improvement, the Commissioner will consider the number of years that a school has been identified and if the superintendent has successfully utilized the powers of a School Receiver to implement the plan.
- The Commissioner may also use locally determined measures. These measures may be submitted for the Commissioner's approval.
- If a school has been removed from Priority School status, the Commissioner will remove the school's designation as persistently struggling or struggling at the end of the school year.
- When the school being removed is in independent receivership, the Independent Receiver shall continue to implement the plan until the end of the receivership contract.
- When a school is newly identified as struggling, the Commissioner will decide whether the school shall be placed under a School District Superintendent Receiver or immediately placed under an Independent Receiver.

Superintendent Receiver

- Any board of education decision regarding employment of the Superintendent must be made consistent with applicable laws and regulations and the employment contract.
- The board of education cannot take employment decisions against the Superintendent in retaliation for actions taken as a School Receiver.
- The School District Superintendent Receiver shall not be required to create and implement a school intervention plan or to convert a struggling or persistently struggling school to a community school.

Appointment of an Independent Receiver

- The regulations now specify the minimum qualifications of an Independent Receiver.
- A district must submit evidence that an Independent Receiver not on the Commissioner's approved list meets the same qualifications as those on the list.
- In the event that the position of Independent Receiver is vacated or otherwise terminated, the Commissioner may appoint either a new Independent Receiver or an interim Independent Receiver.
- The Independent Receiver or the Independent Receiver's designee cannot attend executive sessions of the board of education pertaining to personnel and/or litigation matters involving the Receiver.
- The contract for an Independent Receiver may be terminated by the Commissioner for a violation of law, Commissioner's regulations, or neglect of duty.

School Intervention Plan – Conversion to Community School

- A revised, more comprehensive definition of “community schools” has been added.
- The school intervention plan developed by the Independent Receiver shall be based upon a comprehensive school and community needs assessment and created in consultation with community based organizations (CBO) providing services in the school.
- In the first year of program implementation, a community school must implement at least three community school program elements.
- Independent Receivers must regularly consult with the CET, CBOs and the school community regarding implementation of the community school program.
- The person responsible for coordinating the conversion of a school to a community school must be a full-time staff member who participates in school leadership and community engagement team meetings, and reports to the School Receiver.
- Expanding the school day or school year or both may include establishing partnerships with community based organizations and youth development programs that offer appropriate programs and services in expanded learning time settings.

Powers of the Receiver – Collective Bargaining Agreements and Staffing

- Actions taken by the School Receiver must be consistent with collective bargaining agreements and Civil Service Law for those issues for which collective bargaining is required.
- The School Receiver may request that the collective bargaining units representing teachers and administrators negotiate a receivership agreement that modifies the applicable collective bargaining agreement(s) with respect to any schools in receivership applicable during the period of receivership. Collective bargaining must be conducted in good faith, and commence no later than thirty days following receipt of a written request from the School Receiver.
- The School Receiver must provide school staff, the superintendent or chief school officer, and the school board the results of the needs assessment that serves as the basis for any re-staffing of the school.
- Notified parties must have the opportunity to ask the Receiver to reconsider the decision to re-staff the school.
- Upon completion of the abolition and rehiring process, no further abolition of positions shall occur without the prior approval of the Commissioner.

Powers of a Receiver – Supersession of Budget and Employment Decisions

- The School Receiver must describe how any budget modifications would not have an undue impact on other schools in the district.
- Modification(s) to the school budget by the Receiver cannot require that the school board seek voter approval of a budget that exceeds the tax levy limit.
- When a Receiver modifies an employment decision, notice must be provided to the impacted staff and their collective bargaining representative. If the school board requests reconsideration of the modification, the Receiver must notify the impacted staff and their collective bargaining representative of the results of the reconsideration.

Next Steps

Procedural:

- Board of Regents will be presented with regulations for emergency action, effective June 23, 2015.
- Notice of Emergency Adoption and Proposed Rule-making will be published in the State Register on July 8, 2015.
- The Department will accept comments during the 45-day public comment period.
- The proposed rule will be presented for permanent adoption by the Board of Regents at the September 2015 meeting.

Operational:

- Districts will be notified regarding the preliminary designation of schools as Persistently Struggling or Struggling, and given the opportunity to appeal.
- The Department will formally designate schools as Persistently Struggling or Struggling in early July.
- The Department will meet with district teams and key stakeholders again in July to provide support for implementation of the regulations.