

Discipline, Revocation of Teaching Certificates and Tenured Teacher Removal Process in NYS



Fact Sheet No. 25-13 (Replaces 15-15)

July 2025

This Fact Sheet provides a summary of New York State regulations around revocation of teaching certification, teacher certification and disciplinary procedures, highlighting the changes that Chapter 143 of the Laws of 2024, and Section 83.7 of the Regulations of the Commissioner of Education, made to the previous regulations around these topics.

Summary of Changes

The Education Law previously had an expedited disciplinary process (Section 3020-b) which applied to teachers who received multiple Ineffective Annual Professional Performance Review (APPR) ratings in a row. This section (3020-b) has been eliminated with the enactment of Chapter 143 of the Laws of 2024.

Chapter 143 of the Laws of 2024 also eliminates all statutory connections between APPR ratings and several critical employment actions, such as the granting of tenure and the shortening of certain probationary periods.

Chapter 56 of the Laws of 2015 amended Section 305 of the Education Law by authorizing the Commissioner of Education to automatically revoke and annul a teacher's certificate upon receipt of a certified copy of a criminal history record showing that a teacher has been convicted of a sex offense or violent felony offense committed against a child when such child was the intended victim of such offense without the right to a hearing.

In May of 2025, The Board of Regents added Section 83.7 to the Regulations of the Commissioner of Education, which sets forth an interim suspension procedure for teachers accused of certain acts pending a formal Part 83 hearing on those charges. This new Regulation grants NYSED the authority to suspend a teacher's certificate based on a preponderance of the evidence (i.e. conviction, decision, order, or judgment § 3020-a decision, sworn statement) that said teacher engaged in a sex offense, as defined in Section 130 of the Penal Law, or a boundary violation (i.e. behavior by the certificate holder that is sexual in nature and results in student harm) in their professional capacity.

Section 3020-a of Education Law

A tenured teacher may not be disciplined or terminated unless the school district complies with the rules and procedures set forth in the Education Law. Hearings to discipline or remove tenured teachers in NYS for alleged incompetency or misconduct are commonly referred to as

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the 3020-a process, referring to Section 3020-a of Education Law which establishes rights to due process for teachers who have obtained tenure. Tenured teachers may only be disciplined or terminated for “just cause.”

Q & A on 3020-a Due Process Requirements & Disciplinary Procedures

Q: What is § 3020-a and how does it relate to Due Process?

A: Education Law § 3020-a governs the disciplinary procedures of tenured teachers and administrators (except superintendents) and provides due process. Due process consists of the minimum procedural requirements that each public school district must satisfy when dismissing a teacher who has attained tenure. Due process is one of the core foundations of our judicial system. Similar safeguards are in place to ensure police officers, firefighters and other public servants at the state and local levels cannot be arbitrarily dismissed based on allegations alone, or for politically motivated reasons. Due process and tenure are NOT a job protection for life.

Q: What are the due process requirements concerning charges of incompetence or misconduct under § 3020-a.

A:

- Charges in writing filed with the school district during the school year.
- Within five days of receipt of charges, the Board of Education determines if there is probable cause to bring disciplinary proceedings (whether to “prefer” the charges against the tenured teacher).
- If yes, a written notice sent to the employee detailing charges, the penalty imposed if employee waives hearing, and the employee’s rights, sent by certified or registered mail.
- The employee may be suspended with pay (there are exceptions, see below).
- Within 10 days of receipt of charges, the employee will notify the district in writing if they request a hearing.
- The district will notify the Commissioner within 3 (working) days of the need for a hearing.
- If the employee waives the hearing, the employing board determines the outcome in 15 days.
- If the employee demands a hearing, such hearing is held before an impartial hearing officer. Different rules apply to the hearing itself depending upon the nature of the charges.

Q: What is the § 3020-a Disciplinary Procedure Process?

A:

- Hearings on all charges are heard by a single hearing officer.
- At the pre-hearing conference the hearing officer will set a schedule and manner for full and fair disclosure of the witnesses and evidence to be offered by the employee as part of the defense (in addition to discovery to be disclosed by the employer as required by the Education Law).
- A child witness under the age of fourteen may be permitted to testify through the use of live two-way closed-circuit television if the hearing officer determines that the witness would suffer serious mental or emotional harm if required to testify in person.
- Hearing officers must give serious consideration to the penalty recommended by the employing Board. If the penalty is rejected by the hearing officer, the rejection must reflect reasons based upon the record as expressed in a written determination.

