



**TO:** The Honorable the Members of the Board of Regents

**FROM:** Jhone M. Ebert 

**SUBJECT:** Amendment to Sections 30-3.4 and 30-3.5 of the Rules of the Board of Regents Relating to the Calculation of Scores for Student Learning Objectives in the Student Performance Category of Annual Professional Performance Reviews for Teachers and Principals in the City School District of the City of New York

**DATE:** March 2, 2017

**AUTHORIZATION(S):**  

**SUMMARY**

**Issue for Decision (Consent Agenda)**

Should the Board of Regents adopt the proposed amendments to §§30-3.4 and 30-3.5 of the Rules of the Board of Regents, relating to the calculation of scores for student learning objectives in the required subcomponent of the student performance category of annual professional performance reviews (APPR) for teachers and principals in the City School District of the City of New York?

**Reason(s) for Consideration**

Review of Policy.

**Proposed Handling**

The proposed amendment is submitted to the Full Board for adoption as an emergency measure and as a permanent rule at its March 2017 meeting. The proposed amendment is attached as Attachment A. A Statement of Facts and Circumstances is attached as Attachment B.

## **Procedural History**

A Notice of Proposed Rule Making and Emergency Adoption was published in the State Register on November 9, 2016. Supporting materials are available upon request to the Secretary of the Board of Regents. Following the 45-day public comment period required under the State Administrative Procedure Act, the Department received no comments on the proposed amendment.

## **Background**

On April 13, 2015, the Governor signed Chapter 56 of the Laws of 2015 to add a new Education Law §3012-d, to establish a new evaluation system for classroom teachers and building principals. Education Law §3012-d(12) and the corresponding appropriation language require school districts to comply with the new law in order to receive their State aid increases.<sup>1</sup> The Department has over the course of the last year attempted to provide as much flexibility to districts as possible within the parameters of the law to comply with the requirements of the new law. The proposed amendment seeks to provide additional flexibility to the City School District of the City of New York relating to the growth targets for SLOs in the student performance category.

Education Law §3012-d(4)(a) requires the Commissioner to set parameters for appropriate targets for student growth for both subcomponents of the student performance category, where there is no State-provided growth score. Sections 30-3.4(c)(3) and 30-3.5(c)(3) of the Rules of the Board of Regents require districts to calculate scores and ratings for SLOs in accordance with certain minimum percentages prescribed in the regulation. The current regulation provides an exception for teachers with courses with small “n” sizes as defined by the Commissioner in guidance.

The proposed amendment revises sections 30-3.4(c)(3) and 30-3.5(c)(3) of the Rules of the Board of Regents to provide further flexibility to allow the City School District of the City of New York to calculate scores and ratings for SLOs pursuant to a methodology approved by the Commissioner in the district’s annual professional performance review plan. The New York City School District is the largest school district in the State of New York and the United States, serving more than 1.1 million students in over 1,800 schools. Given this size, the proposed flexibility is needed to allow the NYCDOE to use a standardized growth model to ensure an objective, consistent, district-level expectation for growth.

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<sup>1</sup> The Legislature subsequently extended this deadline until December 31, 2016 (see, Chapter 73 of the Laws of 2016).

## **Related Regents Items**

<http://www.regents.nysed.gov/common/regents/files/1016p12a2.pdf>.

## **Recommendation**

Staff recommends that the Board of Regents take the following actions:

VOTED: That sections 30-3.4 and 30-3.5 of the Rules of the Board of Regents shall be amended, as submitted, effective March 14, 2017, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to immediately adopt the proposed amendment to provide additional flexibility for the City School District of the City of New York to calculate scores and ratings for student learning objectives pursuant to a methodology approved by the Commissioner in its annual professional performance review (APPR) plan so that it can be used in the 2016-2017 school year once an annual professional performance review plan is approved by the Commissioner and to further ensure that the emergency rule adopted at the October 2016 Regents meeting is in effect until it can be adopted as a permanent rule; and further

VOTED: That sections 30-3.4 and 30-3.5 of the Rules of the Board of Regents shall be amended, as submitted, effective March 29, 2017.

