



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:** Tony Lofrumento *Anthony Lofrumento Jr*  
**SUBJECT:** Summary of the June 2015 Meetings  
**DATE:** July 13, 2015  
**AUTHORIZATION(S):** *Margaret Elin*

**Executive Summary**

**Issue for Decision**

Review of the Summary of the June 2015 Meetings of the Board of Regents.

**Proposed Handling**

Approval of the Summary of June 2015 meetings.

**Procedural History**

This document summarizes the actions of the Board of Regents during the monthly meeting and is brought before the Board the following month for approval.

**Recommendation**

Approval of the Summary of the June 2015 meetings.

**Timetable for Implementation**

Effective July 20, 2015.

**VOTED**, that the Summary of the June 2015 Meetings of the Board of Regents of The University of the State of New York be approved.



***SUMMARY OF THE JUNE 2015 MEETINGS***

***OF THE BOARD OF REGENTS***

***OF***

***THE UNIVERSITY OF THE STATE OF NEW YORK***

***Held at the State Education Building***

***Albany, New York***

***June 15 and 16, 2015***

***and by video conference on June 16 in New York City***

***Anthony Lofrumento, Secretary  
Board of Regents***

## ***THE BOARD OF REGENTS***

The Board of Regents of The University of the State of New York held a public session on Monday, June 15, 2015 at 9:00 a.m. pursuant to a call to duty sent to each Regent.

### **MEETING OF THE FULL BOARD, Monday, June 15<sup>th</sup> at 9:00 a.m.**

#### **Board Members in Attendance:**

Merryl H. Tisch, Chancellor  
Anthony S. Bottar, Vice Chancellor  
James R. Tallon, Jr.  
Roger Tilles  
Charles R. Bendit  
Betty A. Rosa  
Lester W. Young, Jr.  
Christine D. Cea  
Wade S. Norwood  
Kathleen M. Cashin  
James E. Cottrell  
T. Andrew Brown  
Josephine Victoria Finn  
Judith Chin  
Beverly Ouderkirk  
Catherine Collins  
Judith Johnson

Also present were the Acting Commissioner of Education, Elizabeth Berlin, Counsel, Deputy Commissioner for Legal Affairs, Richard J. Trautwein, and the Secretary, Board of Regents, Anthony Lofrumento.

Chancellor Merryl H. Tisch called the meeting to order at 9:00 a.m.

### **ACTION ITEM**

#### **Executive Session Motion**

**MOVED**, that the Board of Regents convene in executive session on Tuesday, June 16, 2015 at 8:00 a.m. to discuss litigation matters.

<b>Motion by:</b>	Vice Chancellor Anthony S. Bottar
<b>Seconded by:</b>	Regent Josephine Victoria Finn
<b>Action:</b>	Motion carried unanimously

**DISCUSSION ITEM**

**State Museum Gallery Renewal and Master Implementation Plan  
BR (D) 1**

Mark Schaming, Director of the New York State Museum led a discussion about the State Museum Gallery Renewal and Master Plan Implementation (Attachment I).

Chancellor Merryl H. Tisch adjourned the meeting.

**MEETING OF THE FULL BOARD, Tuesday, June 16<sup>th</sup> at 11:00 a.m.**

**Board Members in Attendance:**

Merryl H. Tisch, Chancellor  
Anthony S. Bottar, Vice Chancellor  
James R. Tallon, Jr.  
Roger Tilles  
Charles R. Bendit  
Betty A. Rosa  
Lester W. Young, Jr.  
Christine D. Cea  
Wade S. Norwood  
Kathleen M. Cashin  
James E. Cottrell  
T. Andrew Brown  
Josephine Victoria Finn  
Judith Chin  
Beverly Ouderkirk  
Catherine Collins  
Judith Johnson

Also present were the Acting Commissioner of Education, Elizabeth Berlin, Counsel, Deputy Commissioner for Legal Affairs, Richard J. Trautwein, and the Secretary, Board of Regents, Anthony Lofrumento.

Chancellor Merryl H. Tisch called the meeting to order at 11:00 a.m.

**ACTION ITEMS**

**Charter Applications**

**BR (A) 1**

**MOVED**, that the Board of Regents approve each application in accordance with the recommendations contained in the summary table (see Appendix I).

**Summary of the May 2015 Meeting of the Board of Regents**

**BR (A) 2**

**MOVED**, that the Summary of the May 2015 Meeting of the Board of Regents of The University of the State of New York be approved.

**Motion by:** Regent Roger Tilles  
**Seconded by:** Regent Charles R. Bendit

**Action:** Motion carried unanimously.

## **PROGRAM AREA CONSENT ITEMS**

### **Higher Education**

**Master Plan Amendment: American Museum of Natural History, M.A.T. in Earth  
Science 7-12  
BR (CA) 2**

**MOVED**, that the Board of Regents approve the amendment to the master plan of the American Museum of Natural History and authorize AMNH to offer its first masters level degree, the Master of Arts in Teaching.

**State University of New York at Albany: Regents Authorization to Award the  
Master of International Affairs (M.I.A.) Degree  
BR (CA) 3**

**MOVED**, that the Board of Regents authorizes the State University of New York Board of Trustees to award the Master of International Affairs (M.I.A.) on students who successfully complete registered programs at the State University of New York at Albany effective June 16, 2015.

### **P-12 Education**

**Proposed Amendment of Section 100.5 of the Commissioner's Regulations,  
Relating to Advanced Designation Diploma and Pathway Requirements  
BR (CA) 4**

**MOVED**, that clause (f) of subparagraph (i) of paragraph (5) of subdivision (a), subparagraph (v) of paragraph (7) of subdivision (b), and paragraph (2) of subdivision (g) of section 100.5 of the Regulations of the Commissioner of Education be amended as submitted, effective July 1, 2015.

**Proposed Amendment of Section 100.2(y) of the Commissioner's Regulations,  
Relating to Student Enrollment  
BR (CA) 5**

**MOVED**, that subdivision (y) of section 100.2 of the Regulations of the Commissioner is amended as submitted, effective July 1, 2015.

**Petition of the Stockbridge Valley Central School District for Consent to Exceed  
the Constitutional Debt Limit  
BR (CA) 6**

**MOVED**, that the Board of Regents hereby gives consent to the issuance of bonds and/or bond anticipation notes by the Board of Education of the Stockbridge Valley Central School District in an amount not to exceed \$5,250,000 for the purchase of a school bus and a Capital project for the reconstruction and improvement of school district facilities and the issuance of such bonds and/or bond anticipation notes in excess of the constitutional debt limit of said school district.

**Proposed Amendment of Section 100.18 of the Regulations of the Commissioner  
Relating to New York State's School and District Accountability System  
BR (CA) 7**

**MOVED**, that subdivisions (f) and (g) of section 100.18 of the Regulations of the Commissioner of Education are amended, as submitted, effective July 13, 2015, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to ensure that the emergency rule adopted at the April 2015 Regents meeting remains continuously in effect until the proposed rule can be presented for adoption and take effect as a permanent rule.

**Registration of Public Schools  
BR (CA) 8 – REVISED**

**MOVED**, that the schools listed on the table be registered.

**Technical Amendments to §154-2.3(h) of the Commissioner's Regulations,  
Relating to Units of Study and Provision of Credits For English As A New  
Language and Native Language Arts  
BR (CA) 9**

**MOVED**, that subdivision (h) of section 154-2.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective July 1, 2015.

**Professional Practice**

**(Re)Appointments of Members to the State Boards for the Professions and  
(Re)Appointments of Extended Members to the State Boards for the Professions  
for Service on Licensure Disciplinary and/or Licensure Restoration and Moral  
Character Panels  
BR (CA) 10**

**MOVED**, that the Regents approve the proposed (re)appointments.

**Report of the Committee on the Professions Regarding Licensing Petitions  
BR (CA) 11**

**MOVED**, that the Regents approve the recommendations of the Committee on the Professions regarding licensing petitions.

**Motion by:** Regent Roger Tilles  
**Seconded by:** Regent James E. Cottrell  
**Action:** Regent Judith Johnson made a motion to amend and to remove Proposed Amendment of Section 100.18 of the Regulations of the Commissioner Relating to New York State's School and District Accountability System - BR (CA) 7  
**Motion by:** Regent Judith Johnson  
**Seconded by:** Regent Josephine Victoria Finn

**MOVED**, that the Regents approve the consent agenda items, with the exception of the Proposed Amendment of Section 100.18 of the Regulations of the Commissioner Relating to New York State's School and District Accountability System - BR (CA) 7.

**Motion by:** Regent Roger Tilles  
**Seconded by:** Regent Charles R. Bendit  
**Action:** Motion carried unanimously.

**Proposed Amendment of Section 100.18 of the Regulations of the Commissioner Relating to New York State's School and District Accountability System  
BR (CA) 7**

**MOVED**, that subdivisions (f) and (g) of section 100.18 of the Regulations of the Commissioner of Education are amended, as submitted, effective July 13, 2015, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to ensure that the emergency rule adopted at the April 2015 Regents meeting remains continuously in effect until the proposed rule can be presented for adoption and take effect as a permanent rule.

**Motion by:** Vice Chancellor Anthony S. Bottar  
**Seconded by:** Regent T. Andrew Brown  
**Action:** Motion carried unanimously.

**STANDING COMMITTEE REPORTS**

**CULTURAL EDUCATION**

Your Committee on Cultural Education Committee had its scheduled meeting on June 15, 2015. In attendance were committee members: Regent Tilles, Chair, Regent Brown, Regent Bendit Regent Chin\*, Regent Cea, Regent Ouderkirk\*, Regent Cottrell\*, Regent Johnson\*. Absent: Regent Finn. \* Present for the first portion of the meeting only. Regents In addition to CE Committee Members, in attendance were: Chancellor Tisch, Regent Norwood and Acting Commissioner Berlin.



### **Items For Discussion/Action**

Chair's Remarks: Regent Tilles welcomed everyone and opened the meeting at 5:45pm

### **Appointment of a State Paleontologist**

The State Paleontologist is a Regents appointment, per Education Law section 235. After a national search, Dr. Lisa Amati has recently been hired as the Curator of Paleontology and is a staff member of the State Museum. Prior to this position Dr. Lisa Amati was an associate professor of geology at SUNY Potsdam.

Dr. Amati will make an outstanding State Paleontologist with the ability to educate, and inform public and professional communities about New York's rich and abundant paleontological record. Dr. Amati has an understanding of the roles of museums in K-12 and higher education, and is adept at public programming for all ages.

Motion to appoint Lisa Amati as State Paleontologist:

Motion by: Regent Johnson

Second By: Regent Cea

Unanimously passed.

### **Update from Public Broadcasting Stations**

Elizabeth Hood, Director of Educational Television and Public Broadcasting introduced a panel consisting of:

Robert Altman, WMHT, Albany

Jon Rubin, WNET, New York

John Craig, WNED, Buffalo

Rebecca Bustelos, 2nd Grade Teacher Giffen Elementary School, Albany

Andrew Wheelock, WNYRIC/Erie 1 BOCES, Buffalo.

The panel presented an update report to the committee regarding the development and use of PBS Learning Media in New York during this school year. PBS LearningMedia New York is an online resource for direct access to over 100,000 classroom-ready, curriculum-targeted digital resources. PBS LearningMedia New York builds on the strength of public media and is designed to improve teacher effectiveness and student achievement. Resources are aligned to Common Core and national standards and include videos and interactives, as well as audio, documents, and in-depth lesson plans. Panel members reviewed how content is developed, aligned to the curriculum standards

and used in the classroom. There are over 62,000 users of PBS LearningMedia in New York.

Near the close of the meeting, Chancellor Tisch remarked that this presentation was of sufficient value and interest to present to the full Board of Regents at the September 2015 meeting of the Board and directed that this same item be placed on the agenda for that meeting.

## **HIGHER EDUCATION**

Your Higher Education Committee held its scheduled meeting on May 18, 2015.

### **Action Items**

#### **Change in Scope of Institutional Accreditation: Phillips Beth Israel School of Nursing**

Your Committee reviewed the request for a change in the scope of institutional accreditation for Phillips Beth Israel School of Nursing and recommend that the Board of Regents approve a change in scope of the institutional accreditation of Phillips Beth Israel School of Nursing, in recognition of the institution's new authority to prepare and deliver the liberal arts and sciences components of the School's programs.

#### **Proposed Amendment of Section 145-2.2 of the Regulations of the Commissioner of Education to Establish Standards for Students to Be Reinstated to the Status of Good Academic Standing in Order to Resume Receiving Awards that were Previously Suspended under the Tuition Assistance Program**

Your Committee discussed amending Section 145-2.2 and recommend that subparagraph (ii) of paragraph (2) of subdivision (b) of section 145-2.2 of the Regulations of the Commissioner of Education is repealed and a new subparagraph (ii) of paragraph (2) of subdivision (b) of section 145-2.2 of the Regulations of the Commissioner of Education is added, effective June 3, 2015, as submitted.

### **Motion for Action by Full Board**

Madam Chancellor and Colleagues: Your Higher Education Committee recommends, and we move, that the Board of Regents act affirmatively upon each recommendation in the written report of the Committee's deliberations at its meeting on May 19, 2015, copies of which have been distributed to each member of the Board of Regents.

Other matters not requiring action:

Additional Changes to Education Law Contained in the Enacted 2015-16 Budget Relating to Higher Education that May Require Regulatory Changes.

Your Committee discussed possible regulatory amendments required as a result of changes to the Education Law enacted as part of the 2015-16 New York State Budget. The major changes that may require regulatory action are: Graduate Level Teacher and Leader Preparation Program Admission Standards, Suspension and Deregistration; Foster Youth College Success Initiative; and Teacher Tenure Hearings.

## **P-12 EDUCATION**

Your P-12 Education Committee held its scheduled meeting on June 15, 2015. All members were present.

### **Action Items**

#### Self-Administration of Certain Medications by Students [P-12 (A) 1]

Your Committee recommends that section 136.7 of the Regulations of the Commissioner of Education be added, as submitted, effective July 1, 2015, as an emergency action upon a finding of the Board of Regents that such action is necessary for the preservation of the general welfare in order to immediately adopt revisions to the proposed amendment in response to public comment, and to otherwise ensure that Chapter 423 of the Laws of 2014, relating to the self-administration of certain medications by students, is timely implemented pursuant to statutory requirements.

#### Instruction in Cardiopulmonary Resuscitation and the use of Automated External Defibrillators [P-12 (A) 2]

Your Committee recommends that pursuant to Education Law section 305(52)(c), as added by Chapter 417 of the Laws of 2014, the Board of Regents directs Department staff to file a Notice of Proposed Rule Making for purposes of receiving public comment on the proposed amendment of section 100.2(c)(11) of the Commissioner's regulations to require hands-only instruction in cardiopulmonary resuscitation (CPR) and instruction in the use of automated external defibrillators (AEDs) in senior high schools.

#### Reimbursement for Preschool Special Education Itinerant Services [P-12 (A) 3]

Your Committee recommends that subparagraph (ix) of paragraph 2 of subdivision (f) of section 200.9 of the Regulations of the Commissioner of Education be amended as submitted, effective July 1, 2015, as an emergency action upon a finding of the Board of Regents that such action is necessary for the preservation of the general welfare in order to immediately adopt revisions to the proposed amendment relating to the reimbursement methodology for preschool Special Education Itinerant Services (SEIS) in response to public comment, and to otherwise ensure that the proposed amendment is timely implemented pursuant to statutory requirements.

#### School Receivership [P-12 (A) 4]

Your Committee discussed the proposed addition of section 100.19 of the Regulations of the Commissioner pertaining to school receivership, in order to implement Section

211-f of Education Law as added by Chapter 56 of the Laws of 2015. The Committee discussed several recommendations for changes to the proposed regulations. Following the Committee discussion, the original recommendation as presented failed for lack of a majority due to abstentions. Regent Brown made a motion to reconsider the recommendation and to add the proposed changes as agreed upon by Committee members. The motion passed by a unanimous vote of all present (Regent Tallon was absent and excused). A revised version of the proposed amendment will be presented to the Full Board for approval at the June 16, 2015 meeting and is also included as an attachment to this Committee Report (Attachment II).

#### Annual Professional Performance Reviews of Classroom Teachers and Building Principals [P-12 (A) 5]

The Committee discussed changes to and clarifications of Department recommendations relating to the Annual Professional Performance Reviews of Classroom Teachers and Building Principals, in response to field feedback following the May Board of Regents meeting. All members were present, and Chancellor Tisch also attended the meeting.

A motion was made by Regent Finn to change the method of presentation to address the points made in the June 2 Position Paper, as submitted by seven members of the Board of Regents, as the points come up in the discussion. The motion failed by a vote of 7-9 (Regents Rosa, Cashin, Chin, Johnson, Finn, Ouderkirk and Collins voted in favor; Regents Young, Tallon, Bottar, Tilles, Cottrell, Brown, Norwood, Bendit and Cea voted against).

Following the Department's presentation, the Committee discussed the issues and corresponding amendments proposed in the June 2 Position Paper.

The Committee discussed the hardship waiver proposed by the Department and the proposal in the Position Paper to delay implementation of the APPR until September 1, 2016 and allow districts to submit a letter of intent by November 15, 2015 indicating how they will utilize the time to review/revise their current APPR plan. A motion was made by Regent Brown to modify the hardship waiver process proposed by the Department to allow districts to receive a waiver for a four-month renewable period rather than a two-month period, and as so modified, to approve the Department's hardship waiver recommendation. This motion was passed unanimously. Additional comments were made that there should be no cap on the number of districts that can participate and that an accounting should be made of all districts that apply, which were rejected and why they were rejected. The Department's recommendation was to require districts to demonstrate good faith efforts to negotiate a new APPR plan consistent with Education Law §3012-d and train staff in the new procedures prior to November 15, 2015, with no cap on the number of districts that may be granted a waiver.

The Committee also discussed the proposal in the Position Paper to convene a workgroup of experts and practitioners to construct an accountability system that reflects research and identifies the most effective practices and the corresponding

language in the Department's proposed new §30-3.1(e) that would require the convening of an assessment and metrics workgroup, comprised of stakeholders and experts in the field, to provide recommendations to the Board of Regents on assessments and metrics that could be used for annual professional performance reviews in the future. A motion was made by Regent Johnson to amend the language of §30-1.3(e) to replace the word "metrics" with "evaluation" so the workgroup would become an assessment and evaluation workgroup. This motion passed unanimously.

The Committee also discussed the proposal in the Position Paper to have the optional second student growth subcomponent using local measures weighted at 80% of the student performance category and the mandatory State growth subcomponent using a growth measure on a State test weighted at 20% and the Department's proposal to weight the growth measure on a State test at 80% and the optional second subcomponent at 20% if the locally selected second measure involves additional standardized tests and to weight the mandatory State growth subcomponent at a minimum of 50% and the optional second student growth subcomponent at no more than 50% if such optional second student growth subcomponent does not involve an additional standardized assessment. A motion was made by Regent Brown to modify the Department's proposed regulation to weight the mandatory State growth subcomponent at a minimum of 50% and the optional second student growth subcomponent at no more than 50%. The motion passed by a vote of 11-6 in favor (Regents Cashin, Chin, Rosa, Collins, Ouderkirk, Johnson opposed).

A motion was made by Regent Bendit to approve the proposed Regulations set forth in the Department's recommendation as stated on page 12 of the Regents item (see below for original language from page 12 of the Regents item), as amended by your Committee's prior motions. The motion passed by a vote of 11-6 in favor (Regents Rosa, Johnson, Ouderkirk, Collins, Cashin and Chin opposed). An amended version of the Regents items is included as an attachment to this Committee report.

*Your Committee recommends that the Title of Subpart 30-2, subdivisions (b) and (d) of section 30-2.1, subdivision (c) of section 30-2.11 and addition of a new Subpart 30-3 of the Rules of the Board of Regents be added, as submitted, effective June 23, 2015, 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 timely implement the provisions of Subpart E of Part EE of Chapter 56 of the Laws of 2015 relating to a new annual evaluation system for classroom teachers and building principals and thereby ensure that school districts and BOCES may timely implement the new evaluation requirements for classroom teachers and building principals in accordance with the statute (Attachment III).*

Revision to a Charter Authorized by the Chancellor of the NYCDOE – Bronx Global Learning Institute for Girls Charter School [P-12 (A) 6]

Your Committee recommends that the Board of Regents finds that: (1) the charter school meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) the charter school can demonstrate the ability

to operate in an educationally and fiscally sound manner; (3) granting the request to revise the charter is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law; and (4) granting the request to revise the charter would have a significant educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves and issues the charter revision for the Bronx Global Learning Institute for Girls Charter School as proposed by the Chancellor of the New York City Department of Education, and amends the provisional charter accordingly.

Revision to a Charter Authorized by the Chancellor of the NYCDOE – PAVE Academy Charter School [P-12 (A) 7]

Your Committee recommends that the Board of Regents finds that: (1) the charter school meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) the charter school can demonstrate the ability to operate in an educationally and fiscally sound manner; (3) granting the request to revise the charter is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law; and (4) granting the request to revise the charter would have a significant educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves and issues the charter revision for the PAVE Academy Charter School as proposed by the Chancellor of the New York City Department of Education, and amends the provisional charter accordingly.

Charter Renewal Recommendations for Charters Authorized by the Chancellor of the New York City Department of Education (NYCDOE) [P-12 (A) 8]

Your Committee recommends that the Board of Regents finds that: (1) the charter school meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) the charter school can demonstrate the ability to operate in an educationally and fiscally sound manner; (3) granting the renewal application is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law; and (4) granting the renewal application would have a significant educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves and issues the renewal charter of the **Achievement First Endeavor Charter School** as proposed by the Chancellor of the New York City Department of Education, and that its provisional charter be extended for a term up through and including June 30, 2020.

Your Committee recommends that the Board of Regents finds that: (1) the charter school meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) the charter school can demonstrate the ability to operate in an educationally and fiscally sound manner; (3) granting the renewal application is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law; and (4) granting the renewal application would have a significant

educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves and issues the renewal charter of the **Community Roots Charter School** as proposed by the Chancellor of the New York City Department of Education, and that its provisional charter be extended for a term up through and including June 30, 2020.

