



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

**TO:** P-12 Education Committee  
Higher Education Committee

**FROM:** Elizabeth R. Berlin *Elizabeth R. Berlin*  
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**SUBJECT:** Update on Teacher and Principal Evaluations

**DATE:** April 25, 2019

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### **SUMMARY**

#### **Issue for Discussion**

Staff will provide an overview of the changes made to the Annual Professional Performance Review (APPR) framework in the enacted budget and anticipated next steps for the Department.

#### **Reason(s) for Consideration**

For information and discussion purposes.

#### **Proposed Handling**

This issue will come before a joint meeting of the P-12 Education Committee and Higher Education Committee for discussion at the May 2019 Board of Regents meeting.

#### **Background Information**

The enacted budget makes several changes to Education Law §3012-d, which governs APPR. The key changes include:

- Required Student Performance Measures
  - Eliminates the requirement to use the State Growth Model for teachers of grades 4-8, building principals covering those grade levels, and high school principals (all of grades 9-12).
    - All educators would instead have a Student Learning Objective (SLO).
  - Eliminates the requirement that State-created or administered assessments be used as the evidence for SLOs where they exist.
  - The selection and use of the assessment(s) for an educator’s SLO is now subject to collective bargaining, rather than district determined.
  
- Optional Student Performance Measures
  - Eliminates the requirement that optional student performance measures be based either on a second State-provided growth score or a growth score based on a supplemental assessment that uses a State-provided or approved statistical growth model.
    - Instead, the Department will define optional measures of student performance based on State-created, administered, or approved assessments that districts may then collectively bargain to use.
  - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an educator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

Although the enacted budget does make significant changes to the Student Performance Category of the evaluation system, it does not substantively change any other aspects of the current system, including:

- Requirements for teacher observations and principal school visits, including the requirement that at least one be conducted by an independent evaluator.
- Requirements for calculating overall ratings using the statutory matrix.
- Requirements for teacher and principal improvement plans for educators who receive an overall rating of Developing or Ineffective in the prior school year.
- Requirements for summative evaluation ratings to be a “significant factor” in all employment-related decisions.

A chart detailing the requirements of Education Law §3012-d as enacted in 2015 compared to the requirements of the Law as amended by Chapter 59 of the Laws of 2019 is included as Attachment A to this item.

**Next Steps**

The provisions of the enacted budget related to APPR have an immediate effective date. Therefore, the Department will begin working with the field to develop a regulatory proposal to implement the changes in a manner that best supports teaching and learning.

Upon the Regents' approval of regulatory amendments, the Department will develop tools and resources to support the field in implementing the system consistent with best practices.

The statutory language allows school districts to continue to use the evaluation system they currently have in place during the term of any collective bargaining agreements (CBAs) that are in effect on the effective date of the amendment and until the entry into a successor CBA. Where applicable, the transition measures for grades 3-8 ELA and math included in an existing approved APPR plan would continue to be used during the term of any existing CBAs and until entry into a new agreement. School districts would not be at risk of losing a State aid increase, so long as they negotiate and receive approval from the Commissioner of a new evaluation system consistent with the requirements of Education Law §3012-d and the Department's regulations upon entry into a successor CBA.

### **Related Regents Items**

#### [2015-2016 Enacted Budget Education Reform Initiatives](http://www.regents.nysed.gov/common/regents/files/meetings/Apr%202015/415p12d10.pdf)

(<http://www.regents.nysed.gov/common/regents/files/meetings/Apr%202015/415p12d10.pdf>)

#### [APPR Discussion May 2015](http://www.regents.nysed.gov/common/regents/files/meetings/May%202015/APPR.pdf)

(<http://www.regents.nysed.gov/common/regents/files/meetings/May%202015/APPR.pdf>)

#### [Amendment of Subpart 30-2 and Addition of a New Subpart 30-3 to the Rules of the Board of Regents, Relating to Annual Professional Performance Reviews of Classroom Teachers and Building Principals to Implement Subparts D and E of Part EE of Chapter 56 of the Laws of 2015](http://www.regents.nysed.gov/common/regents/files/meetings/Jun%202015/615p12a5.pdf)

(<http://www.regents.nysed.gov/common/regents/files/meetings/Jun%202015/615p12a5.pdf>)