## **Timetable for Implementation**

If adopted at the March 2017 Regents meeting, the proposed amendment will become effective as an emergency rule on March 14, 2017 and as a permanent rule on March 29, 2017.

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to Education Law sections 101, 207, 210, 212, 215, 3001, 3012-d.

1. Paragraph (3) of subdivision (c) of section 30-3.4 shall be amended to read as follows:

(3) Each measure used in the student performance category (State provided growth score, SLOs, State-designed supplemental assessments) must result in a score between 0 and 20. The State will generate scores of 0-20 for measures using a State-provided growth score. Districts shall calculate scores for SLOs in accordance with the minimum percentages prescribed in the table below; provided however that for teachers with courses with small “n” sizes as defined by the commissioner in guidance, districts shall calculate scores for SLOs using a methodology prescribed by the commissioner in guidance and for teachers in the City School District of the City of New York, districts shall calculate scores for SLOs using the methodology approved by the commissioner in its APPR plan. For all other measures that are not State-provided growth measures, scores of 0-20 shall be computed locally in accordance with the State provided or approved growth model used.

2. Paragraph (3) of subdivision (c) of section 30-3.5 of the Rules of the Board of Regents shall be amended to read as follows:

(3) Each measure used in the student performance category (State provided growth score, SLOs, State-designed supplemental assessments) must result in a score between 0 and 20. The State will generate scores of 0-20 for measures using a State-provided growth score. Districts shall calculate growth scores for SLOs in accordance with the minimum percentages prescribed in the table below; provided however that for

principals of a building or program with small “n” sizes as defined by the commissioner in guidance, districts shall calculate scores for SLOs using a methodology prescribed by the commissioner in guidance and for principals in the City School District of the City of New York, districts shall calculate scores for SLOs using the methodology approved by the commissioner in its APPR plan. For all other measures that are not State-provided growth measures, scores of 0-20 shall be computed locally in accordance with the State provided or approved growth model used.

**8 NYCRR §30-3.4, 30-3.5**

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION

The Department has over the course of the last year attempted to provide as much flexibility to districts as possible within the parameters of the law to comply with the requirements of the new law. The proposed amendment seeks to provide additional flexibility to the City School District of the City of New York relating to the growth targets for SLOs in the student performance category.

Education Law §3012-d(4)(a) requires the Commissioner to set parameters for appropriate targets for student growth for both subcomponents of the student performance category, where there is no State-provided growth score. Sections 30-3.4(c)(3) and 30-3.5(c)(3) of the Rules of the Board of Regents require districts to calculate scores and ratings for SLOs in accordance with certain minimum percentages prescribed in the regulation. The current regulation provides an exception for teachers with courses with small “n” sizes as defined by the Commissioner in guidance. The same exception applies to principals with buildings or programs with small “n” sizes as defined by the Commissioner in guidance.

The proposed amendment revises sections 30-3.4(c)(3) and 30-3.5(c)(3) of the Rules of the Board of Regents to provide further flexibility to allow the City School District of the City of New York to calculate scores and ratings for SLOs pursuant to a methodology approved by the Commissioner in the district’s approved APPR plan.

Since the Board of Regents meets at fixed intervals, the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in State Administrative Procedure Act (SAPA) section 202(4-a), at the March 2017 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the March meeting would be March 29, 2017, the date a Notice of Adoption would be published in the State Register. Emergency action is needed at the March 2017 meeting in order to ensure that the emergency rule adopted at the October meeting is in effect until it can be adopted as a permanent rule.

Emergency action is also needed at the March 2017 Regents meeting for the preservation of the general welfare in order to immediately adopt revisions to the proposed amendment to provide additional flexibility for the City School District of the City of New York to calculate scores for student learning objectives pursuant to a methodology approved by the Commissioner in the district's annual professional performance review plan so that it can be used beginning in the 2016-2017 school year.