Your Committee recommends that the Board of Regents finds that: (1) the charter school meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) the charter school can demonstrate the ability to operate in an educationally and fiscally sound manner; (3) granting the renewal application is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law; and (4) granting the renewal application would have a significant educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves and issues the renewal charter of the **International Leadership Charter School** as proposed by the Chancellor of the New York City Department of Education, and that its provisional charter be extended for a term up through and including June 30, 2020.

Your Committee recommends that the Board of Regents finds that: (1) the charter school meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) the charter school can demonstrate the ability to operate in an educationally and fiscally sound manner; (3) granting the renewal application is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law; and (4) granting the renewal application would have a significant educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves and issues the renewal charter of the **New York Center for Autism Charter School** as proposed by the Chancellor of the New York City Department of Education, and that its provisional charter be extended for a term up through and including June 30, 2015.

Your Committee recommends that the Board of Regents finds that: (1) the charter school meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) the charter school can demonstrate the ability to operate in an educationally and fiscally sound manner; (3) granting the renewal application is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law; and (4) granting the renewal application would have a significant educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves and issues the renewal charter of the **New York Center for Autism Charter School** as proposed by the Chancellor of the New York City Department of Education, and that its provisional charter be extended for a term up through and including June 30, 2020.

Your Committee recommends that the Board of Regents finds that: (1) the charter school meets the requirements set out in Article 56 of the Education Law, and all other applicable laws, rules and regulations; (2) the charter school can demonstrate the ability to operate in an educationally and fiscally sound manner; (3) granting the renewal application is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of Article 56 of the Education Law; and (4) granting the renewal application would have a significant educational benefit to the students expected to attend the charter school, and the Board of Regents therefore approves and issues the renewal charter of the **Renaissance Charter School** as proposed by the Chancellor of the New York City Department of Education, and that its provisional charter be extended for a term up through and including June 30, 2019.

### **Motion for Action by Full Board**

Madam Chancellor and Colleagues: Your P-12 Education Committee recommends, and we move, that the Board of Regents act affirmatively upon each recommendation in the written report of the Committee's deliberations at its meeting on June 16, 2015, copies of which have been distributed to each Regent.

### **Matters not Requiring Board Action**

Phase-in of the Common Core Regents Examinations [P-12 (D) 1] – the Committee was provided with an update on the phase-in of the Common Core Regents Exams and on the first administration of the Regents Exam in Geometry (Common Core) in June 2015. Continuing with the roll-out of the new high school exams measuring the CCLS, the Regents Exam in Geometry (Common Core) was administered for the first time on June 2, 2015. For the June 2015, August 2015, and January 2016 administrations only, students receiving Geometry (Common Core) instruction may, at local discretion, take the Regents Examination in Geometry (2005 Learning Standards) in addition to the Regents Examination in Geometry (Common Core). If students take the old Regents Exam in addition to the new Regents Exam, the higher of the two scores may be used for local transcript purposes, and will be used for institutional accountability for the 2014-15 and 2015-16 school year results. In addition, such students may meet the mathematics exam requirement for graduation by passing either of these exams. A standard setting for the Regents Exam in Geometry (Common Core) will be conducted with the help of 27 New York State educators, who are representative of the State. During the standard setting, the field experts will make judgements about the content that students at various performance levels should know and make recommendations on the cut scores for these levels.

### Consent Agenda

The Board of Regents will take action on the following consent agenda items at their June 16, 2015 meeting.

- Advanced Designation Diploma and Pathway Requirements



- Student Enrollment
- Petition of the Stockbridge Valley Central School District for Consent to Exceed the Constitutional Debt Limit
- New York State's School and District Accountability System
- Registration of Public Schools
- Units of Study and Provision of Credits for English as a New Language and Native Language Arts

## **P-12 EDUCATION/ CULTURAL EDUCATION JOINT COMMITTEE**

Your P-12 Education Committee and Cultural Education Committee held a joint meeting on June 15, 2015. All members were present except for Regent Tallon who was excused.

### **Matters not Requiring Board Action**

New York State Blue Ribbon Panel for the Arts [P-12/CE (D) 1] – The Committees were updated on the process for establishing the Blue Ribbon Panel for the Arts and the identification of assessments that sufficiently measure student achievement in the arts. The Blue Ribbon Panel for the Arts, co-chaired by Regent Tilles and Carolyn Adams, Founding Director of the New York State Summer School of Dance, will be charged with conducting a review of currently available arts assessments and evaluating the assessments against the criteria established by Commissioner's Regulation §100.2(mm), which requires that pathway assessments must be approved by the Commissioner. The Department collected nominations from the field for the Blue Ribbon Panel for the Arts. The Panel includes 52 representatives from the arts, higher education and P-12 education who have agreed to serve. The co-chairs will be supported by 18 members from the Panel who will serve on an Executive Committee. The co-chairs will convene the Executive Committee over the summer. It is anticipated that the full Panel will meet this fall to consider and submit recommendations to the Commissioner for approved arts assessments.

## **P-12 EDUCATION/ HIGHER EDUCATION JOINT COMMITTEE**

Items not requiring action:

### **Statewide Framework for Career Ladder Pathways**

Your Committees received an update on the culminating resources and tools stemming from the four rounds of the Strengthening Teacher and Leader Effectiveness (STLE) program. Your Committees were also provided recommended next steps in the strategy for implementing a statewide framework for career ladder pathways to help ensure all students have equitable access to the most effective educators. It is recommended that the Board of Regents continue to support the statewide expansion of career ladder pathways based on this proposed framework and recommendations from stakeholders

and the Department. It is further recommended that the Board of Regents continue to support legislative funding requests for future rounds of the STLE program and career ladder pathways. This will help to ensure our educators and LEAs have the guidance and support necessary for the development and enhancement of comprehensive talent management systems, while supporting the strategies outlined in the State's equity plan.

### **Collection of Teacher-Level Attendance Data**

Your Committees received an overview of the current collection of teacher attendance data in New York State and discussed its potential expansion, which will better assist Local Education Agencies (LEAs) in working toward providing equitable access to effective educators for all students and help to inform Department policy. It is recommended that the Department begin collecting data on teacher-level attendance directly from all LEAs starting in the 2015-16 school year. This collection will enable the Department to provide oversight and technical assistance support to LEAs, ensuring the fidelity of the data and the accuracy of subsequent interpretations of it.

## **PROFESSIONAL PRACTICE**

Your Professional Practice Committee held its scheduled meeting on June 16, 2015. All members were present. Chancellor Merryl H. Tisch was also present, but did not vote on any case or action.

### **Action Items**

#### **Professional Discipline Cases**

Your Committee recommends that the reports of the Regents Review Committees, including rulings, findings of fact, determinations as to guilt, and recommendations, by unanimous or majority vote, contained in those reports which have been distributed to you, be accepted in 5 cases. In addition, your Committee recommends, upon the recommendation of the Committee on the Professions, that 37 consent order applications and 15 surrender applications be granted. [PPC EXS (A) 1-3]

These recommendations are made following the review of 57 cases involving eighteen registered professional nurses, six licensed practical nurses, four licensed practical nurses who are also registered professional nurses, three architects, three pharmacists, two chiropractors, two dental hygienists, two veterinarians, one acupuncturist, one certified public accountant, one dentist, one licensed practical nurse who is also a registered professional nurse and a nurse practitioner (acute care), one licensed practical nurse who is also a registered professional nurse and a nurse practitioner (adult health), one occupational therapy assistant, one registered professional nurse who is also a pharmacist, and one respiratory therapist.

#### **Restorations**

Your Committee recommends, Regent Catherine Collins abstaining, that, following his successful completion of the North American Pharmacist Licensure Examination

(NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE), as determined by the Director of the Office of Professional Discipline, the execution of the surrender of the pharmacist license of Paul D. Johnson be stayed; that, upon his return to practice, he be placed on probation for a period of three years under specified terms and conditions; and that, upon successful completion of probation, his license be fully restored; [PPC EXS (A) 4]

Your Committee recommends that the application of Stanley Schoenbach for the restoration of his license to practice as a physician in New York State be denied. [PPC EXS (A) 5]

### **Approvals**

Proposed Amendment to the Regulations of the Commissioner of Education relating to the Execution by Registered Professional Nurses of Non-Patient Specific Orders to Administer Opioid Related Overdose Treatment and Hepatitis C Tests – Your Committee recommends the following:

That subdivisions (e) and (f) of section 64.7 of the Regulations of the Commissioner of Education be added, as submitted, effective August 11, 2015, as an emergency action upon a finding by the Board of Regents that such action is necessary for preservation of the public health and general welfare to conform the Regulations of the Commissioner to timely implement, on its effective date, the requirements of Part V of Chapter 57 of the Laws of 2015, which authorizes registered professional nurses to execute non-patient specific orders prescribed by a licensed physician or a certified nurse practitioner to administer opioid related overdose treatment. [PPC (A) 1]

### **Motion for Action by Full Board**

Madam Chancellor and Colleagues: Your Professional Practice Committee recommends, and we move, that the Board of Regents act affirmatively upon each recommendation in the written report of the Committee's deliberations at its meeting on June 16, 2015, copies of which have been distributed to each Regent.

### **Matters not Requiring Board Action**

Your Committee discussed several topics of interest, including:

- Deputy Commissioner's Report/Update
- Technology Update
- Full Board Consent Agenda Items
- Board (Re)Appointments
- RRC Appointments

Proposed Amendment to the Rules of the Board of Regents Relating to the Authorization of Degrees (Discussion) – Proposed amendments to sections 3.47 and 3.50 of the Rules of the Board of Regents relating to the addition of the Doctor of Occupational Therapy (O.T.D.) Degree in New York.

**MOVED**, that the P-12 Education Committee recommendation regarding Annual Professional Performance Reviews of Classroom Teachers and Building Principals (P-12 (A) 5) be removed from the committee reports and acted upon separately.

**Motion by:** Regent Judith Johnson  
**Seconded by:** Regent Beverly Ouderkirk  
**Action:** Motion carried unanimously.

**MOVED**, that the Committee Reports otherwise be approved.

**Motion by:** Vice Chancellor Anthony S. Bottar  
**Seconded by:** Regent Wade S. Norwood  
**Action:** Motion carried.

**MOVED**, that the P-12 Education Committee recommendation regarding Annual Professional Performance Reviews of Classroom Teachers and Building Principals (P-12 (A) 5) be approved.

**Motion by:** Vice Chancellor Anthony S. Bottar  
**Seconded by:** Regent Roger Tilles  
**Action:** Regents Betty A. Rosa, Kathleen M. Cashin, Judith Chin, Beverly Ouderkirk, Catherine Collins and Judith Johnson opposed. Motion carried.

### **State Education Department May 2015 Fiscal Report BR (A) 3**

**MOVED**, that the Board accepts the May 2015 State Education Department Fiscal Report as presented.

**Motion by:** Regent Wade S. Norwood  
**Seconded by:** Regent Catherine Collins  
**Action:** Motion carried

### **PRESENTATIONS**

#### **2015 Chancellor McGovern Scholarships**

Regent Josephine Victoria Finn and Regent Beverly Ouderkirk announced the recipients of the Chancellor McGovern Scholarships, Cory Marriott (Attachment IV) and Alexandra Betancourt-Perez (Attachment V).

### **2015 Louis E. Yavner Awards**

The late Regent Emeritus Louis E. Yavner established and funded the Louis E. Yavner Citizen Award and the Yavner Teaching Award. These annual awards recognize teachers and private citizens who have made outstanding contributions to teaching about the Holocaust and other violations of human rights.

Mrs. Hannelore Marx, a survivor of the Holocaust, was presented the 2015 Louis E. Yavner Citizen Award. Her son, Larry Marx accepted the award on her behalf. Mrs. Marx received a formal citation (Attachment VI) and a check in the amount of \$250.

Ms. Kathy D. Kimball-Wurster, a teacher at Washingtonville High School, was presented the 2015 Yavner Teaching Award. Ms. Kimball-Wurster received a formal citation (Attachment VII) and a check in the amount of \$250.

Chancellor Merryl H. Tisch adjourned the meeting.

**Appendix I**  
**NEW YORK STATE BOARD OF REGENTS CHARTER ACTIONS**

<b>Name of Institution</b>	<b>Program Area</b>	<b>County of Location</b>	<b>Description of Charter Action(s)</b>
Allegany County Historical Society	CE	Allegany	Extend provisional charter for five years.
American Museum of Natural History	CE/HE	New York	Amend charter to confer the Master of Arts in Teaching (MAT) degree and to change the name of the Graduate School to the Richard Gilder Graduate School.
Backbone Ridge History Group of Schuyler and Seneca Counties	CE	Schuyler	Amend charter to change the corporate name to "Backbone Ridge History Group of Schuyler, Seneca and Tompkins Counties"; change the corporate address and extend provisional charter for five years.
Buffalo African American Museum	CE	Erie	Grant provisional charter for five years.
Buffalo Society of Natural Sciences	CE	Erie	Merge with Buffalo Society of Natural Sciences, a NFP corporation, with Buffalo Society of Natural Sciences, an education corporation, as the surviving corporation and amend charter to provide for not less than 15 nor more than 40 trustees/managers.

Clinton Community Library	CE	Dutchess	Amend charter to specify the number of trustees to be not less than five nor more than nine, change the corporate address and extend provisional charter for five years.
DIRT Modified Stock Car Museum	CE	Cayuga	Extend provisional charter for five years.
Finger Lakes Boating Museum	CE	Yates	Amend charter to change the corporate address and grant an absolute charter.
New York State Grange Museum	CE	Cortland	Grant an absolute charter.
Wells Memorial Library	CE	Essex	Amend charter to update IRS dissolution language and to designate the service area of the library by specified census blocks.

## **Appendix II**

### **REGENTS ACTIONS IN 58 PROFESSIONAL DISCIPLINE CASES AND 2 RESTORATION PETITIONS**

**June 15 - 16, 2015**

The Board of Regents announced disciplinary actions resulting in the revocation of 3 licenses, the surrender of 13 licenses, 1 certificate, and 1 authorization, which latter was originally a certificate, and 39 other disciplinary actions. The penalty indicated for each case relates solely to the misconduct set forth in that particular case. In addition, the Board acted upon 2 restoration petitions.

#### **I. REVOCATIONS AND SURRENDERS**

##### **Acupuncture**

Paul Poznansky; Brooklyn, NY 11235; Lic. No. 001540; Cal. No. 28036; Application to surrender license granted. Summary: Licensee admitted to charges of having been convicted of Conspiracy to Commit Mail Fraud and Health Care Fraud, felonies.

##### **Architecture**

Edward M. Hogan, Jr. a/k/a Edward Hogan; Massapequa, NY 11758-4311; Lic. No. 014068; Cal. No. 27958; Application to surrender license granted. Summary: Licensee admitted to the charge of having been convicted of Conspiracy to Commit Bank and Wire Fraud, a class B felony.

##### **Chiropractic**

Joseph Vincent Olejak a/k/a Joseph V. Barile; Delmar, NY 12054; Lic. No. 006011; Cal. No. 27759; Found guilty of professional misconduct; Penalty: Revocation.

Constantine Voytenko; Brooklyn, NY 11224; Lic. No. 008974; Cal. No. 28006; Application to surrender license granted. Summary: Licensee admitted to charges of having been convicted of Conspiracy to Commit Mail Fraud and Health Care Fraud.

##### **Dentistry**

Jeffrey Thomas Loftus; Dentist; Rapid City, SD 57702; Lic. No. 055450; Cal. No. 28202; Application to surrender license granted. Summary: Licensee did not contest the charge of providing care with unacceptable results related to the provision of full mouth reconstruction for a patient.

Janet Elaine Jordon; Dental Hygienist; Saylorsburg, PA 18353; Lic. No. 015401; Cal. No. 28219; Application to surrender license granted. Summary: Licensee admitted to



the charge of failing to complete the required continuing professional education credits as a condition for biennial license renewal of her license to practice as a dental hygienist in the Commonwealth of Pennsylvania.

## **Nursing**

Jean M. Rzeznik a/k/a Jean Stanton; Licensed Practical Nurse; Albion, NY 14411-9399, Depew, NY 14043; Lic. No. 295606; Cal. No. 27873; Found guilty of professional misconduct; Penalty: Revocation.

Paul Poznansky; Registered Professional Nurse; Brooklyn, NY 11235; Lic. No. 575251; Cal. No. 28035; Application to surrender license granted. Summary: Licensee admitted to charges of having been convicted of Conspiracy to Commit Mail Fraud and Health Care Fraud, felonies.

Jonathan George Cardoza; Registered Professional Nurse; Atlanta, GA 30309-3719; Lic. No. 606861; Cal. No. 28167; Application to surrender license granted. Summary: Licensee did not contest the charge of having been found guilty of professional misconduct by the Virginia Board of Nursing for the use of alcohol or drugs to the extent that such use renders one unsafe to practice nursing.

Jerry J. Belden a/k/a Jerry James Belden; Registered Professional Nurse; Reno, NV 89533; Lic. No. 482216; Cal. No. 28196; Application to surrender license granted. Summary: Licensee admitted to the charge of having been convicted in California of Driving While Intoxicated, a misdemeanor.

Renato Lagidao Balitian; Registered Professional Nurse; Oxnard, CA 93033; Lic. No. 557466; Cal. No. 28201; Application to surrender license granted. Summary: Licensee admitted to charges of failing to accurately complete a final lap sponge count, identify the loss of a lap sponge, and notify the surgeons of the incorrect sponge count.

Rools Deslouches; Licensed Practical Nurse, Registered Professional Nurse, Nurse Practitioner (Adult Health); Waymart, PA 18472; Lic. Nos. 260886, 528794, Cert. No. 305163; Cal. Nos. 28229, 28230, 28231; Application to surrender licenses and certificate granted. Summary: Licensee admitted to the charge of having been convicted of Distribution of Oxycodone, a felony.

## **Occupational Therapy**

Mary-Kaye Quinne a/k/a Mary Kay Quinne a/k/a Mary Kaye Williamson; Occupational Therapy Assistant; Inyokern, CA 93527; Auth. (Cert.) No. 005587; Cal. No. 28168; Application to surrender authorization (certificate) granted. Summary: Licensee did not contest the charge of having been convicted of a California misdemeanor conviction for Driving While Intoxicated, which, if committed in New York, would also constitute the crime of Driving While Intoxicated, a misdemeanor.

## **Respiratory Therapy**

Raid Matthew Rabadi; Respiratory Therapist; Massapequa, NY 11758; Lic. No. 004530; Cal. No. 28207; Application to surrender license granted. Summary: Licensee admitted to the charge of having been convicted of Conspiracy to Commit Health Care Fraud, a felony.

## **Veterinary Medicine**

Myron Loyal Dimon; Veterinarian; Oswego, NY 13126; Lic. No. 001636; Cal. No. 27999; Application to surrender license granted. Summary: Licensee did not contest charges of performing a procedure in an inadequate/unsanitary facility and committing recordkeeping errors.

## **II. OTHER REGENTS DISCIPLINARY ACTIONS**

### **Architecture**

Jay Lockett Sears; East Quogue, NY 11942; Lic. No. 009933; Cal. No. 27947; Application for consent order granted; Penalty agreed upon: 3 month actual suspension, 21 month stayed suspension, 24 months probation.

Philip Joseph Silvestri; Amherst, NY 14228; Lic. No. 015518; Cal. No. 28141; Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation, \$1,500 fine.

### **Dentistry**

Diahann Julia-Mae Huie; Dental Hygienist; Bronx, NY 10467; Lic. No. 023238; Cal. No. 28044; Application for consent order granted; Penalty agreed upon: 2 month actual suspension, 22 month stayed suspension, 2 years probation, \$5,000 fine.

### **Nursing**

Christina M. Chapman; Licensed Practical Nurse; Queensbury, NY 12804; Lic. No. 209709; Cal. No. 26997; Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation.

Julia M. Eimert; Registered Professional Nurse; Agra, OK 74824-6372; Lic. No. 605287; Cal. No. 27107; Application for consent order granted; Penalty agreed upon: 3 month actual suspension, 21 month stayed suspension, 2 years probation, \$500 fine.

Shari D. DeGraw; Registered Professional Nurse, Pharmacist; Horseheads, NY 14845; Lic. Nos. 362782, 041194; Cal. Nos. 27345, 27346; Found guilty of professional misconduct; Penalty: R.N. – 24 month suspension, execution of last 22 months of suspension stayed; Pharmacist – Revocation.

Angela H. Beers; Licensed Practical Nurse; Newport, NY 13416; Lic. No. 293780; Cal. No. 27581; Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation, \$500 fine.

Allison Marie Kornahrens; Registered Professional Nurse; Bay Shore, NY 11706-4514; Lic. No. 563042; Cal. No. 27591; Application for consent order granted; Penalty agreed upon: 3 month actual suspension, 21 month stayed suspension, 24 months probation, \$1,000 fine.

Kimberly Ann Vossler; Registered Professional Nurse; Copake, NY 12516; Lic. No. 313552; Cal. No. 27635; Application for consent order granted; Penalty agreed upon: 2 year stayed suspension, 2 years probation, \$500 fine.

Elizabeth Katherine Barnes; Registered Professional Nurse; Coxsackie, NY 12051; Lic. No. 512988; Cal. No. 27707; Application for consent order granted; Penalty agreed upon: Indefinite actual suspension until fit to practice, upon termination of suspension, 2 years probation to commence upon return to practice, \$500 fine.

Debbie Jean Cummings; Licensed Practical Nurse, Registered Professional Nurse; Elmira, NY 14904; Lic. Nos. 210431, 456843; Cal. Nos. 27829, 27830; Application for consent order granted; Penalty agreed upon: 25 hours public service within 90 days of the effective date of Order, 1 year probation to commence upon return to practice.

Andrea Clayton Larkin; Registered Professional Nurse; Boonville, NY 13309-4705; Lic. No. 519186; Cal. No. 27831; Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation, \$500 fine.

Cassandra Johanna Picard; Registered Professional Nurse; Brooklyn, NY 11234; Lic. No. 656511; Cal. No. 27838; Application for consent order granted; Penalty agreed upon: 1 month actual suspension, 23 month stayed suspension, 2 years probation, \$1,000 fine.

