



**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: Elizabeth R. Berlin

SUBJECT: Addition of Sections 30-2.14 and 30-3.17 to the Rules of the Board of Regents Relating to Transition Ratings for Teachers and Building Principals During the Transition to Higher Standards through New State Assessments aligned to Revised Learning Standards and a Revised State-Approved Growth Model

DATE: December 14, 2015

AUTHORIZATION(S):

**SUMMARY**

**Issue for Decision**

Should the Board of Regents adopt the proposed amendments to add a new §§30-2.14 and 30-3.17 to the Rules of the Board of Regents, relating to annual professional performance reviews of classroom teachers and building principals?

**Reason(s) for Consideration**

Review of Policy and Implementation of the New York Common Core Task Force Report.

**Proposed Handling**

The proposed amendment is submitted to the P-12 Education Committee for a recommendation to the Full Board for adoption as an emergency measure at its December 2015 meeting. The proposed amendment is attached as Attachment A.

### **Procedural History**

A Notice of Proposed Rule Making and Emergency Adoption will be published on December 30, 2015. A Statement of the Facts and Circumstances which necessitate emergency action is attached as Attachment B. Supporting materials are available upon request to the Secretary of the Board of Regents.

### **Background**

In September 2015, Governor Andrew Cuomo formed the Common Core Task Force which was charged with “comprehensively reviewing and making recommendations on reforming the current Common Core system and the way we teach and test our students”. Following multiple meetings, the Task Force reviewed and discussed information presented at public sessions and submitted through the website, and has made a number of recommendations regarding the implementation of the Common Core Standards.

On December 10, 2015, the Task Force released their report, affirming that New York must have rigorous, high quality education standards to improve the education of all of our students and hold our schools and districts accountable for students’ success but recommended that the Common Core standards be thoroughly reviewed and revised consistent as reflected in the report and that the State assessments be amended to reflect such revisions. In addition, the Task Force recommended that until the new system is fully phased in, the results from the grades 3-8 English language arts and mathematics State assessments and the use of any State-provided growth model based on these tests or other State assessments shall not have consequence for teachers or students. Specifically, Recommendation 21 from the Task Force’s Final Report (“Report”) provides as follows:

“...State-administered standardized ELA and Mathematics assessments for grades three through eight aligned to the Common Core or updated standards shall not have consequences for individual students or teachers. Further, any growth model based on these Common Core tests or other state assessments shall not have consequences and shall only be used on an advisory basis for teachers. The transition phase shall last until the start of the 2019-2020 school year”.

In an effort to implement the Task Force’s recommendation, the proposed amendment makes the following changes:

- Two new sections 30-2.14 and 30-3.17 are added to provide for a four year transition period for annual professional performance reviews (APPRs) while the State completes the transition to higher learning

standards through new State assessments aligned to the higher learning standards, and a revised State-provided growth model. During the transition period, the Commissioner will determine transition scores and ratings that will replace the original scores and HEDI ratings computed under the existing provisions of Subpart 30-2 and 30-3 of the Regents Rules for evaluation of teachers and principals whose APPRs are based, in whole or in part, on State assessments in grades 3-8 ELA and mathematics assessments and State-provided growth scores on Regents examinations. The transition period will end with the 2018-2019 school year.

Section 30-2.14 relates to evaluations under Education Law §3012-c and Subpart 30-2 of the Regents Rules and applies to evaluations for the 2015-2016 school year only, as school districts conduct the negotiations necessary to come into compliance with new Education Law §3012-d. Section 30-3.17 relates to evaluations under Education Law §3012-d, and applies to evaluations for the 2015-2016 through the 2018-2019 school year.

- During the transition period, transition scores and HEDI ratings will replace the scores and HEDI ratings for teachers and principals whose HEDI scores are based, in whole or in part, on State assessments in grades 3-8 ELA or mathematics (including where State-provided growth scores are used) or on State-provided growth scores on Regents examinations.
- In the case of evaluations conducted pursuant to Education Law §3012-c and new §30-2.14, the overall transition scores and ratings will be determined based upon the remaining subcomponents of the annual professional performance review that are not based on the grade 3-8 ELA or mathematics State assessments and/or a State-provided growth score on Regents examinations.

