



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** The Honorable the Members of the Board of Regents  
**FROM:** Richard J. Trautwein  
**SUBJECT:** Regents Actions Relating to Two Regulations on Annual Professional Performance Review  
**DATE:** January 11, 2016  
**AUTHORIZATION(S):**

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## SUMMARY

### Issue

Timing and Action on the Two Annual Professional Performance Review (APPR) Regulations.

### Reason(s) for Consideration

Informational Item.

### Background

There are two separate regulations involving APPR that need action by the Board of Regents.

1. **Regulation to Implement Education Law §3012-d:** The first or core regulation was adopted by the Board of Regents at its June 2015 meeting to implement Education Law §3012-d, which required the Commissioner to promulgate regulations by June 30, 2015. This regulation has been revised and adopted as an emergency measure at the Board's September and

November meetings. At a minimum, emergency action is needed at the January meeting to ensure that the emergency rule does not expire before it can be adopted as a permanent rule. The Department is also recommending that this regulation be adopted as a permanent rule at the January meeting because the public comment period is over and no additional revisions are expected to be made to this regulation at this time. This regulation applies to the 2015-2016 school year and thereafter.

- 2. Transition Regulation:** The second transition regulation, which was adopted as an emergency measure at the December 2015 meeting, follows the report from the Governor's Common Core Task Force. Rather than amending the existing regulation, it adds two new sections 30-2.14 and 30-3.17 that apply to the 2015-2016 through the 2018-2019 school years only and notwithstanding and supersedes any conflicting provisions in the remainder of the regulation so that growth scores can continue to be computed for advisory purposes only during this transition period. It requires districts and BOCES to establish transition APPR scores and ratings for a four-year time period (based on the scores/ratings generated pursuant to the first regulation except the scores on 3-8 ELA and Math State assessments and State-provided growth scores on Regents examinations) while the State completes the transition to higher learning standards through new State assessments, and a revised State-provided growth model.

These are separate regulatory actions that the Board of Regents will need to readopt over the next few Regents meetings to effectuate the changes discussed at its December meeting. As explained at the December meeting, two scores will need to be generated for teachers and principals beginning in the 2015-2016 school year, the original score pursuant to Education Law §§3012-c and 3012-d and the transition scores/ratings pursuant to the regulation adopted at the December meeting. The consent item is proposing to extend the effectiveness of the core APPR regulation for a brief period to keep it continuously in effect until it becomes permanent and also to make the core APPR regulation permanent. The Department is engaging with the field to determine if changes should be proposed in the December transition emergency action. The transition regulation was adopted by emergency rule and must come back to the Board for approval, whether or not it is revised.

The transition regulation does not reiterate the calculations for the remaining subcomponents of teachers' and principals' scores. It will not work as a free-standing rule without the underlying core APPR regulation, which does prescribe how the calculations must be made. If it is not extended or made permanent, there will be no transition ratings because there will be no basis on which to calculate them and the December Regents action effectively would be a nullity.

Therefore, the Board of Regents must adopt the core regulation and keep it in effect to ensure that school districts/BOCES are able to calculate the transition scores/ratings.