Lisa Diane Clark a/k/a Lisa D. Rums smoke; Licensed Practical Nurse; Watkins Glen, NY 14891; Lic. No. 295534; Cal. No. 27889; Application for consent order granted; Penalty agreed upon: Indefinite actual suspension until fit to practice, upon termination of suspension, 2 years probation to commence upon return to practice, \$500 fine payable within 6 months.

Kain C. Rider; Registered Professional Nurse; Rensselaer, NY 12144; Lic. No. 572141; Cal. No. 27930; Application for consent order granted; Penalty agreed upon: Indefinite actual suspension for no less than 6 months and until fit to practice, upon termination of suspension, 2 years probation to commence upon return to practice.

Lynn Marie Keith; Licensed Practical Nurse, Registered Professional Nurse; Buffalo, NY 14206; Lic. Nos. 205217, 420438; Cal. Nos. 27937, 27938; Application for consent

order granted; Penalty agreed upon: 2 year stayed suspension, 2 years probation, \$500 fine.

James Francis Buckley; Licensed Practical Nurse, Registered Professional Nurse; Niagara Falls, NY 14304-4503; Lic. Nos. 250742, 521861; Cal. Nos. 27944, 27943; Application for consent order granted; Penalty agreed upon: Indefinite actual suspensions until fit to practice, upon termination of suspensions, 2 years probation to commence upon return to practice, \$500 fine payable within 3 months.

Denise Lynn Dyke; Licensed Practical Nurse; Saugerties, NY 12477; Lic. No. 293278; Cal. No. 27978; Application for consent order granted; Penalty agreed upon: Indefinite actual suspension until fit to practice, upon termination of suspension, 2 years probation to commence upon return to practice.

Sherry Halas a/k/a Sherry Devlin; Licensed Practical Nurse, Registered Professional Nurse; Hamburg, NY 14075; Lic. Nos. 265576, 552826; Cal. Nos. 27981, 27980; Application for consent order granted; Penalty agreed upon: 2 year stayed suspension, 2 years probation, \$500 fine.

Julio Prew; Registered Professional Nurse; Brooklyn, NY 11208; Lic. No. 472729; Cal. No. 27985; Application for consent order granted; Penalty agreed upon: 6 month actual suspension, 18 month stayed suspension, 24 months probation, \$500 fine.

Peggy J. Ferrantelli; Licensed Practical Nurse; Vestal, NY 13850; Lic. No. 282542; Cal. No. 27986; Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation, \$500 fine.

Richard Joseph Nadan; Licensed Practical Nurse, Registered Professional Nurse, Nurse Practitioner (Acute Care); Bayside, NY 11361-1409; Lic. Nos. 244654, 481910, Cert. No. 430088; Cal. Nos. 27989, 27990, 27991; Application for consent order granted; Penalty agreed upon: 1 month actual suspension, 23 month stayed suspension, 24 months probation.

Andrew Gerald Grzeskowiak; Registered Professional Nurse; Tonawanda, NY 14150; Lic. No. 492127; Cal. No. 28004; Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation, \$500 fine.

Erik Lannen; Registered Professional Nurse; Alden, NY 14004; Lic. No. 611331; Cal. No. 28014; Application for consent order granted; Penalty agreed upon: Indefinite actual suspension for no less than 4 months and until fit to practice, upon termination of suspension, 2 years probation to commence upon return to practice.

Richard Dennis Sterry; Registered Professional Nurse; New York, NY 10010; Lic. No. 645899; Cal. No. 28017; Application for consent order granted; Penalty agreed upon: 1 year stayed suspension, 1 year probation, \$500 fine.

Denise Michel; Registered Professional Nurse; Greenville, NY 12083-0144; Lic. No. 464757; Cal. No. 28045; Application for consent order granted; Penalty agreed upon: Indefinite actual suspension for no less than 4 months and until fit to practice, upon termination of suspension, 2 years probation to commence upon return to practice, \$500 fine.

Jennifer Lynne Auerhahn; Registered Professional Nurse; Cape May, NJ 08204; Lic. No. 418665; Cal. No. 28144; Application for consent order granted; Penalty agreed upon: 2 year stayed suspension, 2 years probation to commence upon return to practice in the State of New York, \$500 fine payable within 6 months.

Minochy Delanois; Registered Professional Nurse; Billerica, MA 01821; Lic. No. 619011; Cal. No. 28156; Application for consent order granted; Penalty agreed upon: 6 month actual suspension, 18 month stayed suspension, 2 years probation.

### **Pharmacy**

Dimytry Paul; Pharmacist; Valley Stream, NY 11580; Lic. No. 051538; Cal. No. 27502; Found guilty of professional misconduct; Penalty: 2 year suspension, execution of last 1 year of suspension stayed.

Diana Khasin-Urin; Pharmacist; Brooklyn, NY 11224-3895; Lic. No. 047607; Cal. No. 27951; Application for consent order granted; Penalty agreed upon: 2 year stayed suspension, 2 years probation, \$500 fine.

Mitchell G. Migden; Pharmacist; Stamford, CT 06903; Lic. No. 034841; Cal. No. 27975; Application for consent order granted; Penalty agreed upon: Censure and Reprimand, \$1,000 fine payable within 30 days.

### **Public Accountancy**

Liana Tskhadaia; Certified Public Accountant; Brooklyn, NY 11209; Lic. No. 095194; Cal. No. 27843; Application for consent order granted; Penalty agreed upon: Partial actual suspension in certain area until successful completion of course of retraining in said certain area, upon termination of partial actual suspension, 2 years probation, \$2,500 fine payable within 2 months.

### **Veterinary Medicine**

Luis Andres Tarrido; Veterinarian; Eden, NY 14057; Lic. No. 010657; Cal. No. 27739; Application for consent order granted; Penalty agreed upon: Censure and Reprimand, \$500 fine payable within 4 months.

## **III. RESTORATIONS**

The Board of Regents voted on June 16, 2015 to deny the application for restoration of the physician license of Stanley Schoenbach, Bronx, NY. Dr. Schoenbach's license was originally revoked April 27, 1998.

The Board of Regents voted on June 16, 2015 to stay the execution of the order of surrender of the pharmacist license of Paul D. Johnson, Syracuse, NY, subsequent to successful completion of certain examinations, to place him on probation for three years under specified terms and conditions, and upon successful completion of probation, to fully restore his license. Mr. Johnson's license was originally surrendered June 8, 1999.



# NEW YORK STATE MUSEUM

## MASTER PLAN

ATTACHMENT I

# NEW YORK STATE MUSEUM MISSION STATEMENT

The New York State Museum serves the lifelong educational needs of New Yorkers and visitors through its collections, exhibitions, scholarship, programs, media and publications in science, history, anthropology, and art. The Museum explores and expresses New York State’s significant natural and cultural diversity, past and present.





# BACKGROUND AND VISION

For nearly 180 years, the New York State Museum has preserved and interpreted the rich natural and cultural legacy of the Empire State. The museum is now engaged in a major renovation of its permanent exhibition galleries to better explain the state’s natural and human history to better serve the educational needs of its visitors.

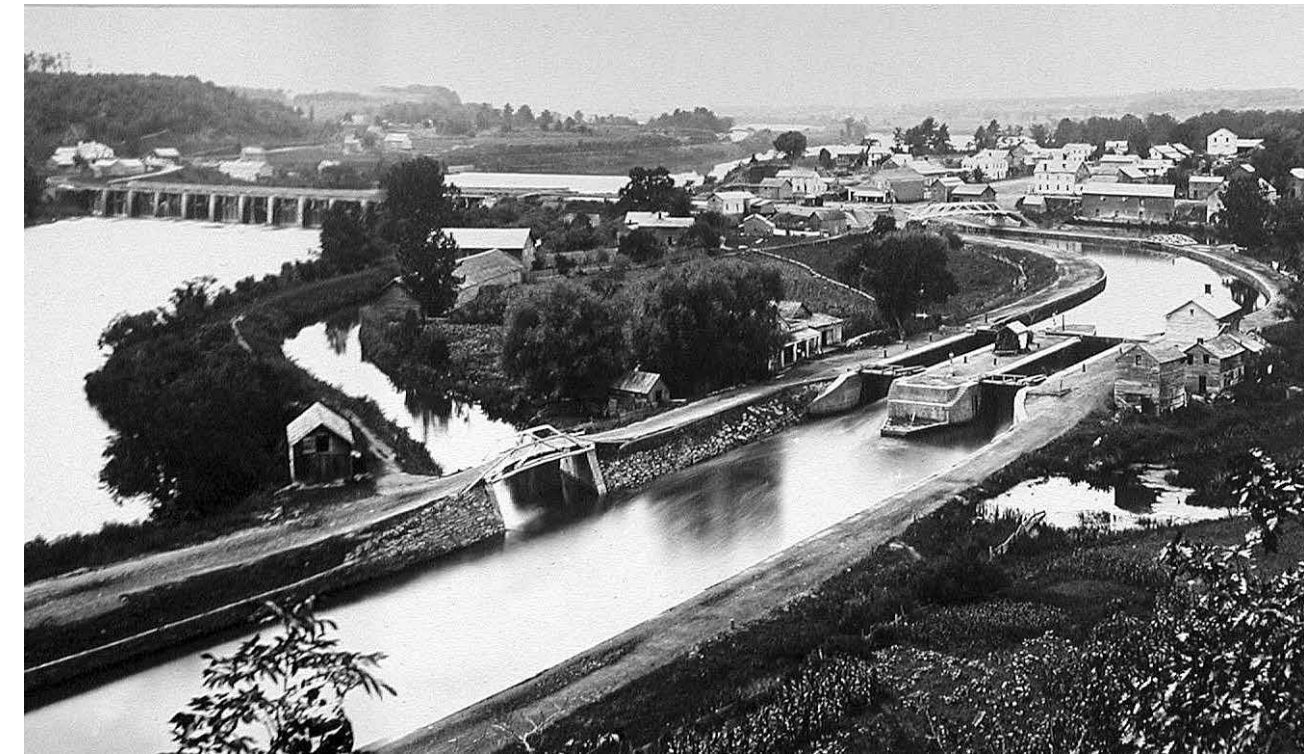
The new Museum galleries will tell the stories of New York State’s natural, cultural and human history in an integrated, relevant, updated and memorable way. Newly-designed exhibitions will lead the visitor through these updated stories as well as link to iconic, existing exhibitions. The exhibitions will be driven by content, be collections-rich, and include high-impact graphics, technology and media.

New galleries will allow for flexible, expandable, and changeable architecture and exhibitions. The many important (iconic) museum exhibitions such as the 9/11 gallery, New York City neighborhood exhibits, the Cohoes Mastodon, and Native Peoples of New York, will be reinterpreted and linked to new exhibitions.



# GOALS AND MESSAGES

- The museum renovation presents a major opportunity to tell a more complete, diverse and compelling story of the State as a whole. Every visitor will come away with a greater understanding of the people, places, events, and natural history of New York State.
- The Museum galleries will use State Museum collections and include images and artifacts from lending institutions across the State to support and articulate these stories.
- State Museum collections will be featured throughout the galleries in interpretive exhibitions and open study galleries.





# OVERARCHING GOALS

- Visitors will have a memorable experience and leave the Museum with a better understanding of the people, places, events, and natural history of New York State.
- The exhibitions will support New York State Learning Standards.
- The new exhibitions will offer a comfortable, visitor-friendly environment with clear orientation and way-finding and communicate information through up-to-date technologies that attract, engage, and inform.



# OVERALL MESSAGE

- **New York is Unique:**  
New York is one of the most important states in the nation historically, scientifically, and culturally.
- **New York is Diverse:**  
New York is one of the most diverse places on earth. For over 13,000 years, New York's diverse people have lived here. NYC is populated by people who have come from across the state, nation and world.
- **New York's History Spans Millions of Years:**  
For millions of years, New York's landforms, ecosystems, plants, and animals have been evolving and changing.
- **New York's History is Integrated:**  
The natural, human, and cultural histories of New York State are interlinked.





# AUDIENCE

- Families and students will remain the Museum's primary target audiences.
- The new exhibitions will be clearly hierarchal in form and accessible by all ages and levels of expertise.
- The exhibitions will reach out to a broad audience—including visitors of different ages and cultural backgrounds, people with different interests and levels of knowledge, and visitors from New York as well as from out of state. Because of the Museum's location in the state, it has an unparalleled opportunity to communicate its unique messages to a large and diverse audience.



# SPATIAL ORGANIZATION/ARCHITECTURAL APPROACH

- Museums are living institutions. The approach is to transform the immense gallery spaces into flexible spaces, with a new lighting grid that can be modified for each area and a movable but major wall system. Galleries are a combination of fixed spaces and areas designed to be changed, updated, and reconfigured to address museum needs in the future.
- Rather than standard sheetrock construction, a heavy, but flexible wall system will be installed that shape gallery spaces, support new exhibitions, and integrate existing galleries and components (Mastodon, Whale, NY Neighborhoods, etc.) and provide a platform for media installations. Gallery space vistas, sightlines, and heights of spaces will be maximized.
- Special seating, study, and lounge areas will be incorporated to allow for contemplation, reflection, and learning.
- All galleries will be activated with wireless connectivity.
- The exhibition galleries can be accessed from two main entrances. The galleries will have two introductory sections – one in the east and one in the west entrance. The exhibitions do not have to be viewed in a determined path, but rather by complete sections.
- Visitors can clearly choose paths.



# INTERPRETIVE APPROACH

- The new first floor galleries will comprise approximately 35,000 square feet of new exhibitions that integrate existing exhibitions.
- The exhibitions will be organized around the framework of galleries which integrate human and natural histories, from 500 million years ago to today.
- The exhibitions will include “voices” of actual and diverse peoples.
- All exhibitions will be accessible to all visitors – New Yorkers and beyond.
- Special galleries that are activated by users off-site will be explored.