For charges of physical or sexual abuse of a student:

- A teacher charged with physical or sexual abuse of a student will have an expedited hearing by a single hearing officer commenced within seven days after the pre-hearing conference and completed within 60 days after the pre-hearing conference.
- A teacher may be suspended without pay if the employee has entered a guilty plea to or has been convicted of a felony crime concerning the criminal sale or possession of a controlled substance, a precursor of a controlled substance, or drug paraphernalia or a felony crime involving the physical abuse of a minor or student. A teacher can also be without pay in connection with probable cause hearing for physical or sexual abuse. (This provision does not apply to New York City which has different rules governing suspension without pay in the NYCDOE/UFT contract.)
- When a Board of Education decides to suspend a teacher without pay, a probable cause hearing before an impartial hearing officer must be held within ten days to determine whether the decision to suspend without pay should be continued or reversed. Upon a finding that probable cause does not support the charges or suspension without pay is grossly disproportionate in light of all surrounding circumstances, the employee would receive reimbursement of withheld pay with any applicable interest.
- Suspension without pay can last no longer than 120 days from the decision of the Board of Education to suspend without pay.
- If the hearing officer finds in the employee's favor as a final determination at the conclusion of the expedited hearing, the employee would receive reimbursement of withheld pay with any applicable interest.

Q & A Regarding Teacher Removal

Q: What is the timeline for a 3020-a disciplinary Hearing?

A: Generally, the process is as follows:

:Timeline for 3020-a Disciplinary Hearing		
Action	When	Process
Filing of Charges	<ul style="list-style-type: none"> • Within the period between actual opening and closing of school year. • Within three years unless the alleged misconduct constitutes a crime. 	<ul style="list-style-type: none"> • Filed by Chief School Administrator with the District Clerk. The Clerk notifies Board of Education (BOE) immediately.
Disposition of Charges	<ul style="list-style-type: none"> • The BOE votes within five days after receipt of charges. • BOE decision whether there is probable cause to move forward with a hearing. 	<ul style="list-style-type: none"> • If affirmative decision, written statement forwarded immediately to employee (by certified or registered mail, return receipt requested, or personal delivery) specifying: <ul style="list-style-type: none"> - Charges in detail; - Maximum penalty; and - Employee's rights. • The employee may be suspended with pay pending a hearing and final determination (suspension without

:Timeline for 3020-a Disciplinary Hearing		
Action	When	Process
		pay may occur if employee has plead guilty or has been convicted of a felony crime concerning sale or possession of a controlled substance, a precursor of a controlled substance, drug paraphernalia, or physical abuse of a minor or student, or where the charges are of misconduct constituting physical or sexual abuse pending an expedited hearing pursuant to Education Law § 3020-a(3)(c)(i-a)(A)).
Hearing Request	<ul style="list-style-type: none"> • Within ten days of receipt of charges, employee notifies District Clerk to request hearing. • No request indicates that the right to a hearing is waived and the BOE will issue a determination within fifteen days. 	<ul style="list-style-type: none"> • Upon receipt of the request for a hearing, the Clerk shall notify the State Education Department (SED) of the need for a hearing within three working days.
Notice of Hearing	<ul style="list-style-type: none"> • SED requests list of hearing officers from American Arbitration Association. • Upon receipt, list simultaneously forwarded to both BOE and employee. 	<ul style="list-style-type: none"> • Within fifteen days after receiving officer list, BOE and employee notify SED of agreed-upon hearing officer. If no agreement, then SED will appoint the officer.
Pre-Hearing Conference	<ul style="list-style-type: none"> • Hearing officer to hold a pre-hearing conference within ten to fifteen days of agreeing to serve. • Limited to one day (additional day may be allowed at hearing officer's discretion). 	<ul style="list-style-type: none"> • Activities to include scheduling of the final hearing, prehearing motions to dismiss, and motions for prehearing discovery.
Hearing	<ul style="list-style-type: none"> • The final hearing is completed no later than 60 days after the pre-hearing conference. 	<ul style="list-style-type: none"> • All evidence is submitted by all parties within 125 days of the filing of charges, absent extraordinary circumstances beyond the parties control.
Decision	<ul style="list-style-type: none"> • Written decision within 30 days of the last day of the final hearing. 	<ul style="list-style-type: none"> • Within fifteen days of receipt of the hearing officer's decision, the BOE must implement the decision.
Appeal	<ul style="list-style-type: none"> • Not later than ten days after receipt of the decision an application may be made to the state Supreme Court to vacate or modify the decision. 	<ul style="list-style-type: none"> • The filing or pendency of an appeal does not delay the implementation of the decision.

Q: What are the circumstances that can result in an expedited hearing?