In the case of evaluations pursuant to Education Law §3012-d and new §30-3.17, transition scores and ratings for the student performance category and the overall transition rating will be determined using the scores/ratings in the subcomponents of the student performance category that are not based on the grade 3-8 ELA or mathematics State assessments and/or a State-provided growth score on Regents examinations or, in instances where no scores/ratings in the subcomponents of the student performance category can be generated, a

back-up SLO shall be developed by the district/BOCES consistent with guidelines prescribed by the Commissioner using assessments approved by the Department that are not State assessments.

- State provided growth scores will continue to be computed for advisory purposes only and overall HEDI ratings will continue to be provided to teachers and principals based on such growth scores. However, during the transition period, only the transition score and rating will be used for purposes of Education Law §§3012-c and 3012-d and Subparts 30-2 and 30-3, and for purposes of employment decisions, including tenure determinations and for purposes of proceedings under Education Law §§3020-a and 3020-b and teacher and principal improvement plans.
- However, for purposes of public reporting of aggregate data, individual employment records and disclosure to parents pursuant to subdivision 10 of section 3012-c of the Education Law, the original composite score and rating and the transition composite score and rating must be reported with an explanation of such transition composite score and rating.

### **Revisions to the Proposed Amendment**

Based on feedback received after the December 14, 2015 meeting of the P-12 Education Committee, it is recommended that sections 30-2.14(d) and 30-2.17(c) of the Rules of the Board of Regents be amended to eliminate the requirement that individual employment records report both the original composite score and rating pursuant to section 3012-c and 3012-d of the Education Law of this Subpart with the transition composite score and rating and an explanation of such transition composite score and rating. Instead, the proposed amendment has been revised so that only the transition score and rating, as applicable, shall be reflected on the individual employment record.

A copy of the revised proposed amendment is attached.

### **Recommendation**

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

VOTED: That sections 30-2.14 and 30-3.17 of the Rules of the Board of Regents be added, effective December 15, 2015, as an emergency measure upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to timely implement the recommendations of the New York Common Core Task Force Report, by ensuring that State assessments aligned to the Common Core do not have consequences and that they only be used on an advisory basis for teachers and principals.

### **Timetable for Implementation**

If adopted as an emergency measure at the December 2015 meeting, the emergency rule will take effect on December 15, 2015. It is anticipated that the Board of Regents will adopt the proposed amendment at its February meeting. If adopted at the February 2016 meeting, the proposed amendment will become effective on March 9, 2016.

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 101, 207, 215, 305, 3009, 3012-c and section 3012-d of the Education Law and Chapter 56 of the Laws of 2015.

1. A new section 30-2.14 of the Rules of the Board of Regents is added, effective December 15, 2015, to read as follows:

§30-2.14. Annual Professional Performance Review Scores and Ratings for the 2015-16 School Year During a Transition to Higher Learning Standards.

(a) For purposes of this section, State assessments shall mean the grades 3-8 English language arts and mathematics State assessments.

(b) Notwithstanding any other provision of this Part to the contrary, the Commissioner shall establish procedures in guidance for transition scores and ratings for teachers and principals whose annual professional performance review conducted pursuant to Education Law §3012-c and this Subpart for the 2015-2016 school year is based, in whole or in part, on State assessments and/or on State-provided growth scores on Regents examinations during a transition period while the State completes the transition to higher learning standards through new State assessments aligned to the higher learning standards, and a revised State-provided growth model.

(1) State-provided growth scores will continue to be calculated pursuant to this Subpart for advisory purposes only during this transition period and teachers and principals will continue to receive an overall score and rating calculated pursuant to this Subpart.

(2) For the transition period, an overall composite transition score and rating shall be generated based on the scores and ratings on the remaining subcomponents of the annual professional performance review that are not based on State assessments and/or a State-provided growth score on Regents examinations. The overall composite transition score shall include the use of any back-up SLOs developed by the district/BOCES in lieu of the State-provided growth score on State assessments; provided that such back-up SLOs shall not be based on State assessments.

(c) Except as otherwise provided in subdivision (d) of this section, a teacher's or principal's final composite score and rating, for all purposes under section 3012-c of the Education Law or this Subpart as well as for purposes of tenure determinations and other employment decisions and proceedings pursuant to Education Law §§ 3020-a and 3020-b, shall be the transition composite score and rating. The requirement for a teacher or principal improvement plan shall be based on the teacher's or principal's transition composite score and rating.