#### [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 Raised State Approved Growth Model - December 2015](http://www.regents.nysed.gov/common/regents/files/1215p12a5.pdf)

<http://www.regents.nysed.gov/common/regents/files/1215p12a5.pdf>

#### [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 – February 2016](http://www.regents.nysed.gov/common/regents/files/216p12a2.pdf)

(<http://www.regents.nysed.gov/common/regents/files/216p12a2.pdf>)

#### [Amendment to sections 30-2.3, 30-3.3, 30-3.4, 30-3.5, 30-3.11 and 30-3.13 of the Rules of the Board of Regents Relating to Annual Professional Performance Reviews for Classroom Teachers and Building Principals – May 2016](#)

(<http://www.regents.nysed.gov/common/regents/files/516p12a1.pdf>)

[Amendment to sections 30-3.4 and 30-3.5 of the Rules of the Board of Regents Relating to a Hardship Waiver for Independent Evaluators for Annual Professional Performance Reviews for Classroom Teachers and Building Principals Commencing in the 2016-2017 School Year](#)

(<http://www.regents.nysed.gov/common/regents/files/616p12a7.pdf>)

[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 – October 2016](#)

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

(<https://www.regents.nysed.gov/common/regents/files/218hep12d1.pdf>)

[APPR Update - May 2018](#)

(<https://www.regents.nysed.gov/common/regents/files/P-12%20Education%20Committee%20-%20APPR%20Review.pdf>)

Education Law §3012-d Requirements as Enacted in 2015 compared to Education Law §3012-d Requirements as Amended in 2019

General Provisions

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
Annual teacher and principal evaluations implemented by school districts shall be conducted in accordance with Education Law §3012-d.	No changes.
APPRs shall be a significant factor for employment decisions, including but not limited to promotion, retention, tenure determination, termination, and supplemental compensation.	
APPRs shall also be a significant factor in teacher and principal development, including but not limited to coaching, induction support, and differentiated professional development.	

Definitions

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
“District” shall mean school district and/or board of cooperative educational services, except that for purposes of subdivision eleven (State aid penalty) it shall only mean a school district.	No changes.
“Principal” shall mean a building principal or an administrator in charge of an instructional program of a board of cooperative educational services.	
“Student growth” shall mean the change in student achievement for an individual student between two or more points in time.	
“State-designed supplemental assessment” shall mean a selection of state tests or assessments developed or designed by the State Education Department, or that the State Education Department purchased or acquired from: <ul style="list-style-type: none"> <li>• Another state;</li> <li>• An institution of higher education; or</li> </ul>	

- A commercial or not-for-profit entity, provide that such entity must be objective and may not have a conflict of interest or appearance of a conflict of interest; such definition may include tests or assessments that have been previously designed or acquired by local districts, but only if the State Education Department significantly modifies growth targets or scoring bands for such tests or assessments or otherwise adapts the tests or assessments to the State Education Department’s requirements.

Ratings

Education Law §3012-d Requirements as Enacted in 2015		Education Law §3012-d Requirements as Amended in 2019																																
Annual evaluations shall rate teacher and principal effectiveness using the following categories: highly effective or “H”, effective or “E”, developing or “D,” and ineffective or “I”.		No changes.																																
<i>Overall Rating Matrix</i>																																		
<table border="1"> <thead> <tr> <th rowspan="2"></th> <th rowspan="2"></th> <th colspan="4"><u>Observation/School Visit</u></th> </tr> <tr> <th><u>Highly Effective (H)</u></th> <th><u>Effective (E)</u></th> <th><u>Developing (D)</u></th> <th><u>Ineffective (I)</u></th> </tr> </thead> <tbody> <tr> <th rowspan="4" style="writing-mode: vertical-rl; transform: rotate(180deg);"><u>Student Performance</u></th> <th><u>Highly Effective (H)</u></th> <td>H</td> <td>H</td> <td>E</td> <td>D</td> </tr> <tr> <th><u>Effective (E)</u></th> <td>H</td> <td>E</td> <td>E</td> <td>D</td> </tr> <tr> <th><u>Developing (D)</u></th> <td>E</td> <td>E</td> <td>D</td> <td>I</td> </tr> <tr> <th><u>Ineffective (I)</u></th> <td>D</td> <td>D</td> <td>I</td> <td>I</td> </tr> </tbody> </table>				<u>Observation/School Visit</u>				<u>Highly Effective (H)</u>	<u>Effective (E)</u>	<u>Developing (D)</u>	<u>Ineffective (I)</u>	<u>Student Performance</u>	<u>Highly Effective (H)</u>	H	H	E	D	<u>Effective (E)</u>	H	E	E	D	<u>Developing (D)</u>	E	E	D	I	<u>Ineffective (I)</u>	D	D	I	I	No changes.	
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Where the optional subcomponent of the Student Performance Category is used and a teacher or principal receives an Ineffective rating on the entire Student Performance Category, they must receive an overall rating of Ineffective, regardless of the matrix above.		<b>This provision is eliminated.</b>																																