A: There are two categories of expedited hearings:

- Expedited hearings upon revocation of a teaching certificate;
- Expedited hearings on charges of misconduct constituting the physical or sexual abuse of students.

Q: What is the expedited 3020-a timeline for charges arising from the revocation of teaching certificate?

A: The process is as follows with specific expedited timelines highlighted in bold:

Timeline for Expedited 3020-a for Charges Arising from Revocation of Teaching Certificate		
Action	When	Process
Filing of Charges	<ul style="list-style-type: none">• Within the period between actual opening and closing of school year.• Within three years unless the alleged misconduct constitutes a crime.	<ul style="list-style-type: none">• Filed by Chief School Administrator with the District Clerk. The Clerk notifies Board of Education (BOE) immediately.
Disposition of Charges	<ul style="list-style-type: none">• The BOE votes within five days after receipt of charges.• BOE decision whether there is probably cause to move forward with a hearing.	<ul style="list-style-type: none">• If affirmative decision, written statement forwarded immediately to employee (by certified or registered mail, return receipt requested, or personal delivery) specifying:<ul style="list-style-type: none">- Charges in detail;- Maximum penalty; and- Employee's rights.• According to case law, the employee may be suspended without pay pending a hearing and final determination.
Hearing Request	<ul style="list-style-type: none">• Within ten days of receipt of charges, employee notifies District Clerk to request hearing.• No request indicates that the right to a hearing is waived and the BOE will issue a determination within fifteen days.	<ul style="list-style-type: none">• Upon receipt of the request for a hearing, the Clerk shall notify the State Education Department (SED) of the need for a hearing within three working days.
Notice of Hearing	<ul style="list-style-type: none">• SED requests list of hearing officers from American Arbitration Association.• Upon receipt, list simultaneously forwarded to both BOE and employee.	<ul style="list-style-type: none">• Within fifteen days after receiving officer list, BOE and employee notify SED of agreed-upon hearing officer. If no agreement, then SED will appoint the officer.
Pre-Hearing Conference	<ul style="list-style-type: none">• Hearing officer to hold a pre-hearing conference within ten to fifteen days of agreeing to serve.• Limited to one day (additional day may be allowed at officer's discretion).	<ul style="list-style-type: none">• Activities to include scheduling of the final hearing, prehearing motions to dismiss, and motions for prehearing discovery.

Timeline for Expedited 3020-a for Charges Arising from Revocation of Teaching Certificate		
Action	When	Process
Hearing	<ul style="list-style-type: none"> The final hearing takes place within seven days of the pre-hearing conference. The hearing is limited to one day. 	
Decision	<ul style="list-style-type: none"> Written decision within ten days of the last day of the hearing. 	<ul style="list-style-type: none"> Within fifteen days of receipt of the hearing officer's decision, the BOE must implement the decision.
Appeal	<ul style="list-style-type: none"> Not later than ten days after receipt of the decision an application may be made to the state Supreme Court to vacate or modify the decision. 	<ul style="list-style-type: none"> The filing or pendency of an appeal does not delay the implementation of the decision.

Q: What is the expedited 3020-a timeline for charges involving the physical or sexual abuse of a student?

A: The process is as follows with specific expedited timelines highlighted in bold:

Timeline for Expedited 3020-a for Charges involving the physical or sexual abuse of a Student		
Action	When	Process
Filing of Charges	<ul style="list-style-type: none"> Within the period between actual opening and closing of school year. Within three years unless the alleged misconduct constitutes a crime. 	<ul style="list-style-type: none"> Filed with the District Clerk. The Clerk notifies Board of Education (BOE) immediately.
Disposition of Charges	<ul style="list-style-type: none"> The BOE votes within five days after receipt of charges. BOE decision to move forward with a hearing based upon probable cause. 	<ul style="list-style-type: none"> If affirmative decision, written statement forwarded immediately to employee (by certified or registered mail, return receipt requested, or personal delivery) specifying: <ul style="list-style-type: none"> Charges in detail; Maximum penalty; and Employee's rights The employee may be suspended without pay pending an expedited hearing and final determination.
Probable Cause Hearing	<ul style="list-style-type: none"> If BOE decides to suspend without pay, the district notifies SED within one business day to request a probable cause hearing. SED selects the hearing officer from a regional rotational list. Failure to accept the case within 24 hours is deemed a declination. Hearing conducted within ten days of suspension to determine whether BOE decision to suspend employee without pay should be continued or reversed. 	<ul style="list-style-type: none"> Grounds for reinstatement of paid status are that probable cause does not support the charges, or suspension without pay is grossly disproportionate in the circumstances. Suspensions without pay shall last no longer than 120 days from the decision of the BOE to suspend the employee. The suspension only relates to employee compensation exclusive of health insurance and other benefits and guarantees.