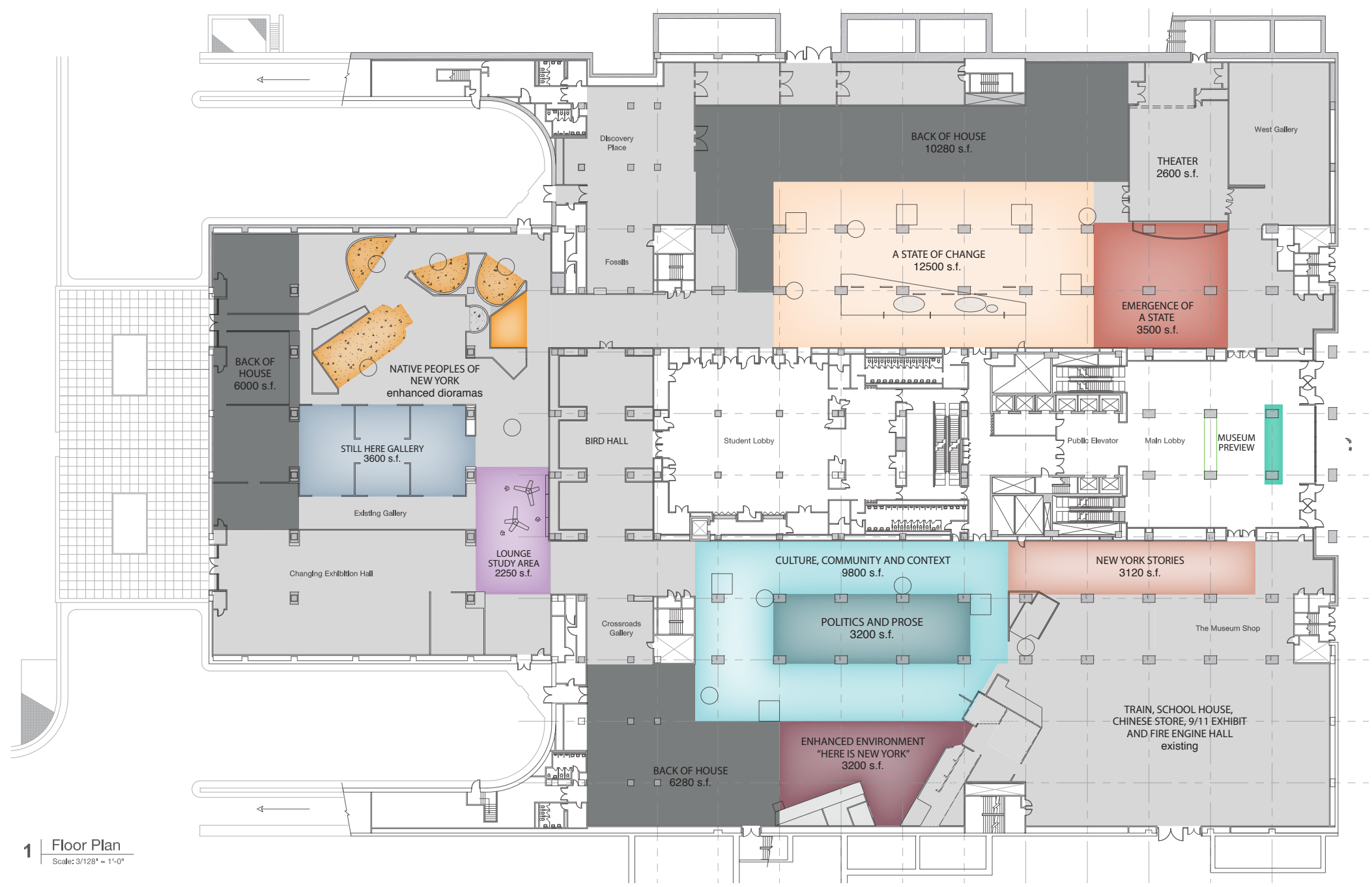
# CONTENT DIAGRAM

Conceptual Approach Of Ideas



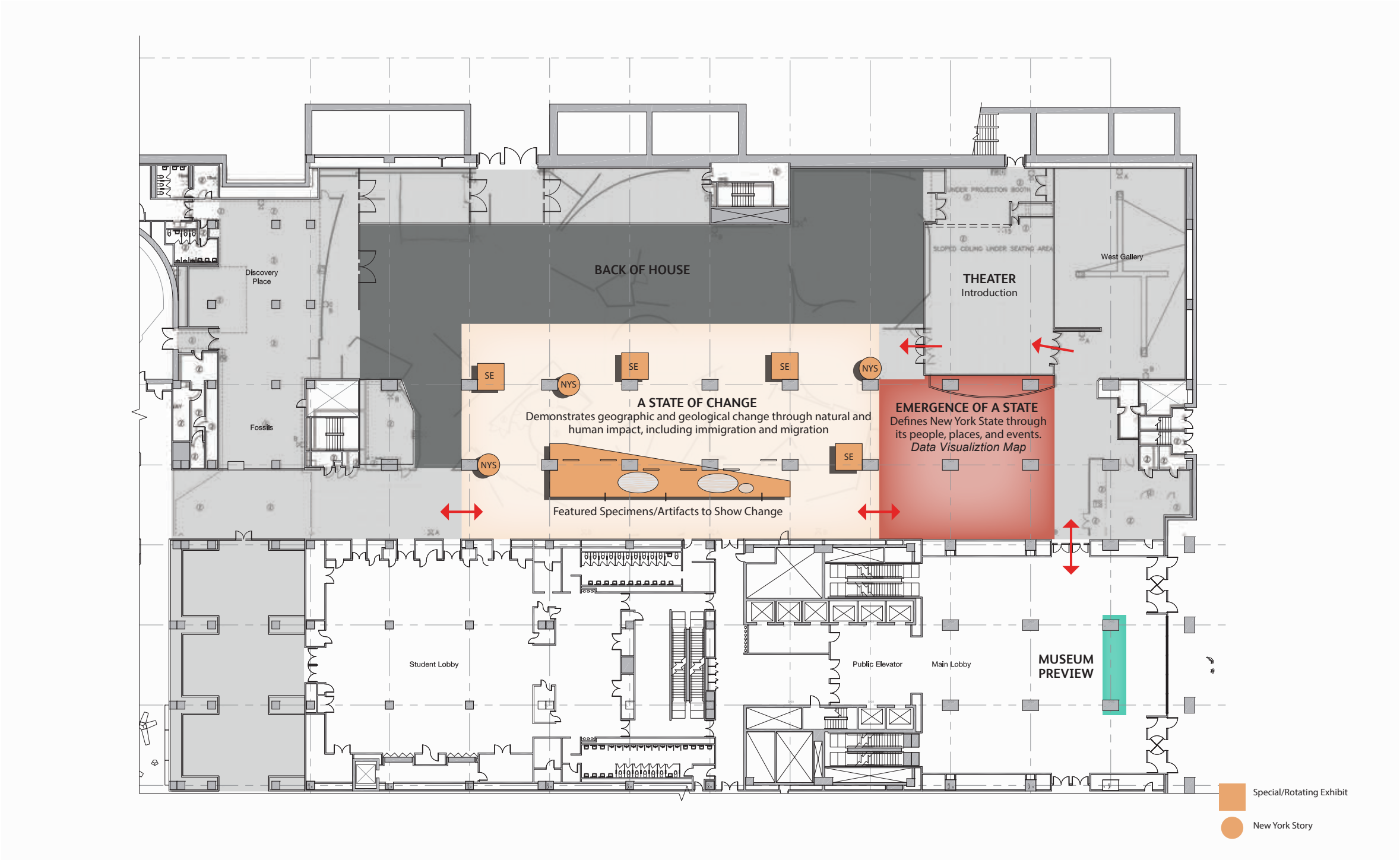


# FLOOR PLAN



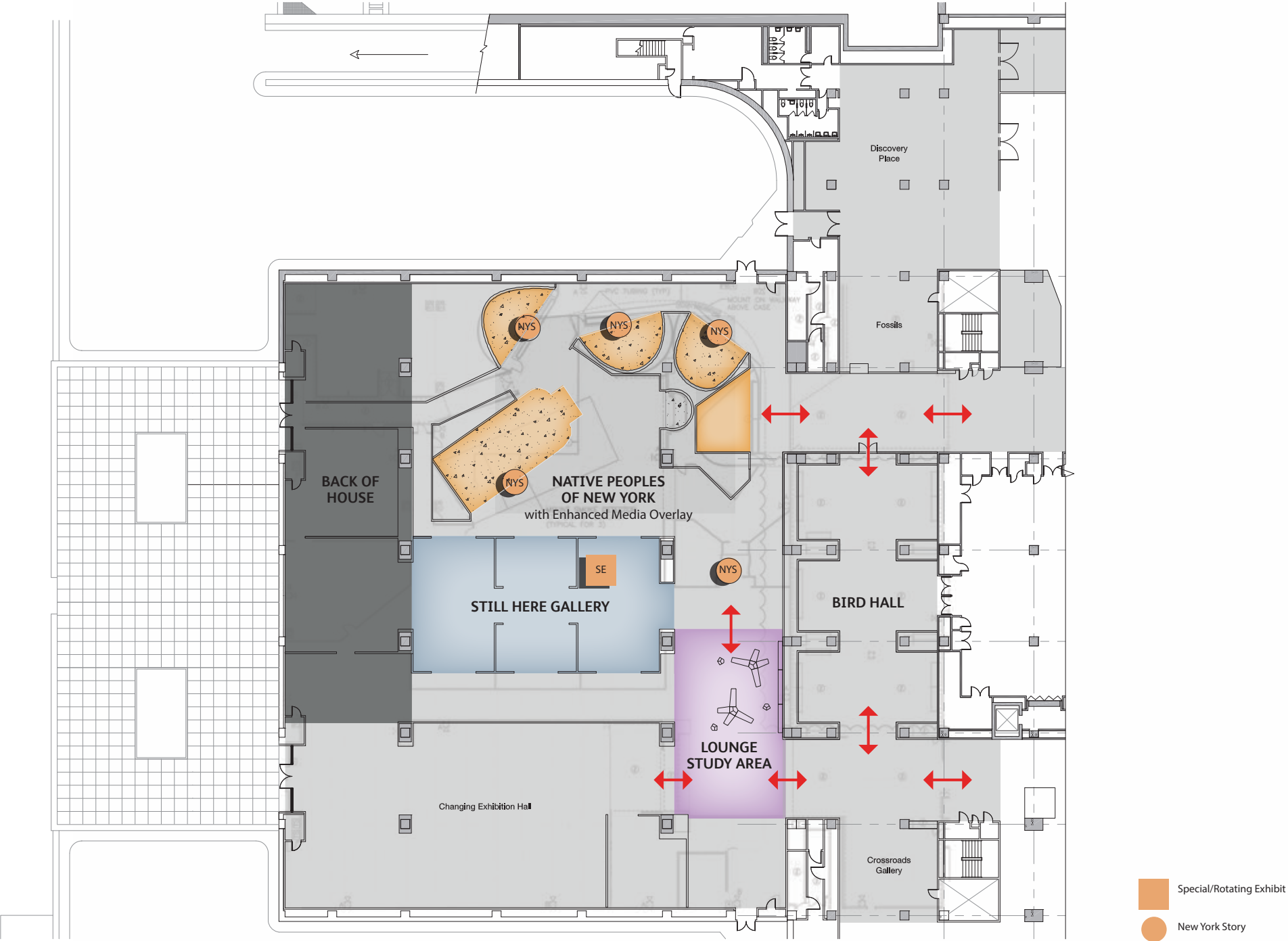
# FLOOR PLAN

North



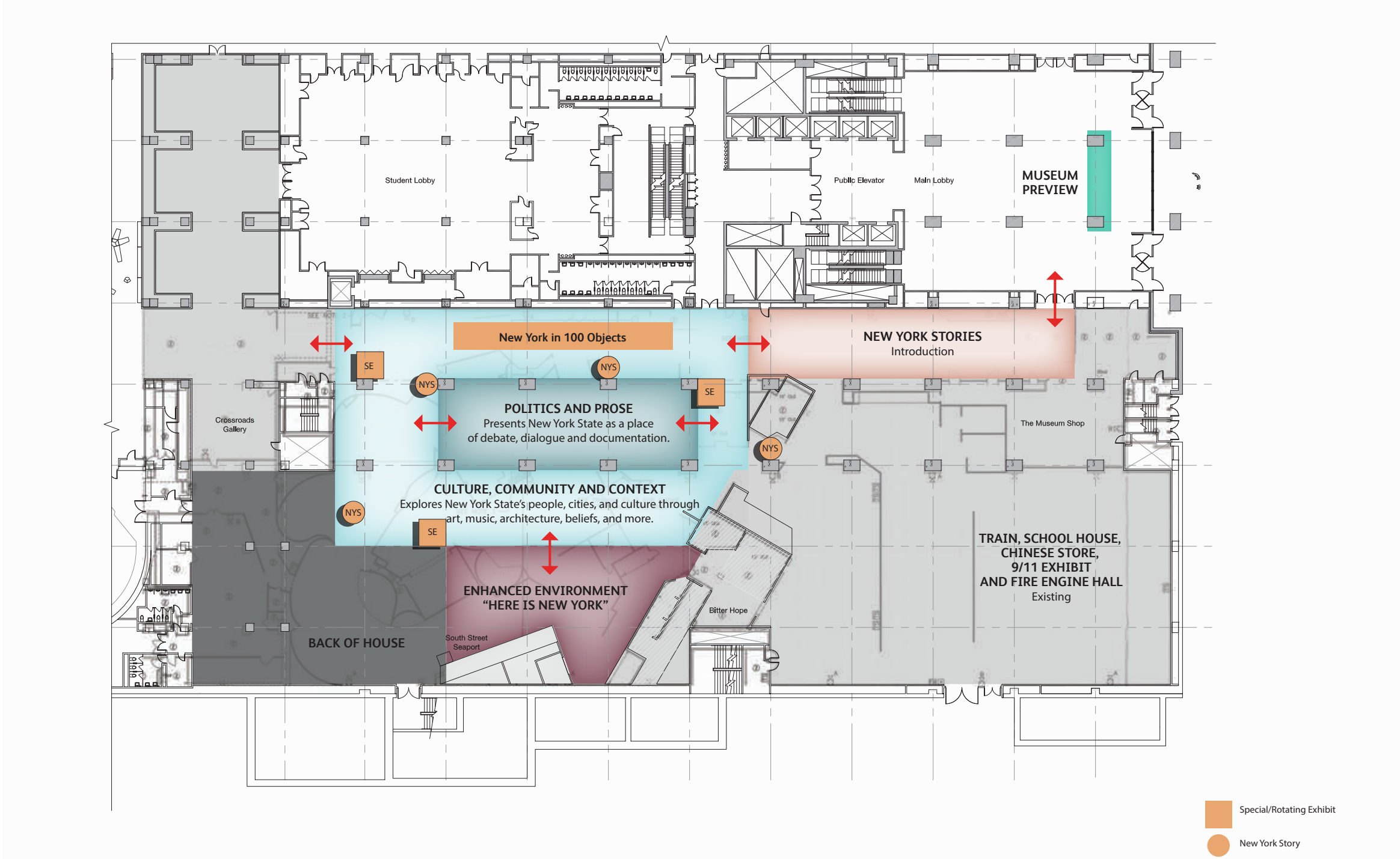
# FLOOR PLAN

West



# FLOOR PLAN

South





# A STATE OF CHANGE

## Rendering



*A State of Change* serves as an entry into the renovated galleries and demonstrates geographic and geologic change through natural and human impact. Featured in this area are specimens from the Museum's renowned paleontology, geology and anthropology collections. Iconic objects such as the Cohoes Mastodon, will be brought to life in a new manner utilizing the latest technologies. Visitors of all ages will explore what we know about the past and how that informs our future with themes like sustainability, eco stewardship and citizen science.

# EMERGENCE OF A STATE

Rendering



This area, an unexpected and immersive experience for visitors, will connect the stories of natural history and human change. Central to the area is projection mapping on the floor of the state of New York, showing “time lapse” in terms geologic/geographic eras and the migration/immigration of human beings.



# EMERGENCE OF A STATE

Rendering



The imagery can be reactive to visitors in the space and also integrate and highlight objects. For example, one segment could highlight a 300 million-year-old tree stump from the Gilboa fossil forest and show the connection between history and the recent discovery of an ancient forest floor. Additional sequences in environmental changes due to human activity will be developed, so this interactive experience will weave between state stories that have a global impact.

# NEW YORK STORIES

Rendering



*New York Stories* addresses the questions: Whose New York is it? What makes New York unique? For centuries, New York has been an incubator of innovators in politics, art, music, science and activism. Through words, works and actions, visitors will become both emotively and intellectually engaged with the stories of diverse New Yorkers who have made a lasting impact on American history and culture.



# NEW YORK IN 100 OBJECTS

Rendering



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# ATTACHMENT II



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

**TO:** P-12 Education Committee

**FROM:** Charles A. Szuberla, Jr. *Charles A. Szuberla Jr.*

**SUBJECT:** Addition of Section 100.19 to the Regulations of the Commissioner Relating to School Receivership

**DATE:** June 8, 2015 **(REVISED June 15, 2015)<sup>1</sup>**

**AUTHORIZATION(S):** *Richard P. Tranter*

## SUMMARY

### Issue for Decision

Should the Board of Regents approve, as an emergency action, the proposed addition of section 100.19 of the Regulations of the Commissioner pertaining to school receivership, in order to implement Section 211-f of Education Law as added by Chapter 56 of the Laws of 2015, based on materials provided to the Board of Regents at the May and June 2015 meetings?

### Reason(s) for Consideration

Required by statute (Part EE, Subpart H of Chapter 56 of the Laws of 2015).

### Proposed Handling

This item will come before the P-12 Education Committee for recommendation and to the Full Board for adoption as an emergency action at the June 2015 Regents meeting, effective June 23, 2015. A copy of the proposed rule and a Statement of Facts

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<sup>1</sup> Text highlighted in yellow represents revisions made based on the direction of the P-12 Education Committee at its June 15, 2015 meeting.

and Circumstances Which Necessitate Emergency Action are attached. It is anticipated that a Notice of Emergency Adoption and Proposed Rule Making will be published in the State Register on July 8, 2015.

### **Background Information**

In April 2015, Subpart H of Part EE of Chapter 56 of the Laws of 2015 created a new section of State Education Law pertaining to school receivership. Section 211-f designates current Priority Schools that have been in the most severe accountability status since the 2006-07 school year as “Persistently Failing Schools” and vests the superintendent of the district with the powers of an independent receiver. The superintendent is given an initial one-year period to use the enhanced authority of a receiver to make demonstrable improvement in student performance at the “Persistently Failing School” or the Commissioner will direct that the school board appoint an independent receiver and submit the appointment for approval by the Commissioner. Additionally, the school will be eligible for a portion of \$75 million in state aid to support and implement its turnaround efforts over a two-year period. Failing Schools, schools that have been Priority Schools since the 2012-13 school year, will be given two years under a “superintendent receiver” (i.e., the superintendent of schools of the school district vested with the powers a receiver would have under section 211-f) to improve student performance. Should the school fail to make demonstrable improvement in two years then the district will be required to appoint an independent receiver and submit the appointment for approval by the Commissioner. Independent receivers are appointed for up to three school years and serve under contract with the Commissioner.

Section 211-f of Education Law provides persons or entities vested with the powers of a receiver new authority to, among other things, develop a school intervention plan; convert schools to community schools providing wrap-around services; reallocate funds in the school’s budget; expand the school day or school year; establish professional development plans; order the conversion of the school to a charter school consistent with applicable state laws; remove staff and/or require staff to reapply for their jobs in collaboration with a staffing committee; and negotiate collective bargaining agreements, with any unresolved issues submitted to the Commissioner for decision.

At the end of the one- or two-year period in which a school designated as Persistently Failing or as Failing remains under district control, and annually thereafter, the Commissioner must determine whether the school should be removed from such designation; allowed to continue to be operated by the school district with the superintendent receiver; or be placed under an independent receiver who shall be appointed by the school board and shall have sole responsibility to manage and operate the school. Schools operating under an independent receiver must also be annually evaluated by the Commissioner to determine whether the school intervention plan should be continued or modified. At the end of the independent receivership period, the Commissioner must decide whether to end the receivership, continue it, or appoint a

new receiver. Additionally, the Commissioner may order the closure of a failing school and the Board of Regents may revoke the registration of a school.

## **Consultation with Key Stakeholders**

With the approval of the Board of Regents at its May meeting, staff solicited comments and recommendations from groups that included teams from school districts with one or more eligible Priority Schools; district superintendents; statewide representatives of parents, teachers, principals, superintendents, and school boards; Educational Partnership Organizations; representatives of state agencies that provide health, mental health, child welfare, and job services; representatives of organizations involved in and concerned with the education of English language learners, students with disabilities and students in temporary housing; and technical experts in school receivership, expanded learning, and community school models. A meeting of these key stakeholders was held on May 27, 2015, where more than 100 participants provided their feedback on the draft express terms that were presented to the Board of Regents in May.

## **Changes to Draft Regulations based on Stakeholder Feedback**

The following is a summary of the recommended revisions to the draft Section 100.19 express terms presented to the Board of Regents in May. These revisions were made in part to address feedback gathered from key stakeholders. The recommended revisions would clarify the statutory provisions and help districts operationalize the requirements in Education Law §211-f.

- **§100.19(a): Definitions**

The terms “Persistently Struggling Schools” and “Struggling Schools” will replace the terms “Persistently Failing” and “Failing Schools.”

A revised, more comprehensive definition of “community schools” has been added.

Definitions of the terms “consultation” and “consulted” have been added that require that the school receiver seek input and feedback both in writing and through meetings.

The term “day” has also been defined to mean a school day unless otherwise specified.

Clarification has been added to specify that the school district superintendent receiver shall not be required to create and implement a school intervention plan or to convert a struggling or persistently struggling school to a community school.

Clarification has been made in the regulation to specify that an independent receiver is required to create and implement a school intervention plan and convert a struggling or persistently struggling school to a community school.

- §100.19(b): Designation of Schools as Failing and Persistently Failing

Examples have been added of what might constitute an extenuating or extraordinary circumstance that could be the basis for a district to appeal the designation of a school as Persistently Struggling or Struggling.

- §100.19(c): Public Notice and Hearing and Community Engagement

The notice to parents now requires that the reasons for the school's designation be specified.

With respect to the mandated public hearing, the regulations now require that the hearing be held in the evening **or on Saturday** and at the school building to the extent practicable and that members of the public who are not able to attend such public hearing be provided with the opportunity to provide written comments and feedback in writing and/or electronically. In addition, the district must post the public hearing notice on the school district website, if one exists.

The timeline for creating the Community Engagement Team (CET) has been extended from 15 business days to 20 business days and the process for selection of parent, teacher, and administrator representation on the CET has been modified to require it be done in accordance with the provisions of Commissioner's Regulation 100.11. In addition, while membership of such team may be modified at any time, clarification has been provided that the CET at all times must include representatives of the community stakeholder groups with direct ties to the school and that when the membership of the community engagement team is modified, or vacancies are filled, that administrator, teacher and parent members of the CET must be selected through the process established in section 100.11(b).

In creating the community engagement plan, the Superintendent must describe, in addition to how members of the CET are selected, how the CET membership may be modified or vacancies filled.

The regulation has been clarified to permit, rather than prohibit, participation of elementary school students on the CET.

The CET has been given the responsibility to report its assessment of the degree to which the school's comprehensive education plan or department-approved intervention plan is being successfully implemented, and the superintendent must provide the CET with the information necessary to make this assessment.

A provision has been added that when the CET elects to hold hearings or meetings, the district shall arrange such hearings or meetings in the same manner as annual public hearings are conducted.

This section also explains that the CET shall present recommendations regarding the school's comprehensive education plan, department-approved intervention plan or school intervention plan, and the superintendent or independent receiver must include in these plans prior to the Commissioner's approval a description of all recommendations made by the CET and identify which recommendations were incorporated, how they were incorporated and which recommendations were not incorporated and why they were not incorporated.

- §100.19 (d) School District Receivership

A new provision has been added requiring the Commissioner to inform districts of the annual progress targets that must be met in order for a school to make demonstrable improvement. Moreover, in making a determination, the Commissioner shall consider, in addition to the metrics specified in the regulation, the number of years that a school has been identified as a struggling or persistently struggling school and the degree to which the superintendent has successfully utilized the powers of a school receiver to modify and implement the school's comprehensive education plan or Department-approved intervention plan.

Clarification has been provided that the performance review for persistently struggling and struggling schools must be done in consultation and collaboration with the CET, in addition to the school district and school staff.

A new provision has been added that clarifies that any board of education decision regarding employment of the Superintendent must be made consistent with applicable laws and regulations or the employment contract, and shall not be taken in retaliation for actions taken as a school receiver.

Clarification has been provided that at the end of a school year in which a school has been removed from Priority School status, the Commissioner shall remove the school's designation as persistently struggling or struggling, except that when a school has been placed into independent receivership, the independent receiver shall continue to implement the school intervention plan until the end of the receivership contract with the Commissioner.

Clarification has been added that when a school is newly identified as struggling, the Commissioner will decide whether the school shall be placed under a district receiver or immediately placed under an independent receiver.

Clarification has been added that the district will consult with the CET before proposing to the Commissioner any modifications to a comprehensive education plan or department-approved intervention model.

A new provision has been added to require that the school district superintendent receiver provide quarterly written reports regarding implementation of the department-approved intervention model or school comprehensive education plan, and that such reports, together with a plain-language summary thereof, shall be made publicly available.

- §100.19 (e) Appointment of an Independent Receiver

A provision has been added to specify the minimum qualifications of an independent receiver and clarification has been provided that a district must submit evidence that an independent receiver not selected from the Commissioner's approved list meets the same qualifications as those who have been approved by the Commissioner.

Clarification has been provided that in the event that the position of independent receiver is vacated or otherwise terminated, the Commissioner may appoint either a new independent receiver or an interim independent receiver.

Further clarification has been provided that the contract for an independent receiver may be terminated by the Commissioner for a violation of law or Commissioner's regulations or neglect of duty.

A provision has been added that the independent receiver or the independent receiver's designee, while serving as an ex officio non-voting member of the board, is not be entitled to attend executive sessions of the board of education pertaining to personnel and/or litigation matters involving the receiver.

- §100.19 (f) School Intervention Plan

The regulations have been revised to extend the timeline for submission of the local stakeholder plan to the Commissioner, from 15 to 20 business days.

A provision has been added that selection of parent, teacher, and administrator representation in regard to development of the school intervention plan must be done in accordance with the provisions of Commissioner's Regulation 100.11 and that community based organizations providing services in the school shall be consulted in the development of the school intervention plan.

The regulations have been revised to permit, rather than prohibit, the participation of elementary school students in the development of the school intervention plan.

Clarification has been added that the receiver shall create the school intervention plan in accordance with both the requirements of Education Law section 211-f(4)



and any applicable collective bargaining agreement(s) and provision(s) of article fourteen of the Civil Service Law.

The regulations require that the receiver base the school intervention plan on a recent needs assessment or administer a diagnostic review or needs assessment if one has not been recently conducted.

Provisions have been added that the school intervention plan include research-based components such as strategies to provide professional development and other supports to the staff of the school to ensure that they have the capacity to successfully implement the school intervention plan and to sustain the components of the plan after the period of the school receivership has ended; a budget for the school intervention plan, including a description of how any funds provided through a persistently struggling schools transformation grant will not be used to fund, in whole or in part, existing programs and services including but not limited to staff salaries; and strategies to improve student achievement through development of collaborative partnerships with the local school community that are designed to develop and sustain the capacity of the local school community to implement such strategies to ensure continued improvement in student achievement after the period of the school receivership has ended; and strategies by which the independent receiver will apply for allocational and competitive grants and other resources for the school to the extent practicable.

Clarification has been added that specifies that in addition to providing the school intervention plan to the local school board, the Superintendent, and representatives of the collective bargaining units, the plan must also be provided to the Community Engagement Team and elected representatives of the parent teacher association and/or parent association.

Clarification has been added that among the metrics that the Commissioner may use to determine whether schools have met their goals, are locally determined measures that shall be submitted to the Commissioner for approval in such form and format and according to such timeline as may be prescribed by the Commissioner.

Clarification has been added that the person responsible for coordinating the implementation of the conversion of a school to a community school be designated as a full-time staff member who participates in school leadership and community engagement team meetings and reports to the school receiver. The designated staff person shall attend CET and school leadership meetings, and the independent receiver is charged with regularly consulting with the CET and community based organizations providing services to the school and other stakeholders regarding program implementation of the community school model. A requirement has been added that in the first year of program implementation, a community school must implement at least three community school program elements.



A provision has been added that independent receivers must regularly consult with the school community regarding implementation of the community school program.

Clarification has been added that the independent receiver's quarterly reports, and plain-language summaries thereof, shall be made publicly available in the school district's offices and posted on the school district's website, if one exists.

Clarification has been added that as the Commissioner annually evaluates whether a persistently struggling or struggling school has met its annual goals, the Commissioner will consult and collaborate not only with the school district, school staff but also the CET.

Clarification has been added that upon the expiration of the school intervention plan, the Commissioner, will consult not only with the district but also the CET to determine whether to renew the plan, terminate the contract with the independent receiver and possibly appoint a new receiver or an interim receiver; or remove the school from the designation of persistently struggling or struggling.

- §100.19(g) Powers and Duties of a Receiver

Clarification has been added that the school intervention plan developed by the independent receiver shall be based upon a comprehensive school and community needs assessment.

Clarification has been added that actions taken by the school receiver in implementing a school intervention plan must be consistent with collective bargaining agreements and Civil Service Law for those issues for which collective bargaining is required.

Clarification has been added that expanding the school day or school year or both may include establishing partnerships with community based organizations and youth development programs that offer expanded learning time.

Clarification has been added to include the provision of instructional coaches or research-based instructional plans as an example of steps the school receiver may take to improve hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure.

The section now explains the process by which the school receiver must provide school staff, the superintendent or chief school officer, and the school board the results of the needs assessment that is the basis for the re-staffing of the school and an opportunity for the notified parties to ask the receiver to reconsider the decision to re-staff the school. In addition, upon completion of the abolition and rehiring process no further abolition of positions shall occur without the prior approval of the Commissioner.