## Student Performance Category

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
<i>General Provisions</i>	
<b>The Student Performance Category consists of two subcomponents: one required and one optional.</b>	No changes.
<b>The Commissioner must set the weights and scoring ranges for each subcomponent, and the parameters for appropriate student growth targets.</b>	
<b>The Commissioner shall have the authority to disapprove or require modifications of district plans that do not set appropriate growth targets, including after initial approval.</b>	
<i>Required Student Performance Measures</i>	
<p>The State Growth Model must be used, where available (grades 4-8 ELA/math; high school principals).</p> <ul style="list-style-type: none"> <li>The model must consider the following student characteristics: disability status, poverty status, ELL status, and prior academic history.</li> <li>The model must identify teachers and principals whose students' growth is well above or well below average compared to similar students' after the student characteristics are taken into account.</li> </ul>	<b>The State Growth Model is no longer required to be used.</b>
Teachers of courses for which there is no State-provided growth score must have a Student Learning Objective (SLO).	<b>All teachers now have SLOs.</b>
<b>The Commissioner is responsible for determining the SLO process, as well as the scoring bands, scoring ranges, and parameters for growth targets.</b>	No changes.
Teachers whose courses end in a State test for which there is no State Growth Model must use the State test as the underlying evidence for their SLOs.	<b>State tests are no longer required to be used as the underlying evidence for SLOs for any grades/subjects.</b>
<p>Teachers whose courses do not end in a State test must use a Department-approved assessment as the evidence for their SLOs.</p> <ul style="list-style-type: none"> <li>The selection of the assessment (State-created, administered, or approved) for the SLO is district determined.</li> </ul>	<p><b>All teachers may now use Department-approved assessments other than State tests for their SLOs.</b></p> <ul style="list-style-type: none"> <li><b>The selection of the assessment (State-created, administered, or approved) for the SLO is collectively bargained.</b></li> </ul>
<i>Optional Student Performance Measures</i>	
<p>A district may collectively bargain a second measure that is:</p> <ul style="list-style-type: none"> <li>A second State-provided growth score; or</li> </ul>	<b>• The optional measure is no longer required to be a second State-provided growth score or a statistical growth score based on a supplemental assessment.</b>

<ul style="list-style-type: none"> <li>• A growth score based on a State-designed supplemental assessment.</li> </ul> <p>This measure must be applied in a consistent manner across the district, to the extent practicable.</p>	<ul style="list-style-type: none"> <li>• <b>Instead, districts may collectively bargain a second measure of student performance consistent with parameters defined by the Department in regulation.</b></li> <li>• <b>The measure must still be applied in a consistent manner across the district, to the extent practicable.</b></li> </ul>
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### Teacher Observation Category

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
<i>General Provisions</i>	
<b>The Teacher Observation Category must be based on a State-approved rubric and shall include two mandatory subcomponents and may include one optional subcomponent.</b>	No changes.
<i>Observer Types/Subcomponents</i>	
<b>The Observation Category shall include observations conducted by a principal or other trained administrator.</b>	No changes.
<b>The Observation Category shall include observations conducted by impartial, independent trained evaluators selected by the district.</b>	
<b>The Observation Category may include, subject to collective bargaining, observations by a trained peer teacher rated effective or highly effective from the same school or from another school in the district.</b>	
<i>Frequency, Duration, and Other Parameters for Observations</i>	
<b>The Commissioner shall determine the minimum number of observations to be conducted annually, including frequency and duration, and any other parameters.</b>	No changes.
<b>The Commissioner shall determine the weights and/or weighting options and scoring ranges for the subcomponents of the Observation Category that result in a combined Category rating.</b>	
<ul style="list-style-type: none"> <li>• Teachers must be able to earn all points, including 0.</li> </ul>	
<b>An independent trained evaluator may be employed within the school district, but not the same school building, as the teacher being evaluated.</b>	