Timeline for Expedited 3020-a for Charges involving the physical or sexual abuse of a Student		
Action	When	Process
Hearing Request	<ul style="list-style-type: none"> • Within ten days of receipt of charges, employee notifies District Clerk to request hearing. • No request indicates that the right to a hearing is waived and the BOE will issue a determination within fifteen days. 	<ul style="list-style-type: none"> • Upon receipt of the request for a hearing, the Clerk shall notify the State Education Department (SED) of the need for a hearing within three working days.
Notice of Hearing	<ul style="list-style-type: none"> • SED requests list of hearing officers from American Arbitration Association. • Upon receipt, list simultaneously forwarded to both BOE and employee. 	<ul style="list-style-type: none"> • Within fifteen days after receiving officer list, BOE and employee notify SED of agreed-upon hearing officer. If no agreement, then SED will appoint the officer.
Pre-Hearing Conference	<ul style="list-style-type: none"> • Hearing officer to hold a pre-hearing conference within ten to fifteen days of agreeing to serve. • Limited to one day (additional day may be allowed at officer's discretion). 	<ul style="list-style-type: none"> • Activities to include scheduling of the final hearing, prehearing motions to dismiss, and motions for prehearing discovery.
Hearing	<ul style="list-style-type: none"> • The final hearing begins within seven days of the pre-hearing conference and is completed no later than 60 days after the pre-hearing conference. 	<ul style="list-style-type: none"> • All evidence is submitted by all parties within 125 days of the filing of charges absent extraordinary circumstances beyond the control of the parties.
Decision	<ul style="list-style-type: none"> • Written decision within ten days of the last day of the final hearing. 	<ul style="list-style-type: none"> • Within fifteen days of receipt of the hearing officer's decision, the BOE must implement the decision.
Appeal	<ul style="list-style-type: none"> • Not later than ten days after receipt of the decision an application may be made to the state Supreme Court to vacate or modify the decision. 	<ul style="list-style-type: none"> • The filing or pendency of an appeal does not delay the implementation of the decision.

Q: How are “days” defined?

A: Days are calendar days unless specified otherwise.

Q: How is “teacher” defined?

A: For disciplinary purposes, a teacher is any professional educator holding a teaching certificate including but not limited to a classroom teacher, teaching assistant, pupil personnel services professional, school administrator or supervisor or superintendent of schools.

Q: What are “Cadet Rights”?

A: The 3020-a hearing process is the sole method by which tenured teachers can be disciplined in NYS, and the statute provides that no teacher can be compelled to testify at the hearing. Consequently, it has been established that a teacher can refuse to answer questions, without being found insubordinate, during an investigation that the teacher believes could lead to such disciplinary action. Known as Cadet Rights, this principle was established through a disciplinary case involving a tenured teacher who was found guilty of misconduct through a 3020-a hearing. However, the decision of the hearing officer to dismiss a charge of insubordination was appealed by the school district. The insubordination charge was related to

the teacher's refusal to answer questions during an investigation prior to the hearing in the appeal decision, the Commissioner of Education agreed that a teacher need not answer questions in any pre-hearing investigation which precedes a 3020-a hearing. The decision was in turn affirmed by the courts.

Q: What are “Weingarten Rights”?

A: “Weingarten Rights” apply to the right of all unionized employees to request union representation for any investigatory interview conducted by their employer, in which the employee has the reasonable belief that the discussion could lead to disciplinary action. If representation is requested, and the employee is a potential target of disciplinary action at the time of questioning, a reasonable period of time shall be afforded to the employee to obtain such representation. Note, Weingarten rights have now been adopted by the NYS Legislature and apply to public employees under the Taylor Law.

Advice to Local Leaders

- Continue to look for additional information through NYSUT’s Leader and Member Briefings and presentations at regional conferences.
- Specific questions about teacher removal as a result of disciplinary issues should be referred to your NYSUT Labor Relations Specialist (LRS).

Resources

- [May 2025 Meeting of the Board of Regents - Proposed Addition of Section 83.7 to the Regulations of the Commissioner of Education Relating to the Moral Character of Certificate Holders](#)
- Chapter 143 of the Laws of 2024 can be found at: <https://www.nysenate.gov/legislation/bills/2023/S9054>
- Chapter 56 of the Laws of 2015 can be found at: <http://open.nysenate.gov/legislation/bill/S2006B-2015>
- [NYSUT Fact Sheet 25-12](#) Teacher Tenure in NYS

PA/HA/mqc

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