Clarification has been added that collective bargaining pertaining to a school receivership agreement must be conducted in good faith. Such bargaining processes shall commence no later than thirty days following receipt of a written request from the school receiver.

Revisions to the timeline for budget review and supersession processes were made, including a requirement that the receiver describe how any budget modifications would not have an undue impact on other schools in the district. In addition, applicable school based budgets must be submitted to the receiver.

Provisions have been added that when a receiver modifies an employment decision, notice must be provided to the impacted staff and their collective bargaining representative. If the school board requests reconsideration of the modification, the receiver must notify the impacted staff and their collective bargaining representative of the results of the reconsideration.

A provision has been added that modification(s) to the school budget by the receiver shall not require the school board seek voter approval of a budget that exceeds the tax levy limit pursuant to section 2023-a of the Education Law.

- §100.19 (h) Annual evaluation of schools with an appointed independent receiver

Clarification has been made that the commissioner shall not only consult and cooperate with the school district and the school staff but also the CET in determining whether the school has met the annual goals in its school intervention plan; assessing the implementation of the plan at the school; and in determining whether at the expiration of the school intervention plan the school has improved sufficiently, requires further improvement or has failed to improve.

- §100.19 (k) Commissioner's Evaluation of School Receivership Program

A new subdivision (k) has been added to require that the school receiver provide the commissioner with any reports or other information requested by the commissioner, in such form and format and according to such timeline as may be prescribed by the commissioner, in order for the commissioner to conduct an evaluation of the school receivership program.

## **Recommendation**

It is recommended that the Board of Regents take the following action:

VOTED: That section 100.19 of the Regulations of the Commissioner of Education is added, as submitted, effective June 23, 2015, as an emergency action upon a finding by the Board of Regents that such action is necessary for the

preservation of the general welfare, so that school districts may have the opportunity to meet, in a timely fashion, accountability and intervention requirements for the 2014-15 school year and beyond, consistent with Education Law §211-f and the ESEA Flexibility Waiver Renewal Request submitted to the USDE and pursuant to statutory requirements.

#### **Timetable for Implementation**

If adopted at the June Regents meeting, the emergency rule will become effective June 23, 2015 and will remain in effect for 90 days. It is anticipated that the proposed rule will be presented for permanent adoption at the September 2015 Regents meeting, after publication of a Notice of Emergency Rule Making and Proposed Rule Making in the State Register and expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act.

## **8 NYCRR §100.19**

### **STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE EMERGENCY ACTION**

The purpose of the proposed rulemaking is to implement section 211-f of Education Law, as added by Subpart H of Part EE of Chapter 56 of the Laws of 2015, pertaining to school receivership. Section 211-f designates current Priority Schools that have been in the most severe accountability status since the 2006-07 school year as “Persistently Failing Schools” and vests the superintendent of the district with the powers of an independent receiver. The superintendent is given an initial one-year period to use the enhanced authority of a receiver to make demonstrable improvement in student performance at the “Persistently Failing School” or the Commissioner will direct that the school board appoint an independent receiver and submit the appointment for approval by the Commissioner. Failing Schools, schools that have been Priority Schools since the 2012-13 school year, will be given two years under a “superintendent receiver” (i.e., the superintendent of schools of the school district vested with the powers a receiver would have under section 211-f) to improve student performance. Should the school fail to make demonstrable progress in two years then the district will be required to appoint an independent receiver and submit the appointment for approval by the Commissioner. Independent Receivers are appointed for up to three school years and serve under contract with the Commissioner.

The proposed rulemaking adds a new section 100.19 to align the Commissioner's Regulations with Education Law 211-f, and addresses the Regents Reform Agenda and New York State's updated accountability system. Adoption of the

proposed amendment is necessary to ensure seamless implementation of the provisions of Education Law §211-f, and will provide school districts with additional powers to impact improvement in academic achievement for students in the lowest performing schools.

Because the Board of Regents meets at scheduled intervals, and does not meet during the month of August, the September 16-17, 2015 Regents meeting is the earliest the proposed rule could be presented for regular (non-emergency) adoption, after publication of a Notice of Proposed Rule Making in the State Register and expiration of the 45-day public comment period required under State Administrative Procedure Act (SAPA) sections 201(1) and (5). Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be October 7, 2015, the date a Notice of Adoption would be published in the State Register. However, Chapter 56 of the Laws of 2015 was signed by the Governor on April 13, 2015, and the provisions of Part EE, Subpart H became effective immediately. Therefore, emergency adoption of these regulations is necessary now for the preservation of the general welfare to immediately conform the Commissioner's Regulations to timely implement the requirements of Education Law §211-f, so that school districts may have the opportunity to meet, in a timely fashion, accountability and intervention requirements for the 2014-15 school year and beyond, consistent with Education Law §211-f and the ESEA Flexibility Waiver Renewal Request submitted to the USDE and pursuant to statutory requirements.

It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at its September 16-17, 2015 meeting, which is the first

scheduled meeting after expiration of the 45-day public comment period mandated by the State Administrative Procedure Act.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF  
EDUCATION

Pursuant to Education Law sections 207, 305, and 211-f as added by Chapter 56 of the Laws of 2015

Section 100.19 of the Regulations of the Commissioner of Education is added, effective June 23, 2015, as follows:

§100.19 Takeover and restructuring of failing and persistently failing schools.

(a) Definitions. As used in this section:

(1) Failing school (hereafter referred to as “struggling school”) shall mean a school that has been identified as a priority school for at least three consecutive school years, or as a priority school in each applicable year of the three consecutive school year period comprising 2012-2013, 2013-2014 and 2014-2015 except one school year in which the school was not identified because of an approved closure plan that was not implemented. Such term shall not include schools within a special act school district as defined in Education Law section 4001(8), charter schools established pursuant to Article 56 of the Education Law, schools that were removed from Priority School designation during the 2014-2015 school year, schools that ceased operation at the end of the 2014-2015 school year, or schools that the commissioner has determined pursuant to subdivision (b) of this section to have extenuating or extraordinary circumstances that should cause the school to not be identified as struggling.

(2) Persistently failing school (hereafter referred to as “persistently struggling school”) shall mean a school that has been identified as a priority school for each applicable year from the 2012-2013 school year to the 2014-2015 school year, or for

each applicable year from the 2012-2013 school year to the 2014-2015 school year except one school year in which the school was not identified because of an approved closure plan that was not implemented, and schools identified a School Requiring Academic Progress Year 5, School Requiring Academic Progress Year 6, School Requiring Academic Progress Year 7 and/or a School in Restructuring for each applicable year from the 2006-2007 school year to the 2011-2012 school year. Such term shall not include schools within a special act school district as defined in Education Law section 4001(8), charter schools established pursuant to Article 56 of the Education Law, schools that were removed from Priority School designation during the 2014-2015 school year, schools that ceased operation at the end of the 2014-2015 school year or schools that the commissioner has determined pursuant to subdivision (b) of this section to have extenuating or extraordinary circumstances that should cause the school to not be identified as persistently struggling.

(3) Priority school shall mean a school identified as a priority school pursuant to section 100.18(g) of this Part.

(4) School district in good standing shall mean a school district that has not been identified pursuant to section 100.18(g) this Part as a focus district.

(5) School district superintendent receiver shall mean a superintendent of schools of a school district with one or more schools designated as struggling or persistently struggling pursuant to Education Law section 211-f(1)(a) or (b) who, in accordance with Education Law section 211-f(1)(c) or (d), is vested with all the powers granted to an independent receiver appointed pursuant to Education Law section 211-f; provided that the school district superintendent receiver shall not be required to create



and implement a school intervention plan or to convert a struggling or persistently struggling school to a community school; provided further that, in the case of a struggling school or persistently struggling school in which, pursuant to Education Law section 211-e, an educational partnership organization has assumed the powers and duties of the superintendent of schools for purposes of implementing the educational program of the school, such term shall mean the educational partnership organization, which shall be vested with all the powers of an independent receiver consistent with this section and further provided that the educational partnership organization may not override any decision of the board of education with respect to the contract of the educational partnership organization.

(6) Independent receiver shall mean a non-profit entity or an individual with a proven track record of improving school performance or another school district in good standing appointed by a school district and approved by the commissioner to manage and operate all aspects of a school that the commissioner has determined shall be placed into receivership pursuant to Education Law section 211-f and this section and to develop and implement a school intervention plan for such school pursuant to subdivision (f) of this section and convert such school to a community school, provided that, in the case of an independent receiver who is an individual, such individual shall not be an existing officer or employee of the school district at the time of such appointment.

(7) School district shall mean a common, union free, central, central high school or city school district. The definition of school district shall not include a special act school district as defined in Education Law section 4001(8).

(8) Community school shall mean a school that partners with one or more agencies with an integrated focus on rigorous academics and the fostering of a positive and supportive learning environment, and a range of school-based and school-linked programs and services that lead to improved student learning, stronger families, and healthier communities. At a minimum, programs must include, but are not limited, to:

(i) addressing social service, health and mental health needs of students in the school and their families in order to help students arrive and remain at school ready to learn;

(ii) providing access to services in the school community to promote a safe and secure learning environment;

(iii) encouraging family and community engagement to promote stronger home-school relationships and increase families' investment in the school community;

(iv) providing access to nutrition services, resources or programs to ensure students have access to healthy food and understand how to make smart food choices;

(v) providing access to early childhood education to ensure a continuum of learning that helps prepare students for success; and

(vi) offering access to career and technical education as well as workforce development services to students in the school and their families in order to provide meaningful employment skills and opportunities; and

(vii) offering expanded learning opportunities that include afterschool, summer school, Science, Technology, Engineering, Arts, and Math programs (STEAM) and mentoring and other youth development programs.

(9) Superintendent shall mean the superintendent of schools or other chief school officer of a school district, and for the purpose of receivership in the city school district of the City of New York, superintendent shall mean the chancellor or his/her designee.

(10) Board of education shall mean the trustees or board of education of a school district; provided that in the case of the city school district of the City of New York, such term shall also mean the chancellor of the city school district or his/her designee acting in lieu of the board of education of such city school district to the extent authorized by article 52-A of the Education Law. and, with respect to community school districts and New York City superintendencies, such term shall mean the chancellor or his/her designee.

(11) Department shall mean the New York State Education Department.

(12) Department-approved intervention model or comprehensive education plan shall mean a comprehensive education plan pursuant to section 100.18(h)(2)(iii) of this Part, a plan for a School Under Registration Review pursuant to section 100.18(l)(3) of this Part, or a school phase out or closure plan pursuant to section 100.18(m)(5) of this Part.

(13) School intervention plan shall mean a plan created by an independent school receiver and approved by the commissioner pursuant to Education Law section 211-f(3)-(7) and subdivision (f) of this section.

(14) School receiver shall mean a school district superintendent serving as a receiver and an independent receiver serving as a receiver pursuant to this section.

(15) Diagnostic Tool for School and District Effectiveness shall mean a rubric used in accordance with a process prescribed by the commissioner by which a determination is made regarding the degree to which the optimum conditions for learning have been established in a school based upon factors such as school leadership and capacity, school leader practices and decisions, curriculum development and support, teacher practices and decisions, student social and emotional developmental health, and family and community engagement.

(16) “Consultation and cooperation” and “consultation and collaboration” shall mean a process by which the commissioner or his or her designee seeks input and feedback through written correspondence and/or meetings (e.g., in-person meetings, site visits, telephone conferences, video conferences).

(17) “Consultation” or “consulted” shall mean a process by which the school receiver seeks input and feedback through written correspondence and meetings (e.g., in-person meetings, site visits, telephone conferences, video conferences).

(18) “Day” shall mean school day, unless otherwise specified.

(b) Designation of schools as struggling or persistently struggling:

(1) On or about July 1, 2015 and, for each school year thereafter on a date prescribed by the commissioner, the commissioner shall preliminarily identify schools as struggling in accordance with paragraph (a)(1) of the this section.

(2) On or about July 1, 2015 and, for each year thereafter on a date prescribed by the commissioner, the commissioner shall preliminarily identify schools as persistently struggling in accordance with paragraph (a)(2) of this section.

(3) For each school preliminarily identified as struggling or persistently struggling pursuant to paragraphs (1) or (2) of this subdivision, the school district shall be given the opportunity to present to the commissioner additional data and relevant information concerning extenuating or extraordinary circumstances faced by the school that should be cause for the commissioner to not identify the school as struggling or persistently struggling (e.g., the district has submitted to the Commissioner a plan to close, phase-out or merge the school or to split the school based on grade configuration).

(4) The commissioner shall review any such additional information provided by the school district and determine which of the schools shall be identified as struggling or persistently struggling.

(c) Public Notice and Hearing and Community Engagement

(1) Upon the commissioner's designation of a school as struggling or persistently struggling pursuant to paragraph (4) of subdivision (b) of this section, the board of education of the school district or its designee shall:

(i) provide written notice to parents of, or persons in parental relation to, students attending a struggling or a persistently struggling school that the school has been so designated and may be placed into receivership and a description of the reason(s) the school has been so designated. Such notice shall be provided in English and translated, to the extent practicable, into the recipient's native language or mode of communication, and shall be provided as soon as practicable, but in no case later than 30 calendar days following such designation. In addition, the board of education or its designee shall also provide such written notification to the parents of, or persons in

parental relation to, students who enroll or seek to enroll in the school at the time they enroll or seek to enroll in the school;

(ii) by June 30 of each school year that a school remains identified as struggling or persistently struggling pursuant to subdivision (b) of this section, provide written notification to parents of, or persons in parental relation to, students attending the school that the school remains identified as struggling or persistently struggling and may be placed into receivership and a description of the reason(s) the school has been so designated. Such notice shall be provided in English and translated, when appropriate, into the recipient's native language or mode of communication. In addition, the board of education or its designee shall also provide such written notification to the parents of, or persons in parental relation to, students who enroll or seek to enroll in the school at the time they enroll or seek to enroll in the school during each school year that a school remains identified as struggling or persistently struggling; and

(iii) conduct at least one public meeting or hearing annually for purposes of discussing the performance of the designated school and the construct of receivership. Such initial meeting or hearing shall be held as soon as practicable, but in no case later than 30 calendar days following such designation. Subsequent annual hearings shall be held within 30 calendar days of the first day of student attendance in September of each school year that the school remains identified as struggling or persistently struggling. With respect to each such meeting or hearing, the school district shall:

(a) provide written notice at least 10 calendar days prior to such public meeting or hearing of the time and place of such public meeting or hearing to parents of, or persons in parental relation to, students attending the school that may be placed into

receivership. The district shall provide translators at the public meeting, as well as translations of the written notice into languages most commonly spoken in the school district and when appropriate, into the recipient's native language or mode of communication. In order to maximize opportunities for the participation of the public and parents of, or persons in parental relation to, students attending the school, the public meeting or hearing shall be held at the school building in the evening hours or on Saturday, to the extent practicable; and

(b) provide reasonable notice to the public of such public meeting or hearing by:

(1) posting the notice on a school district website, if one exists, posting the notice in schools and school district offices in conspicuous locations, publishing the notice in local newspapers or other local publications, and/or including the notice in school district mailings and distributions. A school district shall also provide translations of the notice into the languages other than English that are most commonly spoken in the school district; and

(2) providing public notice of the time and place of a public meeting or hearing scheduled at least one week prior thereto and giving such notice to the news media and conspicuously posting in one or more designated public locations at least 72 hours before such hearing; and

(c) provide members of the public who are not able to attend such public hearing with the opportunity to provide written comments and feedback in writing and/or electronically.

(2) The school district shall establish a community engagement team as soon as practicable but in no case later than 20 business days following designation of a school as struggling or persistently struggling, in accordance with the following:

(i) the community engagement team shall be comprised of community stakeholders with direct ties to the school including, but not limited to, the school principal, parents of or persons in parental relation to students attending the school, teachers and other school staff assigned to the school, and students attending the school, provided that membership of such team may be modified at any time so long as the team at all times includes the required community stakeholders specified in this subparagraph, and further provided that, in the case of a designated school that does not serve students in grade seven or above, the community engagement team need not include students;

(ii) the community engagement team shall develop recommendations for improvement of the school and shall solicit input through public engagement, which may include, but shall not be limited to, public hearings or meetings and surveys; provided that if the community engagement team elects to hold public hearings or meetings, the school district shall arrange for the hearings or meetings to be conducted in accordance with clauses (a) and (b) of subparagraph (iii) of paragraph (1) of this subdivision; and

(iii) the community engagement team shall present its recommendations, prior to the Commissioner's approval, and its assessment of the degree to which the school's comprehensive education plan or department-approved intervention plan is being successfully implemented, periodically, but at least twice annually, to the school leadership. All such recommendations and the efforts made to incorporate them,



including a description of which recommendations were incorporated and how they were incorporated and which recommendations were not incorporated and why they were not incorporated, must be included in the department-approved intervention model or comprehensive education plan.

(iv) where an independent receiver has been appointed for the school, the community engagement team shall present its recommendations on the school intervention plan, prior to the Commissioner's approval, and its assessment of the degree to which the school's school intervention plan is being successfully implemented, periodically, but at least twice annually, to the school leadership and the independent receiver. All such recommendations and the efforts made to incorporate them, including a description of which recommendations were incorporated and how they were incorporated and which recommendations were not incorporated and why they were not incorporated, must be included in the approved school intervention plan.

(3) The superintendent shall develop a community engagement plan in such form and format and according to such timeline as may be prescribed by the commissioner. The superintendent shall submit such community engagement plan to the commissioner for approval, and once approved, the community engagement plan shall be incorporated into the department-approved intervention model or comprehensive education plan submitted in accordance with subdivision (d) of this section. The plan shall include, but not be limited to, descriptions of the following:

(i) the process by which stakeholders were consulted in the development of the community engagement plan;

(ii) the way in which members of the community engagement team are selected, the community engagement team's membership is modified, or vacancies are filled, provided that administrator, teacher and parent members of the community engagement team must be selected through the process established in section 100.11(b) of this Part;

(iii) the manner and extent of the expected involvement of all parties;

(iv) the means by which the community engagement team shall conduct meetings and formulate recommendations;

(v) the means by which the community engagement team shall solicit public input;

(vi) the means by which the community engagement team shall make public its recommendations and shall be provided with the information necessary to assess the implementation of the comprehensive education plan or department-approved intervention model pursuant to paragraph (2)(iii) of this subdivision; and

(vii) the manner in which the community engagement team shall coordinate its work with any school based management/shared decision making team or school building leadership team that is operating in the school.

(d) School District Receivership.

(1) Commencing with the 2015-2016 school year, the school district shall continue to operate a school that has been identified as persistently struggling pursuant to subdivision (b) of this section for an additional school year and a school that has been identified as struggling pursuant to subdivision (b) of this section for an additional two years, provided that there is a department-approved intervention model or comprehensive education plan in place that includes rigorous performance metrics and

goals, including but not limited to measures of student academic achievement and outcomes including those set forth in subdivision (f) of this section, and a community engagement plan pursuant to paragraph (c)(3) of this section.

(2) By September 1, or as soon as practicable thereafter, of each school year in which a school is identified as persistently struggling or struggling pursuant to subdivision (b) of this section, the commissioner shall provide the school district and superintendent with annual goals that must be met in order for the school to make demonstrable improvement pursuant to subparagraph (ii) of paragraph (5) of this subdivision. In making a determination regarding whether a school has made demonstrable improvement, the Commissioner shall consider, in addition to the metrics specified in paragraph (6) of subdivision (f) of the section, the number of years that a school has been identified as a struggling or persistently struggling school, and the degree to which the superintendent has successfully utilized the powers of a school receiver to implement the school's approved comprehensive education plan or department-approved intervention plan.

(3) Upon the department's approval of a model or plan, the superintendent shall be vested with all the powers granted to an independent receiver pursuant to subdivision (g) of this section for a period of one school year for a persistently struggling school and for a period of two school years for a struggling school, provided that the superintendent shall not be allowed to supersede any decision of the board of education with respect to his or her employment status, except that the school district superintendent receiver shall not be required to create and implement a school intervention plan or to convert a struggling or persistently struggling school to a

community school, further provided that any board of education decision with respect to the superintendent's employment status shall be consistent with applicable laws and regulations and his or her employment contract and shall not be taken in retaliation for acts taken as a school receiver consistent with Education Law section 211-f and the provisions of this section.

(4) The school district superintendent receiver shall provide a quarterly written report to the board of education, the commissioner and the Board of Regents no later than October 30, January 31, April 30, and July 31 of each year. Quarterly reports shall be in such form and format and shall at a minimum contain such specific information about the progress being made in the implementation of the department-approved intervention model or the school comprehensive education plan as may be prescribed by the commissioner. Quarterly reports, together with a plain-language summary thereof, shall be made publicly available in the school district's offices and posted on the school district's website, if one exists.

(5) At the end of one school year for a persistently struggling school and at the end of two school years for a struggling school, and annually for a school which the commissioner has determined, pursuant to paragraph (2) of this subdivision, to have made demonstrable progress and shall continue under district operation with the superintendent vested with the powers of a receiver consistent with this section, the department shall conduct a performance review of such school in consultation and collaboration with the school district, the school staff and the community engagement team to determine whether:

(i) the designation of persistently struggling or struggling shall be removed;

(ii) the school shall remain under continued school district operation with the superintendent vested with the powers of a receiver pursuant to Education Law section 211-f and this section; or

(iii) the school shall be placed under independent receivership.

(6) With respect to a performance review conducted in accordance with paragraph (5) of this subdivision:

(i) at the end of a school year in which a school has been removed from priority school status, pursuant to section 100.18(i)(1) of this Part, the commissioner shall remove the school's designation as persistently struggling or struggling, except that, for a school that has been placed into independent receivership, the independent receiver shall continue to implement the school intervention plan consistent with subdivision (h) of this section; and

(ii) the commissioner shall continue a school under district operation with the superintendent vested with the powers of a receiver consistent with this section if a school has made demonstrable improvement as determined by the commissioner in consultation and collaboration with the school district based on performance metrics and goals described in paragraph (2) of this subdivision and shall continue to be subject to annual review by the department as provided in paragraph (5) of this subdivision.