Prohibited Elements

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
<p>The following elements may not be used in any evaluation subcomponent pursuant to Education Law §3012-d:</p> <ul style="list-style-type: none"> <li>• Evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, except for student portfolios measures by a State-approved rubric where permitted by the Department;</li> <li>• Use of an instrument for parent or student feedback;</li> <li>• Use of professional goal-setting as evidence of teacher or principal effectiveness;</li> <li>• Any district or regionally-developed assessment that has not been approved by the Department; and</li> <li>• Any growth or achievement target that does not meet the minimum standards as set forth in regulations of the Commissioner.</li> </ul>	<p>No changes.</p>

Scoring Requirements Other Than the Matrix

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
<p>The Commissioner shall ensure that the process by which weights and scoring ranges are assigned to the subcomponents and Categories is transparent and available to those being rated before the start of the school year.</p>	<p>No changes.</p>
<p>The process for assigning weights and scoring ranges must ensure that a teacher may obtain any of the points in each subcomponent, including zero.</p>	
<p>The Superintendent, District Superintendent, or Chancellor and the representative of the collective bargaining unit (where one exists) shall certify in the district’s evaluation plan that the evaluation process shall use the standards set for the scoring ranges provided by the Commissioner.</p>	

Prohibition on Assigning Students to Ineffective Teachers for Multiple Years

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
<p><b>A student may not be instructed, for two consecutive school years, by any two teachers in the same district, each of whom received an overall evaluation rating of Ineffective in the school year immediately prior to the school year in which the student is placed in the teacher’s classroom; provided that if the district deems it impracticable to comply with this requirement, the district shall seek a waiver from the Department.</b></p>	<p>No changes.</p>

District Rights with Respect to Termination of Probationary Teachers and Principals

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
<p><b>Education Law §3012-d does not affect the unfettered statutory right of a district to terminate a probationary (non-tenured) teacher or principal for any statutorily and constitutionally permissible reason.</b></p>	<p>No changes.</p>

State Aid Provisions

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
<p>No school district shall be eligible for an apportionment of general support for public schools from the funds appropriated for the 2015-2016 school year or any year thereafter in excess of the amount apportioned to such school district in the respective base year unless such school district has submitted documentation that has been approved by the Commissioner by November 15, 2015, or by September 1<sup>st</sup> of each subsequent year, demonstrating that it has fully implemented the standards and procedures for conducting APPRs of teachers and principals in accordance with Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents.</p>	<ul style="list-style-type: none"> <li>• <b>This requirement is maintained except that school districts may continue to implement their currently approved APPR plans until they enter into a successor agreement and receive approval from the Commissioner of a new APPR plan consistent with the requirements Education Law 3012-d as amended by Chapter 59 of the Laws of 2019.</b></li> <li>• <b>During the time in which school districts are implementing their currently approved APPR plans and have not yet moved to their new evaluation system, the transition measures for grades 3-8 ELA and math remain in effect.</b></li> </ul>

Requirements for Principal Evaluations

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
<p>The Commissioner shall adopt regulations to align the principal evaluation system with the requirements of Education Law §3012-d.</p>	<p>No changes.</p>

Carryover Provisions from Education Law §3012-c

Education Law §3012-d Requirements as Enacted in 2015	Education Law §3012-d Requirements as Amended in 2019
<p>The provisions of Education Law §3012-c(2)(d), (k), (k-1), (k-2), and (l); and (4), (5), (5-a), (9) and (10) carry over to the extent determined by the Commissioner. These provisions relate to:</p> <ul style="list-style-type: none"> <li>• Evaluator training;</li> <li>• Approval process for APPR plans;</li> <li>• Expedited material changes for assessment reduction;</li> <li>• Efforts to reduce time spent on testing;</li> <li>• Triborough amendment;</li> <li>• Improvement plans;</li> <li>• Appeals;</li> <li>• Monitoring and compliance; and</li> <li>• Data submission, reporting, and privacy</li> </ul>	<p>No changes.</p>