(d) For purposes of public reporting of aggregate data and disclosure to parents pursuant to paragraph b of subdivision 10 of section 3012-c of the Education Law, the original composite score and rating pursuant to section 3012-c of the Education Law of this Subpart shall be reported with (i) the transition composite score and rating and (ii) an explanation of such transition composite score and rating.

2. A new section 30-3.17 of the Rules of the Board of Regents is added, effective December 15, 2015, to read as follows:

§30-3.17. Annual Professional Performance Review Ratings for the 2015-2016 through the 2018-2019 school years for Annual Professional Performance Reviews

Conducted Pursuant to Education Law §3012-d and this Subpart, During a Transition to Higher Learning Standards.

(a) For purposes of this section, State assessments shall mean the grades 3-8 English language arts and mathematics State assessments.

(b) Notwithstanding any other provision of this Subpart to the contrary, the Commissioner shall establish procedures in guidance for determining transition scores and ratings for teachers and principals whose annual professional performance reviews conducted pursuant to Education Law §3012-d and this Subpart for the 2015-2016 through the 2018-2019 school years are based, in whole or in part, on State assessments and/or State-provided growth scores on Regents examinations, while the State completes the transition to higher learning standards through new State assessments aligned to higher learning standards, and a revised State-provided growth model.

(1) State-provided growth scores will continue to be calculated for advisory purposes only pursuant to this Part during this transition period and teachers and principals will continue to receive an overall rating calculated pursuant to this Subpart.

(2) In addition, during this transition period, the Commissioner may also authorize the use of one or more State-provided growth model(s) that take into consideration multiple years of student growth on State assessments to compute scores in the required subcomponent of the student performance category, for advisory purposes only under this section.



(3) During the transition period, a transition score and rating on the student performance category, and a transition rating that incorporates the student performance category rating shall be generated based on:

(i) the scores/ratings in the subcomponents of the student performance category that are not based on State assessments and/or a State-provided growth score on Regents assessments; or

(ii) in instances where no scores/ratings in the subcomponents of the student performance category can be generated, a back-up SLO shall be developed by the district/BOCES consistent with guidelines prescribed by the Commissioner using assessments approved by the Department that are not State assessments.

(b) Except as otherwise provided in subdivision (c) of this section, a teacher's or principal's final composite rating for all purposes under section 3012-d of the Education Law or under this Subpart, as well as for purposes of tenure determinations and other employment decisions and proceedings pursuant to Education Law § 3020-b, shall be the overall transition rating. The requirement for a teacher or principal improvement plan shall be based on the teacher's or principal's overall transition composite rating.

(c) For purposes of public reporting of aggregate data and disclosure to parents pursuant to paragraph b of subdivision 10 of section 3012-c of the Education Law as made applicable to this Subpart, the original composite rating pursuant to section 3012-d of the Education Law and this Subpart shall be reported with (i) the overall transition rating and (ii) an explanation of such overall transition rating.

**Attachment B****STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION**

The proposed rule is necessary to implement the recommendations of the Common Core Task Force which were released on December 10, 2015. The Task Force recommended that until the new Learning Standards and State assessments are fully phased in, the results from the State assessments (Grades 3-8 English language arts and mathematics) and the use of any State-provided growth model based on these tests or other State assessments shall not have evaluative consequence for teachers or students.

A Notice of Proposed Rule Making will be published in the State Register on December 30, 2015. Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) would be the March Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the December meeting, would be March 9, 2016, the date a Notice of Adoption would be published in the State Register.

Emergency action is therefore necessary for the preservation of the general welfare to ensure that the proposed amendment is adopted by emergency action to ensure that teachers and principals receive transition scores and ratings for the 2015-2016 school year in accordance with the proposed amendment and that the results of the State assessments ( grades 3-8 English language arts and mathematics) and State-provided growth scores based on Regents examinations are not used for evaluative

purposes in the 2015-2016 school year through the 2018-2019 school year and so school districts are able to complete their negotiations for annual professional performance reviews conducted under Education Law §3012-d, which for State aid purposes must be completed by September 1, 2016.