(7) In the event that the department revokes the provisional approval or approval of an intervention model or comprehensive education plan, the commissioner shall require the school district to appoint and submit for the commissioner's approval no later than 45 calendar days from the revocation of the provisional approval or approval an

independent receiver to manage and operate the school in accordance with subdivision (e) of this section.

(8) Schools newly designated as struggling after the 2016-2017 school year and thereafter shall, upon such designation, be immediately eligible for the appointment of an independent receiver pursuant to Education Law section 211-f(2) and subdivision (e) of this section, provided that the commissioner may determine that the school district shall continue to operate the school for a two additional school years pursuant to subdivision (d) of this section.

(9) Nothing in this section shall limit a school district's ability to modify, subject to approval by the department, its department-approved intervention model or comprehensive education plan or the commissioner's ability to require a school district to modify such department-approved intervention model or comprehensive education plan and require his or her approval of such modifications, provided that, in proposing any such modifications, the district shall consult with the community engagement team in accordance with the community engagement plan approved by the commissioner pursuant to paragraphs (2) and (3) of subdivision (c) of this section.

(e) Appointment of an independent receiver.

(1) Within 60 days of the commissioner's determination to place a school into receivership pursuant to subdivision (d) of this section, the school district shall appoint an independent receiver and submit the appointment in such form and format as the commissioner may prescribe to the commissioner for approval.

(2) The school district may appoint an independent receiver from among the department's list of independent receivers approved pursuant to a request for

qualifications issued by the department. The school district may also appoint an independent receiver not on the department's approved list provided that such district submits, for approval, evidence to the commissioner within 40 days of the commissioner's determination to place a school into receivership that the prospective receiver meets the minimum qualifications set forth in this subdivision and in the department's request for proposals.

(3) If the school district fails to appoint an independent receiver that meets the commissioner's approval within 60 days of such determination, the commissioner shall appoint the independent receiver. In the event that, subsequent to the appointment of an independent receiver, such appointment is vacated or otherwise terminated, the commissioner shall, as soon as practicable but no later than 15 business days after such vacancy or termination, appoint a new independent receiver or appoint an interim independent receiver until such time as an independent receiver is appointed pursuant to the provisions of this subdivision. During any such interim appointment, an interim independent receiver shall meet all the requirements and have all the powers of an independent receiver in accordance with Education Law section 211-f and subdivision (g) of this section, except that the interim receiver may not make material changes, which may include but not be limited to changes to the plan's scope of work, budget and/or timelines, to the approved school intervention plan without the prior approval of the commissioner.

(4) All appointments of an independent receiver or an interim independent receiver, as applicable, shall be made in accordance with the following:

(i) the commissioner shall contract with the independent receiver, provided that such contract may be terminated by the commissioner for a violation of law or commissioner's regulations or neglect of duty, and the compensation and reasonable and necessary costs of such receiver shall be paid pursuant to Education Law section 211-f;

(ii) the independent receiver and any of its employees providing services in the receivership shall be entitled to defense and indemnification by the school district to the same extent as a school district employee;

(iii) the school district and board of education shall fully cooperate with the independent receiver and willful failure to cooperate with or interference with the functions of the independent receiver shall constitute willful neglect of duty for purposes of Education Law section 306;

(iv) the independent receiver or the independent receiver's designee shall be an ex officio non-voting member of the board of education entitled to attend all meetings of the board of education except that, in accordance with subdivision (1) of section 105 of the Public Officers Law, the independent receiver or the independent receiver's designee shall not be entitled to attend properly convened executive sessions of the board of education pertaining to personnel and/or litigation matters involving the receiver; and

(v) the powers of the independent receiver, and any restrictions or limitations thereof, shall be those authorized by Education Law section 211-f and subdivision (g) of this section, which include but are not limited to the development and implementation of the school intervention plan for the designated school.



(5) Any independent receiver appointed pursuant to this subdivision shall, in addition to the qualifications set forth in the department's request for proposals, meet the following minimum qualifications:

(i) a demonstrated record of successful experience in education within the past three years including, but not limited to, at least five years of successful experience in improving student academic performance in low performing schools and/or districts or dramatically raising the achievement of high needs students in moderate to high performing schools and/or districts;

(ii) a demonstrated record of successful experience with at risk student populations in closing achievement gaps;

(iii) a demonstrated record of successful experience forming collaborative relationships or partnerships with school community stakeholders, including but not limited to parents, teachers, administrators, school staff, collective bargaining units, school boards, and community members;

(iv) be a school district in good standing under the accountability system; or, for individuals and, with respect to non-profit entities, the individual designated by the entity to oversee and manage the implementation of the provisions of Education Law section 211-f and this section, have New York State certification as a school district administrator or school district leader, or school administrator and supervisor, or school building leader or a substantially equivalent certification, as determined by the commissioner, issued by a jurisdiction outside the state; and

(v) a demonstrated ability to successfully convert a school to a community school.

(f) School Intervention Plan. Within six months of appointment, the independent receiver shall issue a final school intervention plan, approved by the commissioner, in accordance with Education Law section 211-f and the provisions of this section.

(1) Local stakeholder consultation plan.

(i) Before developing the school intervention plan pursuant to paragraph (3) of this subdivision, but in no case later than 20 business days after the effective date of a contract to serve as a receiver, the independent receiver shall submit to the commissioner for approval a local stakeholder consultation plan in a form and format as may be prescribed by the commissioner. Such plan shall include, but not be limited to a description of the following:

(a) the process by which stakeholders will be consulted in the development of the school intervention plan;

(b) The manner in which persons will be selected to engage in consultation, provided that the administrator, teacher and parent members of the community engagement team, which must be consulted pursuant to subparagraph (xii) of paragraph (2) of this subdivision, must be selected through the process established in section 100.11(b) of this Part; and

(c) The manner and extent of the expected involvement of all parties.

(ii) Upon submission of the stakeholder consultation plan, the department shall approve the plan or return it to the receiver for revision and resubmission.

(2) In developing the school intervention plan, the receiver shall consult with local stakeholders, including but not limited to:

(i) the board of education;

(ii) the superintendent of schools;

(iii) the school principal;

(iv) teachers assigned to the school and their collective bargaining representative;

(v) school administrators assigned to the school and their collective bargaining representative;

(vi) parents of, or persons in parental relation to, students attending the school;

(vii) representatives of applicable state and local social service, health and mental health agencies and community based organizations providing services in the school, where applicable;

(viii) as appropriate, representatives of local career education providers, state and local workforce development agencies and the local business community;

(ix) for elementary schools, representatives of local prekindergarten programs;

(x) students attending the school as appropriate; provided that in the case of a designated school that does not serve students in grade seven or above, such local stakeholder consultation need not include students;

(xi) as needed for middle schools, junior high schools, central schools or high schools, representatives of local higher education institutions; and

(xii) the community engagement team established pursuant to subdivision (c) of this section; provided that with respect to consultation with students attending the school as appropriate, in the case of a designated school serving students up to and including grade seven, the community engagement team need not include students.

(3) In creating the school intervention plan, the receiver shall:

(i) consult with and consider all recommendations developed by the community engagement team;

(ii) include provisions intended to maximize the rapid academic achievement of students at the school; and

(iii) ensure that the plan addresses the tenets of the Diagnostic Tool For School and District Effectiveness.

(4) The receiver shall, to the extent practicable, base the school intervention plan on the findings of any recent diagnostic review or assessment (e.g., needs assessment) of the school that has been conducted, or shall administer a diagnostic review or assessment (e.g., needs assessment) if one has not been recently conducted, and, as applied to the school, student outcome data including but not limited to:

(i) student achievement growth data based on state measures;

(ii) other measures of student achievement;

(iii) student promotion and graduation rates;

(iv) achievement and growth data for the subgroups of students used in the state's accountability system;

(v) student attendance; and

(vi) long-term and short-term suspension rates.

(5) The receiver shall create the school intervention plan in accordance with Education Law section 211-f and any applicable collective bargaining agreement(s) and provision(s) of article fourteen of the Civil Service Law. In creating the school intervention plan, the receiver shall ensure that the plan includes the following research-based components:

(i) strategies to address the tenets of the Diagnostic Tool for School and District Effectiveness;

(ii) strategies to address social service, health and mental health needs of students in the school and their families in order to help students arrive and remain at school ready to learn; provided that this may include mental health and substance abuse screening;

(iii) strategies to improve or expand access to child welfare services and, as appropriate, services in the school community to promote a safe and secure learning environment;

(iv) as applicable, strategies to provide greater access to career and technical education and workforce development services provided to students in the school and their families in order to provide students and families with meaningful employment skills and opportunities;

(v) strategies to address achievement gaps for English language learners, students with disabilities and economically disadvantaged students, as applicable;

(vi) strategies to address school climate and positive behavior support, including mentoring and other youth development programs;

(vii) strategies to provide professional development and other supports to the staff of the school to ensure that they have the capacity to successfully implement the school intervention plan and to sustain the components of the plan after the period of the school receivership has ended;

(viii) a budget for the school intervention plan, including a description of how any funds provided through a persistently struggling schools transformation grant will not be

used to fund, in whole or in part, existing programs and services including but not limited to staff salaries;

(ix) strategies to improve student achievement through development of collaborative partnerships with the local school community that are designed to develop and sustain the capacity of the local school community to implement such strategies to ensure continued improvement in student achievement after the period of the school receivership has ended; and

(xi) strategies by which the independent receiver will apply for allocational and competitive grants and other resources for the school to the extent practicable.

(6) The school intervention plan shall include measurable annual goals established through such methodology as may be prescribed by the commissioner on metrics that shall be defined by the commissioner and shall include, but not be limited to, the following:

(i) student attendance;

(ii) student discipline including but not limited to short-term and long-term suspension rates;

(iii) student safety;

(iv) student promotion and graduation and drop-out rates;

(v) student achievement and growth on state measures;

(vi) progress in areas of academic underperformance;

(vii) progress among the subgroups of students used in the state's accountability system;

(viii) reduction of achievement gaps among specific groups of students;

(ix) development of college and career readiness, including at the elementary and middle school levels;

(x) parent and family engagement;

(xi) building a culture of academic success among students;

(xii) building a culture of student support and success among faculty and staff;

(xiii) using developmentally appropriate child assessments from pre-kindergarten through third grade, if applicable, that are tailored to the needs of the school; and

(xiv) measures of student learning.

(7) The school intervention plan may also include measurable annual goals on locally-selected measures, provided that such locally-determined measures shall be submitted to the commissioner for approval in such form and format as may be prescribed by the commissioner.

(8) In creating and implementing the school intervention plan, the independent receiver shall, consistent with the provisions of Education Law section 211-f and any applicable collective bargaining agreement(s) and provision(s) of article fourteen of the Civil Service Law, and after consulting with stakeholders and the community engagement team pursuant to paragraph (c)(2) of this section, convert schools to community schools to provide expanded health, mental health and other services to students and their families. In order for the independent receiver to convert the school to a community school, the independent receiver shall implement the following process and meet the following minimum requirements:

(i) partner with families and relevant community agencies to integrate these partners into the community engagement team;

(ii) designate a full-time staff person who participates in school leadership and community engagement team meetings and reports to the school receiver and whose sole job responsibility is to manage the development of the community school strategy for that school and subsequently ensure the maintenance and sustainability of the community school;

(iii) conduct a comprehensive school and community needs assessment in such form and format and according to such timeline as may be prescribed by the commissioner;

(iv) complete a thorough analysis of the needs assessment results;

(v) incorporate into the school intervention plan short-term strategies to improve student learning while establishing the community school. Short term strategies that may be implemented prior to completion of the needs assessment include, but are not limited to:

(a) reviewing attendance data for opportunities to reduce chronic absenteeism and implement evidence based strategies for reducing such chronic absenteeism; and

(b) instituting school climate surveys to students, school personnel and families;

(vi) incorporate into the school intervention plan a three-year strategy for meeting the requirements of a community school pursuant to this paragraph that includes annual goals and measurable benchmarks and is informed by the analysis of the needs assessment pursuant to subparagraph (iv) of this paragraph and ensure that at least three program elements of a community school pursuant to paragraph (8) of subdivision (a) of this section are implemented in Year 1 of the community school model;

(vii) ensure that the independent receiver at a minimum:



(a) conducts frequent reviews of community school program implementation data;

(b) conducts regular reviews of community school program impact data (e.g., measures of climate, student academic progress, student social and emotional health, discipline referrals, individual attendance);

(c) revises strategies, annual goals and/or benchmarks as necessary based on the reviews conducted pursuant to subparagraph (vii) of this paragraph; and

(d) regularly consults with the school community, including but not limited to the community engagement team, the principal, teachers and staff assigned to the school, students and parents of or persons in parental relation to students attending the school, community based organizations providing services to the school, and other stakeholders regarding program implementation.

(viii) continue to use the same criteria and processes to enroll students in the school and only make alterations to such criteria and processes with the prior written approval of the commissioner.

(9) the independent receiver shall submit a final school intervention plan, in such form and format as may be prescribed by the commissioner, to the commissioner for approval no later than five months after the independent receiver's appointment. Upon the commissioner's approval, and within six months of the independent receiver's appointment, the plan shall be issued by the independent receiver in accordance with Education Law section 211-f and the provisions of this section. If the independent receiver is unable to create an approvable plan as required by this section, the commissioner may appoint a new or interim independent receiver pursuant to

subdivision (e) of this section or direct the school district to develop a plan in such form or format and according to such timeline as the commissioner may prescribe to phase out or close the school pursuant to section 100.18(l) of this Part and to implement the plan once approved by the Commissioner.

(10) Each approved school intervention plan shall be authorized for a period of not more than three school years, provided that the independent receiver may develop additional components of the plan and shall develop annual goals for each component of the plan in accordance with this section and Education Law section 211-f, all of which must be approved by the commissioner.

(11) In accordance with Education Law section 211-f(10), the independent receiver is responsible for meeting the goals set forth in the approved school intervention plan; in accordance with Education Law section 211-f(2)(c), the independent receiver's contract may be terminated by the commissioner for violation of the law or the commissioner's regulations, including but not limited to Education Law section 211-f and the provisions of this section, or for neglect of duty.

(12) The independent receiver shall ensure that, no later than 5 business days after the commissioner's approval of the school intervention plan:

(i) such plan is made publicly available in the school district's offices and is posted on the school district's website, if one exists;

(ii) the school district provides written notice to parents of, or persons in parental relation to students attending the school, in the manner set forth in subdivision (b) of this section, that the approved school intervention plan is publicly available in the school district's offices and is posted on the school district's website, if one exists; and

(iii) copies of such plan are provided to the board of education, the superintendent, the collective bargaining representatives of the school district's teacher and administrators, the community engagement team, and the elected officers of the parent-teacher association and/or parent association for the school.

(13) During each year of the independent receiver's term of appointment, the independent receiver shall provide a quarterly written report to the board of education, the commissioner and the Board of Regents no later than October 30, January 31, April 30, and July 31 of each year; provided that the July 31 report shall be the annual evaluation of the school intervention plan as provided in subdivision (b) of this section, and further provided that the independent receiver shall not be required to provide a quarterly report if the date for provision of such quarterly report is less than 45 calendar days from the date on which the commissioner approved the independent receiver's appointment and entered into a contract with the independent receiver. Quarterly reports shall be in such form and format and shall at a minimum contain such specific information about the progress being made in the implementation of the school intervention plan as may be prescribed by the commissioner. Quarterly reports, together with a plain-language summary thereof, shall be made publicly available in the school district's offices and posted on the school district's website, if one exists.

(g) Powers and duties of a receiver.

(1) A school receiver, as defined in paragraph (14) of subdivision (a) of this section, shall have all of the powers and duties and any restrictions or limitations thereof specified in Education Law section 211-f and this section and shall have the authority to manage and operate the school, provided that, when acting as the school receiver, the

school district superintendent shall not be required to create and implement a school intervention plan or to convert a struggling or persistently struggling school to a community school.

(2) An independent receiver shall be required, pursuant to subdivision (f) of this section, to develop and implement a school intervention plan and to convert schools to community schools to provide expanded health, mental health and other services to the students and their families, pursuant to a plan based on a comprehensive school and community needs assessment.

(3) In order to implement a school intervention plan or a department-approved intervention model or comprehensive education plan, as applicable, a school receiver may take the following actions consistent with the provisions of Education Law section 211-f and, with respect to issues related to such actions for which collective bargaining is required, consistent with any applicable collective bargaining agreement(s) and provisions of article fourteen of the Civil Service Law:

(i) review and if necessary expand, alter or replace the curriculum and program offerings of the school, including the implementation of research-based early literacy programs, early interventions for struggling readers and the teaching of advanced placement courses or other rigorous nationally or internationally recognized courses, if the school does not already have such programs or courses;

(ii) replace teachers and administrators, including school leadership who are not appropriately certified or licensed;

(iii) increase salaries of current or prospective teachers and administrators to attract and retain high-performing teachers and administrators;

(iv) establish steps to improve hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure (e.g., instructional coaches or research-based instructional plans);

(v) reallocate the uses of the existing budget of the school;

(vi) expand the school day or school year or both of the school, which may include establishing partnerships with community based organizations and youth development programs that offer appropriate programs and services in expanded learning time settings;

(vii) for a school that offers first grade, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes;

(viii) include a provision of a job-embedded professional development for teachers at the school, with an emphasis on strategies that involve teacher input and feedback;

(ix) establish a plan for professional development for administrators at the school, with an emphasis on strategies that develop leadership skills and use the principles of distributive leadership; and

(x) order the conversion of a school in receivership that has been designated as struggling or persistently struggling pursuant to this section into a charter school; provided that such conversion shall be subject to Article 56 of the Education Law and that such conversion charter school shall operate pursuant to such article, and shall operate consistent with a community schools model, and shall be subject to the provisions of subdivisions (3), (4), (5), (6), (9), (10), (11), (12) and (13) of Education Law section 211-f.

(4) In accordance with Education Law section 211-f(7)(b) and (c), a school receiver may abolish the positions of all members of the teaching and administrative and supervisory staff assigned to the struggling or persistently struggling school and terminate the employment of any principal assigned to such a school, and require such staff members to reapply for their positions in the school if they so choose, provided that:

(i) in determining whether to implement an abolition, the school receiver shall conduct a comprehensive school needs assessment which shall include, but not be limited to, an analysis of the professional development provided for staff in the abolished positions pursuant to section 100.2(dd) of this Part during the preceding two school years and an analysis of how the planned abolition will result in improved student performance, and complete a thorough analysis of the needs assessment results;

(ii) no later than 90 days prior to any planned abolition, the school receiver shall provide to the school staff and their collective bargaining representatives, the superintendent of schools or chief school officer, and the board of education written notice of:

(a) the specific positions to be abolished and the timeline for such abolition and for the rehiring process;

(b) the results and analysis of the needs assessment that is the basis for the abolishment, and

(c) the expected impact of the abolishment of positions on the educational program of the school and of other schools in the district and a description of the efforts

to be made to minimize disruption to the educational program of the school or of other schools in the district, if any.

(iii) Upon receipt of the school receiver's notice of abolition, a notified party shall have 14 days to submit a request in writing to the school receiver for reconsideration of the abolition of positions.

(iv) No later than 30 days following the issuance of written notification, the school receiver shall inform the school board in writing of the determination of the school receiver whether to implement the plan for abolition of positions.

(v) The school receiver shall provide the commissioner with an electronic copy of all correspondence related to abolition of staff positions.

(vi) Upon completion of the abolition and rehiring process set forth in this paragraph and Education Law section 211-f(7), no further abolition of the positions of all members of the teaching and administrative and supervisory staff assigned to the struggling or persistently struggling school in accordance with this paragraph and Education Law section 211-f(7) shall occur without the prior approval of the commissioner.

#### (5) Receivership Agreement.

(i) In accordance with Education Law section 211-f(8), in order to maximize the rapid achievement of students at the applicable school, the school receiver may request that the collective bargaining unit or units representing teachers and administrators and the school receiver, on behalf of the board of education, negotiate a receivership agreement that modifies the applicable collective bargaining agreement or agreements with respect to any persistently struggling or struggling schools in receivership

applicable during the period of receivership. The receivership agreement may address the following subjects:

(a) the length of the school day;

(b) the length of the school year;

(c) professional development for teachers and administrators;

(d) class size; and

(e) changes to the programs, assignments, and teaching conditions in the school in receivership.

(ii) The receivership agreement shall not provide for any reduction in compensation unless there shall also be a proportionate reduction in hours and the receivership agreement shall provide for a proportionate increase in compensation where the length of the school day or school year is extended. The receivership agreement shall not alter the remaining terms of the existing/underlying collective bargaining agreement, which shall remain in effect.

(iii) Upon the request of the school receiver, the bargaining between the school receiver and the collective bargaining unit or units representing teachers and administrators shall be conducted in good faith pursuant to the bargaining process set forth in Education Law section 211-f(8)(b) and (c). Such bargaining process shall commence no later than thirty days following receipt of a written request from the school receiver. In the event that any issues remain unresolved regarding the receivership agreement as a result of the bargaining process set forth in Education Law section 211-f(8)(b) and (c), the parties shall submit such issues to the commissioner in such form



and format as the commissioner may prescribe in accordance with the timeline specified in subdivision 8 of Education Law section 211-f.

(6) The school receiver shall have the power to supersede any decision, policy or regulation of the superintendent of schools or chief school officer, or of the board of education or another school officer or the building principal that in the sole judgment of the receiver conflicts with the approved school intervention plan or the approved intervention model or comprehensive education plan, as applicable; provided however that the school receiver may not supersede decisions that are not directly linked to such approved plan or model, including but not limited to building usage plans, co-location decisions and transportation of students to the extent such building usage plans, co-location decisions and transportation of students impact other schools in the district; and further provided that the school district receiver may not override any decision of the board of education with respect to his or her employment status.

(7) School Receiver supersession of decisions, policies, or local school district regulation.

(i) In order for the school receiver to supersede a decision, policy or local school district regulation of the superintendent of schools or chief school officer, or of the board of education or another school officer, or the school principal, the school receiver shall notify in writing the board of education, superintendent of schools or chief school officer, and the principal not fewer than ten business days prior to the effective date of the supersession of the specific decision, policy or regulation that the receiver plans to supersede; the reasons for supersession; the specific decision, policy, or regulation that

will replace the one that shall be superseded; and the time period during which the supersession shall remain in effect.

(ii) The school receiver shall give the notified parties at least five business days from the receipt of the notice of supersession to respond in writing to such notice and the school receiver shall consider any response received before implementing the supersession. At any time subsequent to the supersession of a decision, policy or regulation, the superintendent or chief school officer, or the board of education may request in writing that the school receiver terminate the supersession. Within 15 business days of receipt of any such request, the school receiver shall respond in writing with the school receiver's decision and rationale.

(iii) Notwithstanding the provisions of subparagraph (ii), if the school receiver determines that a decision, policy, or regulation must be superseded pursuant to this section on an emergency basis in order to protect the health or welfare of the school's students or staff or to ensure that the school complies with the Education Law or commissioner's regulations, the school receiver may waive the required notification period but shall, within 24 hours or as soon as practicable thereafter, inform the board of education, the superintendent or chief state school officer, and the principal of the action taken and provide them with an opportunity to respond in accordance with the provisions of subparagraph (ii) of this subdivision.

(iv) The school receiver shall provide the commissioner with an electronic copy of all correspondence upon its issuance related to supersession pursuant to this subdivision.

(8) School Receiver Review of school budgets

(i) No later than 30 business days prior to the presentation to the district voters of a school budget at the budget hearing, or by no later than 5 business days prior to the date that the superintendent in a city school district in a city having a population of one hundred twenty-five thousand inhabitants or more submits the budget to the school board, the school board shall provide the school receiver with a copy of the proposed district budget including any school-based budget, that shall include a specific delineation of all funds and resources that the school receiver shall have available to manage and operate the school and the services and resources that the school district shall provide to the school.

(ii) No later than five business days after receiving the proposed budget, the school receiver shall inform the school board and superintendent or chief school officer of any modification to the proposed budget that the school board must make in order for the receiver to implement the approved school intervention plan or intervention model or comprehensive education plan, provided that such modification(s) shall not require the school board seek voter approval of a budget that exceeds the tax levy limit pursuant to Education Law section 2023-a. The school receiver shall identify the specific modifications that must be made, the rationale for the modifications, an explanation of the way(s) in which the modifications are limited in scope and effect to the school(s) designated as struggling or persistently struggling and/or under receivership, and a description of how such modifications will not unduly impact other schools in the district.

(iii) Upon receipt of the school receiver's proposed budget modifications, the school board shall:

(a) incorporate the modifications into the proposed budget and present it to the public; or

(b) return the modifications within 5 business days to the school receiver for reconsideration with the reasons for reconsideration specified in writing.

(iv) Upon receipt of a request for reconsideration, the school receiver shall:

(a) withdraw the direction to modify the budget;

(b) revise the budget modification; or

(c) resubmit the original budget modification

(v) The school receiver shall notify the school board in writing of the decision within five business days of receipt of the request for reconsideration and the determination of the school receiver shall be incorporated into the budget.

(vi) The school receiver and school board shall provide the commissioner with an electronic copy of all correspondence related to modification of the school budget.

(vii) Upon approval of the school district budget, any changes to budgets that would adversely impact the ability of the school receiver to implement the approved school intervention plan or intervention model or comprehensive education plan must be approved by the school receiver.

(9) Supersession of Board of Education Employment Decisions Regarding Staff Employed in Receivership Schools

(i) No later than ten business days after a school board has acted upon an employment decision pertaining to staff assigned to a school designated as struggling or persistently struggling or that the commissioner has determined shall be placed into

receivership, the school board shall provide the school receiver with a copy of the action taken, which shall not go into effect until it has been reviewed by the school receiver.

(ii) No later than ten business days after receiving the notification of an employment decision, the school receiver shall inform the school board, superintendent or chief school officer, impacted staff, and their collective bargaining representative, if any, of any modification to the employment decision that the school board must make in order for the school receiver to approve the employment decision. The school receiver shall identify the specific modifications that must be made, the rationale for the modifications, an explanation of the way(s) in which the modifications are limited in scope and effect to the school(s) designated as struggling or persistently struggling and/or under receivership, and a description of how such modifications will not unduly impact other schools in the district.

(iii) Upon receipt of any proposed modifications to an employment decision, the school board shall:

(a) adopt the modifications at the board of education's next regularly scheduled meeting; or

(b) return the modifications within ten days to the school receiver for reconsideration with the reasons for reconsideration specified in writing.

(iv) Upon receipt of a request for reconsideration, the school receiver shall:

(a) withdraw the direction to modify the employment decision;

(b) revise the employment decision; or

(c) resubmit the original employment decision;

(v) The school receiver shall notify the school board, superintendent, impacted staff and their collective bargaining representative, if any, in writing of the decision within ten business days of receipt of the request for reconsideration, which shall be approved by the board of education at its next regularly scheduled meeting if modifications are required by the school receiver.

(vi) The school receiver and school board shall provide the commissioner with an electronic copy of all correspondence related to such employment decisions.

(h) Annual evaluation of schools with an appointed independent receiver.

(1) The commissioner shall, in consultation and cooperation with the school district, the school staff, and the community engagement team, evaluate each school with an appointed independent receiver at least annually in order to determine whether the school has met the annual goals in its school intervention plan and to assess the implementation of the plan at the school. The evaluation shall be in writing and shall be submitted to the superintendent and the board of education not later than September first for the preceding school year. The evaluation shall be submitted in a format determined by the commissioner.

(2) If, based on the annual review, the commissioner determines that the school has met the annual performance goals stated in the school intervention plan, the evaluation shall be considered sufficient and the implementation of the school intervention plan shall continue. If the commissioner determines that the school has not met one or more goals in the plan, the commissioner may require modification of the plan. In accordance with Education Law section 211-f(10), the independent receiver is responsible for meeting the goals set forth in the approved school intervention plan and,

in accordance with Education Law section 211-f(2)(c), the independent receiver's contract may be terminated by the commissioner for violation of the law or the commissioner's regulations, including but not limited to Education Law section 211-f and the provisions of this section, or for neglect of duty.

(i) Expiration of school intervention plan.

(1) Upon the expiration of a school intervention plan for a school with an appointed independent receiver, the commissioner, in consultation and cooperation with the district, shall conduct an evaluation of the school to determine whether the school has improved sufficiently, requires further improvement or has failed to improve. On the basis of such review, the commissioner, in consultation and cooperation with the school district and the community engagement team, may:

(i) renew the plan with the independent receiver for an additional period of not more than three years;

(ii) terminate the contract with the independent receiver and appoint a new independent receiver if the struggling or persistently struggling school remains identified as a priority school and the terms of the plan have not been substantially met, or

(iii) determine that the school has improved sufficiently for the designation of struggling or persistently struggling to be removed.

(2) If the commissioner determines that the contract with the independent receiver shall be terminated, the commissioner may appoint an interim independent receiver pursuant to subdivision (e) of this section.

(3) A new independent receiver appointed pursuant to paragraph (1) of this subdivision shall be required to implement the existing school intervention plan until a

new school intervention shall be developed in accordance with subdivision (f) of this section and approved by the commissioner.

(j) Phase out and Closure of Struggling and Persistently Struggling School.

Nothing in this section shall prohibit the commissioner from directing a school district to phase out or close a school pursuant to paragraph (f)(6) of this section or subdivision (l) of section 100.18 of this Part, or prohibit the Board of Regents from revoking the registration of school pursuant to such paragraph, or prohibit a school district from closing or phasing out a school with the approval of the commissioner.

(k) Commissioner's Evaluation of School Receivership Program.

The school receiver shall provide the commissioner with any reports or other information requested by the commissioner, in such form and format and according to such timeline as may be prescribed by the commissioner, in order for the commissioner to conduct an evaluation of the school receivership program.




# ATTACHMENT III




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

TO: P-12 Committee

FROM: Ken Wagner 

SUBJECT: 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

DATE: June 15, 2015

AUTHORIZATION(S): 

## SUMMARY

### Issue for Decision

Should the Board of Regents adopt the proposed amendments to amend Subpart 30-2 and add 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, in order to implement Education Law §3012-d?

### Reason(s) for Consideration

Required by June 30, 2015 by State statute.

### Proposed Handling

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

## **Procedural History**

A Notice of Proposed Rule Making and Emergency Adoption will be published in the State Register on July 8, 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**

### **2010 Evaluation Law**

On May 28, 2010, the Governor signed Chapter 103 of the Laws of 2010, which added a new Education Law §3012-c, establishing a comprehensive evaluation system for classroom teachers and building principals. The 2010 law required each classroom teacher and building principal to receive an annual professional performance review (APPR) resulting in a single composite effectiveness score and a rating of “highly effective,” “effective,” “developing,” or “ineffective.” The composite score is determined as follows:

- 20% is based on student growth on State assessments or other comparable measures of student growth (increased to 25% upon implementation of a value-added growth model);
- 20% is based on locally-selected measures of student achievement that are determined to be rigorous and comparable across classrooms as defined by the Commissioner (decreased to 15% upon implementation of value-added growth model);
- The remaining 60% is based on other measures of teacher/principal effectiveness consistent with standards prescribed by the Commissioner in regulation.

At its May 2011 meeting, the Board of Regents adopted emergency regulations to implement the new evaluation system established in the 2010 law.

### **2012 Evaluation Law**

On March 27, 2012, the Governor signed Chapter 21 of the Laws of 2012, making significant changes to enhance the 2010 evaluation law, including requiring the submission of APPR plans to the Commissioner for approval. Subpart 30-2 of the Rules of the Board of Regents was amended in March 2012 to conform to the new law.

### 2013 Evaluation Law

In 2013, the Governor signed Chapter 57 of the Laws of 2013 to, among other things, require that all APPR plans continue in effect until a successor collective bargaining agreement (“CBA”) is reached and the plan is approved by the Commissioner. The evaluation law was also revised to provide the Commissioner with authority to impose an APPR plan on the New York City School District through arbitration.

### 2014 Evaluation Law

In 2014, the Legislature made additional changes to the evaluation law to expedite material changes to reduce testing, to prohibit the administration of traditional standardized assessments in grades kindergarten through second, and to limit the amount of instructional time spent on testing and test preparation.

### 2015 Evaluation Law

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.

The new law requires the Commissioner to adopt regulations necessary to implement the evaluation system by June 30, 2015, after consulting with experts and practitioners in the fields of education, economics and psychometrics. It also required the Department to establish a process to accept public comments and recommendations regarding the adoption of regulations pursuant to the new law and consult in writing with the Secretary of the United States Department of Education on weights, measures and ranking of evaluation categories and subcomponents. It further required the release of the response from the Secretary upon receipt thereof, but in any event, prior to the publication of the regulations.

By letter dated April 28, 2015, the Department sought guidance from the Secretary of the United States Department of Education on the weights, measures and ranking of evaluation, as required under the new law. A copy of the Department’s letter to the Secretary and the Secretary’s response are attached as Attachment C.

In accordance with the requirements of the statute, the Department created an email box to accept comments on the new evaluation system ([eval2015@nysed.gov](mailto:eval2015@nysed.gov)). The Department has received and reviewed nearly 4,000 responses and has taken these comments into consideration in formulating the proposed amendments. In addition, the Department held a Learning Summit on May 7, 2015, wherein the Board of Regents hosted a series of panels to provide recommendations to the Board on the new evaluation system. Such panels included experts in education, economics, and psychometrics and State-wide stakeholder groups including but not limited to NYSUT,

UFT, School Boards, NYSCOSS and principal and parent organizations. Since the new law was enacted in April, the Department has also been separately meeting with individual stakeholder groups and experts in psychometrics to discuss their recommendations on the new evaluation system.

The proposed amendment reflects areas of consensus among the groups, and in areas where there were varying recommendations, the Department attempted to reconcile those differences to reflect best practices while also taking into consideration recommendations in the Testing Reduction Report regarding the reduction of unnecessary testing.

### **Proposed amendment**

The proposed rule conforms the regulations to the provisions of the 2015 legislation by making the following major changes to Subpart 30-2 of the Rules of the Board of Regents.

The title of section 30-2 and section 30-2.1 are amended to clarify that Subpart 30-2 only applies to APPRs conducted prior to the 2015-2016 school year or APPRs conducted pursuant to a CBA entered into on or before April 1, 2015 which remains in effect on or after April 1, 2015 until a subsequent agreement is reached.

Section 30-2.1(d) is amended to clarify that a school district or BOCES has an unfettered statutory right to terminate a probationary teacher or principal for any statutorily and constitutionally permissible reason, including but not limited to misconduct, and until a tenure decision is made, the performance of a teacher or principal in the classroom or school. Section 30-2.11 also clarifies that a school district or BOCES may terminate a probationary teacher or principal during an appeal for any statutorily and constitutionally permissible reason, including a teacher's or principal's performance.

A new Subpart 30-3 is added to implement the new evaluation system.

Section 30-3.1 clarifies that the new evaluation system only applies to CBA's entered into after April 1, 2015 unless the agreement relates to the 2014-2015 school year only. It further clarifies that nothing in the new Subpart shall be construed to abrogate any conflicting provisions of any CBA in effect on effect on or after April 1, 2015 during the term of such agreement and until entry into a successor CBA agreement. It further clarifies that APPRs shall be a significant factor for employment decisions and teacher and principal development, consistent with the prior law. It also clarifies the unfettered right to terminate a probationary teacher or principal for any statutorily and constitutionally permissible reason. This section also provides that the Board will convene workgroup(s) comprised of stakeholders and experts in the field to provide recommendations to the Board on assessments and metrics that could be used for APPRs in the future.

Section 30-3.2 defines several terms used in the Subpart.

Section 30-3.3 prescribes the requirements for APPR plans submitted under the new Subpart.

### **New Teacher Evaluation Requirements**

Section 30-3.4 describes the standards and criteria for conducting APPRs of classroom teachers under the new law. The new law requires teachers to be evaluated based on two categories: the student performance category and the teacher observation category.

#### **Student performance category**

The first category has two subcomponents, one mandatory and the other optional. For the first mandatory component, teachers shall be evaluated as follows:

- For teachers whose courses end in a State created or administered test for which there is a State-provided growth model and at least 50% of a teacher's students are covered under the State-provided growth measure, such teachers shall have a State-provided growth score based on such model.
- For a teachers whose course does not end in a State created or administered test or where less than 50% of the teacher's students are covered under the State-provided growth measure, such teachers shall have a Student Learning Objective ("SLO") consistent with a goal setting process determined or developed by the Commissioner that results in a student growth score; provided that for any teacher whose course ends in a State created or administered assessment for which there is no State-provided growth model, such assessment must be used as the underlying assessment for such SLO.

The second optional subcomponent shall be comprised of the one or more the following options, as determined locally:

- A second State-provided growth score on a State-created or administered test; provided that the State provided growth measure is different than that used in the required subcomponent of the student performance category, which may include one or more of the following measures:
  - a teacher-specific growth score computed by the State based on percentage of students who achieve a State-determined level of

- growth (e.g., percentage of students whose growth is above the median for similar students);
  - school-wide growth results based on a State-provided school-wide growth score for all students attributable to the school who took the State English language arts or math assessment in grades 4-8; or
  - school-wide, group, team, or linked growth results using available State-provided growth scores that are locally-computed;
- A growth score based on a state designed supplemental assessment calculated using a State provided or approved growth model.

The law requires the Commissioner to establish weightings and scoring ranges for the subcomponents of the student performance category. The proposed amendment applies the following weights to each of the subcomponents:

- If a district does not locally select to use the optional second student growth subcomponent, then the mandatory subcomponent shall be weighted at 100%.
- If the optional second student growth subcomponent is selected, then the mandatory subcomponent shall be weighted at a minimum of 80% and the optional second subcomponent shall be weighted at no more than 20%; provided, however, that if the optional second subcomponent does not include traditional standardized tests, the weightings shall be established locally, provided that the mandatory student growth subcomponent shall be weighted at a minimum of 50% and the optional student growth subcomponent shall be weighted no more than 50%.

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 table provided in the proposed amendment; 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. 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.

### **Teacher observation category**

The second subcomponent shall be comprised of three subcomponents; two mandatory and one optional. The two mandatory subcomponents shall be based on:

- one observation that shall be conducted by a principal or other trained administrator and;
- a second observation that shall be conducted by one or more impartial independent trained evaluator(s) selected and trained by the district. An independent trained evaluator may be employed within the district, but may not be assigned to the same school building as the teacher being evaluated.
- One of the mandatory observations must be unannounced.

The third optional subcomponent may include:

- classroom observations conducted by a trained peer teacher rated Effective or Highly Effective on his or her overall rating in the prior school year from the same school or from another school in the district.

The law also requires the Commissioner to establish the frequency and duration of observations in regulations. The proposed amendment allows the frequency and duration of observations to be established locally.

This section also requires all observations to be conducted using a teacher practice rubric approved by the commissioner pursuant to an Request for Qualification (“RFQ”) process, unless the district has an approved variance from the Commissioner and prescribes parameters for the observations category.

The law further requires the Commissioner to establish weightings and scoring ranges for the subcomponents of the teacher observations category. The proposed amendment provides that the weighting of the subcomponents within the teacher observation category shall be established locally within the following constraints:

- observations conducted by a principal or other trained administrator shall be weighted at a minimum of 80%.
- observations conducted by independent impartial observers shall be weighted at a minimum of 10% .
- if a district selects to use the optional third observation subcomponent, then the weighting assigned to the optional observations conducted by peers shall be established locally within the constraints outlined above.

The overall observation score shall be converted into an overall rating pursuant to the ranges identified in the proposed amendment.

## **New Principal Evaluation Requirements**

Section 30-3.5 describes the standards and criteria for conducting APPRs of building principals under the new law. The new law requires the Commissioner to establish a principal evaluation system that is aligned to the new teacher evaluation system set forth in Education Law §3012-d.

To implement the new law, the proposed amendment requires building principals to be evaluated based on two categories: the student performance category and the school visit category.

The first category has two subcomponents, one mandatory and the other optional. For the first mandatory component, teachers shall be evaluated as follows:

- For principals with at least 30% of their students covered under a State-provided growth measure, such principal shall have a State-provided growth score based on such model.
- For principals where less than 30% of their students are covered under a State-provided growth measure, such principals shall have a SLO consistent with a goal setting process determined or developed by the Commissioner that results in a student growth score; provided that for any teacher whose course ends in a State created or administered assessment for which there is no State-provided growth model, such assessment must be used as the underlying assessment for such SLO.

If the district opts to use the second optional subcomponent, it shall be comprised of one or more of the following measures:

- A second State-provided growth score on a State-created or administered test; provided that the State provided growth measure is different than that used in the required subcomponent of the student performance category, which may include one or more of the following measures:
  - a principal-specific growth score computed by the State based on percentage of students who achieve a State-determined level of growth (e.g., percentage of students whose growth is above the median for similar students); and/or
  - school-wide, group, team, or linked growth results using available State-provided growth scores that are locally-computed
- A growth score based on a state designed supplemental assessment calculated using a State provided or approved growth model.



The law requires the Commissioner to establish weightings and scoring ranges for the subcomponents of the student performance category. The proposed amendment applies the following weights to each of the subcomponents:

- If a district does not locally select to use the optional second student growth subcomponent, then the mandatory subcomponent shall be weighted at 100%.
- If the optional second student growth subcomponent is selected, then the mandatory subcomponent shall be weighted at a minimum of 80% and the optional second subcomponent shall be weighted at no more than 20%; provided, however, that if the optional second subcomponent does not include traditional standardized tests, the weightings shall be established locally, provided that the mandatory student growth subcomponent shall be weighted at a minimum of 50% and the optional student growth subcomponent shall be weighted no more than 50%.

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 table provided in the proposed amendment; 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. 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.

### **Principal school visit category**

The principal school visit category shall be comprised of three subcomponents; two mandatory and one optional. The two mandatory subcomponents shall be based on:

- one observation shall be conducted by the principal’s supervisor or other trained administrator; and
- a second observation shall be conducted by one or more impartial independent trained evaluator(s) selected and trained by the district. An independent trained evaluator may be employed within the district, but may not be assigned to the same school building as the principal being evaluated.

One of the mandatory school visits must be unannounced.

The third optional subcomponent may include:

- School visits conducted by a trained peer administrator rated Effective or Highly Effective on his or her overall rating in the prior school year from the same school or from another school in the district.

The law also requires the Commissioner to establish the frequency and duration of school visits in regulations. The proposed amendment requires the frequency and duration of observations to be set locally.

The section also requires all observations to be conducted using a principal practice rubric approved by the commissioner pursuant to a Request for Qualification (“RFQ”) process, unless the district has an approved variance from the Commissioner.

This section further prescribes parameters for the school visits category. The law requires the Commissioner to establish weightings and scoring ranges for the subcomponents of the school visits category. The proposed amendment provides that the weighting of the subcomponents within the principal school visits category shall be established locally within the following constraints:

- School visits conducted by the principal’s supervisor or other trained administrator shall be weighted at a minimum of 80%.
- School visits conducted by independent impartial trained evaluators shall be weighted at a minimum of 10%.
- If a district selects to use the optional third observation subcomponent, then the weighting assigned to the optional school visits conducted by peers shall be established locally within the constraints outlined above.

The overall school visit category score shall be converted into an overall rating pursuant to the ranges identified in the proposed amendment.

Section 30-3.6 describes how the overall rating is computed, based on the evaluation matrix established by the new law, which combines the teacher’s or principal’s ratings on the student performance category and the observation/school visit category:

		<u>Observation / School Visit</u>			
		<u>Highly Effective</u>	<u>Effective</u>	<u>Developing</u>	<u>Ineffective</u>
		<u>(H)</u>	<u>(E)</u>	<u>(D)</u>	<u>(I)</u>

<b><u>Student Performance</u></b>	<u>Highly Effective (H)</u>	<u>H</u>	<u>H</u>	<u>E</u>	<u>D</u>
	<u>Effective (E)</u>	<u>H</u>	<u>E</u>	<u>E</u>	<u>D</u>
	<u>Developing (D)</u>	<u>E</u>	<u>E</u>	<u>D</u>	<u>I</u>
	<u>Ineffective (I)</u>	<u>D*</u>	<u>D*</u>	<u>I</u>	<u>I</u>

*\*If a teacher is rated ineffective on the student performance category and a State-designed supplemental assessment was included as an optional subcomponent of the student performance category, the teacher can be rated no higher than ineffective overall pursuant to Education Law §§5(a) and 7.*

This section also provides that it must be possible to obtain each point in the scoring ranges, including 0, for each subcomponent and category. It further requires that the superintendent, district superintendent or Chancellor and the president of the collective bargaining representative, where one exists, must certify in the APPR plan that the evaluation system will use the weights and scoring ranges provided by the Commissioner and that the process by which weights and scorings are assigned to subcomponents and categories is transparent and available to those being rated before the beginning of each school year.

Section 30-3.7 lists the prohibited elements set forth in Education Law §3012-d, which precludes districts/BOCES from using the following as part of a teacher's and/or principal's evaluation:

- evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, except for student portfolios measured by a State-approved rubric where permitted by the department;
- use of an instrument for parent or student feedback;
- use of professional goal-setting as evidence of teacher or principal effectiveness;
- any district or regionally-developed assessment that has not been approved by the department; and
- any growth or achievement target that does not meet the minimum standards as set forth in regulations of the commissioner adopted hereunder.

Sections 30-3.8 and 30-3.9 set forth the approval processes for student assessments and teacher and principal practice rubrics.

Section 30-3.10 sets forth the training requirements for evaluators and lead evaluators; which now requires evaluators and lead evaluations to be trained on certain prescribed elements relating to observations and the applicable teacher/principal practice rubrics pursuant to Education Law §3012-d(15).

Section 30-3.11 addresses teacher and principal improvement plans, which now allows the superintendent in the exercise of his or her pedagogical judgment to develop and implement the improvement plans pursuant to Education Law §3012-d(15).

Section 30-3.12 addresses appeal procedures. Currently, the regulations set forth the grounds for an appeal which includes the ability of a teacher or principal to challenge the substance of their APPR in an appeal. The proposed amendment defines the substance of an APPR to include appeals in circumstances where a teacher or principal is rated Ineffective on the student performance category, but rated Highly Effective on the observation/school visit category based on an anomaly, as determined locally pursuant to Education Law §3012-d(15).

Section 30-3.13, which addresses monitoring and consequences for non-compliance, which now allows the Department to require changes to a CBA pursuant to Education Law §3012-d(15).

Section 30-3.14 codifies the statutory requirement that no student be assigned to two teachers in the same subject in two consecutive school years, each of whom received a rating of Ineffective pursuant to an evaluation conducted pursuant to Education Law §3012-d in the school year immediately prior to the year in which the student is placed in the teacher's classroom. The proposed amendment provides for a teacher-specific waiver from the Department from such requirement where it is impracticable to comply with this requirement.

Section 30-3.15 describes which provisions of Education Law §3012-c(2)(d), (k), (k-1), (k-2) and (l), (4), (5), (5-a), (9) and (10) are carried over into the new evaluation system, as required by Education Law §3012-d(15).

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

At the June 15, 2015 meeting of the P-12 Education Committee, the following changes to the proposed amendment were recommended:

- Section 30-3.1(e) of the Rules of the Board of Regents should be amended to authorize the Board to convene workgroup(s) comprised of stakeholders and experts in the field to provide recommendations to the Board on assessments and evaluations (instead of metrics) that could be used for APPRs in the future.

- Sections 30-3.4(c) and 30-3.5(c) of the Rules of the Board of Regents should be amended to change the weightings in the subcomponents for the student performance category when the optional subcomponent is selected from:
  - a minimum of 80% for the mandatory subcomponent and no more than 20% for the optional subcomponent; provided, however, that if the optional second subcomponent does not include traditional standardized tests, the weightings shall be established locally, provided that the mandatory student growth subcomponent shall be weighted at a minimum of 50% and the optional student growth subcomponent shall be weighted no more than 50%; to
  - If the optional second student growth subcomponent is selected, then the mandatory subcomponent shall be weighted at a minimum of 50% and the optional second subcomponent shall be weighted at no more than 50%.

A copy of the revised proposed amendment is attached. The P-12 Education Committee also recommended changing the length of the hardship waivers for State aid purposes from two months to four months.

### **Recommendation**

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

VOTED: That the Title of Subpart 30-2, subdivisions (b) and (d) of section 30-2.1, subdivision (c) of section 30-2.11 and addition of a new Subpart 30-3 of the Rules of the Board of Regents be added, as submitted, effective June 23, 2015, 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 timely implement the provisions of Subpart E of Part EE of Chapter 56 of the Laws of 2015 relating to a new annual evaluation system for classroom teachers and building principals and thereby ensure that school districts and BOCES may timely implement the new evaluation requirements for classroom teachers and building principals in accordance with the statute.

### **Timetable for Implementation**

Subpart E of Part EE of Chapter 56 of the Laws of 2015 requires the Commissioner to promulgate regulations to implement the new evaluation system by June 30, 2015. If the Board of Regents adopt the proposed amendment at their June meeting, the proposed amendment will become effective as an emergency rule on June

23, 2015. It is anticipated that the rule will be presented for permanent adoption at a subsequent Regents meeting, after publication of the revised proposed amendment in the State Register and expiration of the 45-day public comment period required pursuant to the State Administrative Procedure Act.

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. The title of Subpart 30-2 of the Rules of the Board of Regents is amended effective June 30, 2015, to read as follows:

SUBPART 30-2

ANNUAL PROFESSIONAL PERFORMANCE REVIEWS OF CLASSROOM  
TEACHERS AND BUILDING PRINCIPALS CONDUCTED PRIOR TO THE 2015-2016  
SCHOOL YEAR OR FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS  
CONDUCTED PURSUANT TO A COLLECTIVE BARGAINING AGREEMENT  
ENTERED INTO ON OR BEFORE APRIL 1, 2015 WHICH REMAINS IN EFFECT ON  
OR AFTER APRIL 1, 2015 UNTIL A SUBSEQUENT AGREEMENT IS REACHED

2. Subdivision (b) of section 30-2.1 of the Rules of the Board of Regents is amended, effective June 30, 2015, to read as follows:

(b) For annual professional performance reviews conducted by school districts or BOCES [in] from the 2012-2013 school year [and any school year thereafter] through the 2015-2016 school year or for any annual professional performance review conducted pursuant to a collective bargaining agreement entered into on or before April 1, 2015 that remains in effect on and after April 1, 2015 until a successor agreement is reached, the governing body of each school district and BOCES shall ensure that the reviews of all classroom teachers and building principals are conducted in accordance

with the requirements of section 3012-c of the Education Law and the provisions of this Subpart.

3. Subdivision (d) of section 30-2.1 of the Rules of the Board of Regents is amended, effective June 30, 2015, to read as follows:

(d) Annual professional performance reviews of classroom teachers and building principals conducted pursuant to this Subpart shall be a significant factor for employment decisions, including but not limited to, promotion, retention, tenure determinations, termination and supplemental compensation, in accordance with Education Law §3012-c(1). Nothing in this Subpart shall be construed to affect the unfettered statutory right of a school district or BOCES to terminate a probationary teacher or principal for any statutorily and constitutionally permissible reasons [other than the performance of the teacher or principal in the classroom or school,] including but not limited to misconduct, and until a tenure decision is made, the performance of the teacher or principal in the classroom or school. [For purposes of this subdivision, Education Law §3012-c(1) and (5)(b), performance shall mean a teacher's or principal's overall composite rating pursuant to an annual professional performance review conducted under this Subpart.]

4. Subdivision (c) of section 30-2.11 of the Rules of the Board of Regents is amended, effective June 30, 2015, to read as follows:

(c) Nothing in this section shall be construed to alter or diminish the authority of the governing body of a school district or BOCES to grant or deny tenure to or terminate probationary teachers or probationary building principals during the pendency of an appeal pursuant to this section for statutorily and constitutionally permissible reasons



[other than] including the teacher's or principal's performance that is the subject of the appeal.

5. A new Subpart 30-3 of the Rules of the Board of Regents shall be added, effective June 30, 2015, to read as follows:

SUBPART 30-3

ANNUAL PROFESSIONAL PERFORMANCE REVIEWS OF CLASSROOM  
TEACHERS AND BUILDING PRINCIPALS FOR THE 2015-2016 SCHOOL YEAR AND  
THEREAFTER

§30-3.1 Applicability.

(a) For annual professional performance reviews conducted by districts for the 2015-2016 school year and any school year thereafter, the governing body of each district shall ensure that the reviews of all classroom teachers and building principals are conducted in accordance with the requirements of Education Law §3012-d and this Subpart, except as otherwise provided in subdivision (b) of this section.

(b) The requirements of Education Law §3012-c and Subpart 30-2 of this Part shall continue to apply to annual professional performance reviews conducted prior to the 2015-2016 school year and thereafter, where such reviews are conducted pursuant to a collective bargaining agreement entered into on or before April 1, 2015 that remains in effect on and after April 1, 2015 until entry into a successor agreement.

(c) In accordance with Education Law §3012-d(12), all collective bargaining agreements entered into after April 1, 2015 shall be consistent with the requirements of Education Law §3012-d and this Subpart, unless such agreement related to the 2014-2015 school year only. Nothing in this Subpart shall be construed to abrogate any

conflicting provisions of any collective bargaining agreement in effect on and after April 1, 2015 during the term of such agreement and until entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement, all the requirements of Education Law §3012-d and this Subpart shall apply.

(d) Annual professional performance reviews of classroom teachers and building principals shall be a significant factor for employment decisions, including but not limited to, promotion, retention, tenure determination, termination, and supplemental compensation, in accordance with Education Law §3012-d(1). Such evaluations shall also be a significant factor in teacher and principal development, including but not limited to coaching, induction support, and differentiated professional development. Nothing herein shall be construed to affect the unfettered statutory right of a district to terminate a probationary (non-tenured) teacher or principal for any statutorily and constitutionally permissible reasons.

(e) The Board of Regents shall convene an assessment and evaluation workgroup or workgroups, comprised of stakeholders and experts in the field to provide recommendations to the Board of Regents on assessments and evaluations that could be used for annual professional performance reviews in the future.

§30-3.2 Definitions. As used in this Subpart:

(a) Approved teacher or principal practice rubric shall mean a rubric approved by the commissioner for inclusion on the State Education Department's list of approved rubrics in teacher or principal evaluations.

(b) Approved student assessment shall mean a student assessment approved by the commissioner for inclusion in the State Education Department's lists of approved student assessments to measure student growth for use in the mandatory subcomponent and/or for use in the optional subcomponent of the student performance category.

(1) Approved assessments in grades kindergarten through grade two.  
Traditional standardized assessments in grades kindergarten through grade two shall not be on the approved list. However, an assessment that is not a traditional standardized assessment shall be considered an approved student assessment if the superintendent, district superintendent, or chancellor of a district that chooses to use such assessment certifies in its annual professional performance review plan that the assessment is not a traditional standardized assessment, and that the assessment meets the minimum requirements prescribed by the Commissioner in guidance.

(c) Classroom teacher or teacher shall mean a teacher in the classroom teaching service as that term is defined in section 80-1.1 of this Title who is a teacher of record as defined in this section, except evening school teachers of adults enrolled in nonacademic, vocational subjects, and supplemental school personnel as defined in section 80-5.6 of this Title.

(d) Common branch subjects shall mean common branch subjects as defined in section 80-1.1 of this Title.

(e) Co-principal means a certified administrator under Part 80 of this Title, designated by the school's controlling authority to have executive authority, management, and instructional leadership responsibility for all or a portion of a school or BOCES-operated instructional program in a situation in which more than one such administrator is so designated. The term co-principal implies equal line authority, with each designated administrator reporting to a district-level or comparable BOCES-level supervisor.

(f) Developing means an overall rating of Developing received by a teacher or building principal, based on the ratings an educator received in the student performance category and observation/school visit category pursuant to the matrix prescribed in section 30-3.6 of this Subpart.

(g) District means school district and/or board of cooperative educational services, unless otherwise provided in this Subpart.

(h) Effective means an overall rating of Effective received by a teacher or building principal, based on the ratings an educator received in the student performance category and observation/school visit category pursuant to the matrix prescribed in section 30-3.6 of this Subpart.

(i) Evaluator shall mean any individual who conducts an evaluation of a classroom teacher or building principal under this Subpart.

(j) Highly Effective means an overall rating of Highly Effective received by a teacher or building principal, based on the ratings an educator received in the student

performance category and observation/school visit category pursuant to the matrix prescribed in section 30-3.6 of this Subpart.

(k) Ineffective means an overall rating of Ineffective received by a teacher or building principal, based on the ratings an educator received in the student performance category and observation/school visit category pursuant to the matrix prescribed in section 30-3.6 of this Subpart.

(l) Lead evaluator shall mean the primary individual responsible for conducting and completing an evaluation of a classroom teacher or building principal under this Subpart. To the extent practicable, the building principal, or his or her designee, shall be the lead evaluator of a classroom teacher in this Subpart. To the extent practicable, the lead evaluator of a principal should be the superintendent or BOCES district superintendent or his/her designee.

(m) Leadership standards shall mean the Educational Leadership Policy Standards: ISLLC 2008 as adopted by the National Policy Board for Educational Administration (Council of Chief State School Officers, Washington DC, One Massachusetts Avenue, NW, Suite 700, Washington, DC 20001-1431; 2008- available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, New York 12234). The Leadership Standards provide that an education leader promotes the success of every student by:

(1) facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community;

(2) advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional growth;

(3) ensuring management of the organization, operations and resources for a safe, efficient, and effective learning environment;

(4) collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(5) acting with integrity, fairness, and in an ethical manner; and

(6) understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.

(n) Principal shall mean a building principal or an administrator in charge of an instructional program of a board of cooperative educational services.

(o) School building shall mean a school or program identified by its Basic Educational Data System (BEDS) code, as determined by the commissioner.

(p) State approved student growth model means a statistical model that uses prior academic history, poverty, students with disabilities and English language learners, and any additional factors approved by the Commissioner to measure student growth.

(q) State-designed supplemental assessment shall mean a selection of state tests or assessments developed or designed by the Department, or that the Department purchased or acquired from (i) another state; (ii) an institution of higher education; or (iii) a commercial or not-for-profit entity, provided that such entity must be objective and may not have a conflict of interest or appearance of a conflict of interest; and tests or assessments that have been previously designed or acquired by local districts, but only if the Department significantly modifies growth targets or scoring bands for such tests or assessments or otherwise adapts the test or assessment to the Department's requirements. Such assessments may only be used in the optional student

performance subcomponent in order to produce a growth score calculated pursuant to a State-provided or approved growth model.

(r) Student growth means the change in student achievement for an individual student between two or more points in time.

(s) Student growth percentile score shall mean the result of a statistical model that calculates each student's change in achievement between two or more points in time on a State assessment or other comparable growth measure and compares each student's performance to that of similarly achieving students.

(t) Student Learning Objective(s) (SLOs) are academic goals for an educator's students that are set at the start of a course, except in rare circumstances as defined by the Commissioner. SLOs represent the most important learning for the year (or semester, where applicable). They must be specific and measurable, based on available prior student learning data, and aligned to the New York State learning standards , as well as to any other school and district priorities. An educator's scores are based upon the degree to which his or her goals were attained.

(u) Superintendent of schools shall mean the chief school officer of a district or the district superintendent of a board of cooperative educational services, provided that in the case of the City School District of the City of New York, superintendent shall mean the Chancellor of the City School District of the City of New York or his or her designee.

(v) Teacher or principal state provided growth scores shall mean a measure of central tendency of the student growth percentile scores through the use of standard deviations and confidence ranges to identify with statistical certainty educators whose

students' growth is well above or well below average compared to similar students for a teacher's or principal's students after the following student characteristics are taken into consideration: poverty, students with disabilities and English language learners.  
Additional factors may be added by the Commissioner, subject to approval by the Board of Regents.

(w) Teacher(s) of record shall be defined in a manner prescribed by the commissioner.

(x) Teaching Standards are enumerated below:

(1) the teacher acquires knowledge of each student, and demonstrates knowledge of student development and learning to promote achievement for all students;

(2) the teacher knows the content they are responsible for teaching, and plans instruction that ensures growth and achievement for all students;

(3) the teacher implements instruction that engages and challenges all students to meet or exceed the learning standards;

(4) the teacher works with all students to create a dynamic learning environment that supports achievement and growth;

(5) the teacher uses multiple measures to assess and document student growth, evaluate instructional effectiveness, and modify instruction;

(6) the teacher demonstrates professional responsibility and engages relevant stakeholders to maximize student growth, development, and learning; and

(7) the teacher sets informed goals and strives for continuous professional growth.



(y) Testing standards shall mean the "Standards for Educational and Psychological Testing" (American Psychological Association, National Council on Measurement in Education, and American Educational Research Association; 2014- available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, New York 12234).

(z) The governing body of each district shall mean the board of education of each district, provided that, in the case of the City School District of the City of New York, governing body shall mean the Chancellor of the City School District of the City of New York or, to the extent provided by law, the board of education of the City School District of the City of New York and, in the case of BOCES, governing body shall mean the board of cooperative educational services.

(aa) Traditional standardized assessment shall mean a systematic method of gathering information from objectively scored items that allow the test taker to select one or more of the given options or choices as their response. Examples include multiple-choice, true-false, and matching items. Traditional standardized assessments are those that require the student (and not the examiner/assessor) to directly use a "bubble" answer sheet. Traditional standardized assessments do not include performance assessments or assessments in which students perform real-world tasks that demonstrate application of knowledge and skills; assessments that are otherwise required to be administered by Federal law; and/or assessments used for diagnostic or formative purposes, including but not limited to assessments used for diagnostic screening required by Education Law section 3208(5).

§30-3.3. Requirements for annual professional performance review plans submitted under this Subpart.

(a) Applicability.

(1) The governing body of each district shall adopt a plan, in a form and timeline prescribed by the commissioner, for the annual professional performance review of all of the district's classroom teachers and building principals in accordance with the requirements of Education Law section 3012-d and this Subpart and shall submit such plan to the commissioner for approval. The commissioner shall approve or reject the plan. The commissioner may reject a plan that does not rigorously adhere to the provisions of Education Law section 3012-d and the requirements of this Subpart. Absent a finding by the Commissioner of extraordinary circumstances, if any material changes are made to the plan, the district must submit the material changes by March 1 of each school year, on a form prescribed by the commissioner, to the commissioner for approval. The provisions of Education Law §3012-c(2)(k) shall only apply to the extent provided in this paragraph.

(2) Such plan shall be filed in the district office, as applicable, and made available to the public on the district's web-site no later than September 10th of each school year, or within 10 days after the plan's approval by the commissioner, whichever shall later occur.

(3) Any plan submitted to the commissioner shall include a signed certification on a form prescribed by the commissioner, by the superintendent, district superintendent or chancellor, attesting that:

(i) the amount of time devoted to traditional standardized assessments that are not specifically required by State or Federal law for each classroom or program of the grade does not exceed, in the aggregate, one percent of the minimum in required annual instructional hours for such classroom or program of the grade; and

(ii) the amount of time devoted to test preparation under standardized testing conditions for each grade does not exceed, in the aggregate, two percent of the minimum required annual instructional hours for such grade. Time devoted to teacher administered classroom quizzes or exams, portfolio reviews, or performance assessments shall not be counted towards the limits established by this subdivision. In addition, formative and diagnostic assessments shall not be counted towards the limits established by this subdivision and nothing in this subdivision shall be construed to supersede the requirements of a section 504 plan of a qualified student with a disability or Federal law relating to English language learners or the individualized education program of a student with a disability.

(b) Content of the plan. The annual professional performance review plan shall:

(1) describe the district's process for ensuring that the department receives accurate teacher and student data, including enrollment and attendance data and any other student, teacher, school, course and teacher/student linkage data necessary to comply with this Subpart, in a format and timeline prescribed by the commissioner. This process shall also provide an opportunity for every classroom teacher and building principal to verify the subjects and/or student rosters assigned to them;

(2) describe how the district will report to the Department the individual scores and ratings for each subcomponent and category and overall rating for each classroom

teacher and building principal in the district, in a format and timeline prescribed by the commissioner;

(3) describe the assessment development, security, and scoring processes utilized by the district. Such processes shall ensure that any assessments and/or measures used to evaluate teachers and principals under this section are not disseminated to students before administration and that teachers and principals do not have a vested interest in the outcome of the assessments they score;

(4) describe the details of the district's evaluation system, which shall include, but not be limited to, whether the district chose to use each of the optional subcomponents in the student performance and observation/school visit categories and the assessments and/or measures, if any, that are used in each subcomponent of the student performance category and the observation/school visit category and the name of the approved teacher and/or principal practice rubrics that the district uses or evidence that a variance has been granted by the Commissioner from this requirement;

(5) describe how the district will provide timely and constructive feedback to classroom teachers and building principals on their annual professional performance review;

(6) describe the appeal procedures that the district is using pursuant to section 30-3.12 of this section; and

(7) include any certifications required under this Subpart.

(c) The entire annual professional performance review shall be completed and provided to the teacher or the principal as soon as practicable but in no case later than September 1<sup>st</sup> of the school year next following the school year for which the

teacher or principal's performance is measured. The teacher's and principal's score and rating on the observation/school visit category and in the optional subcomponent of the student performance category, if available, shall be computed and provided to the teacher or principal, in writing, by no later than the last day of the school year for which the teacher or principal is being measured, but in no case later than September 1<sup>st</sup> of the school year next following the school year for which the teacher or principal's performance is measured. Nothing in this subdivision shall be construed to authorize a teacher or principal to commence the appeal process prior to receipt of his or her overall rating. Districts shall ensure that there is a complete evaluation for all classroom teachers and building principals, which shall include scores and ratings on the subcomponent(s) of the student performance category and the observation/school visit category and the combined category scores and ratings, determined in accordance with the applicable provisions of Education Law §3012-d and this Subpart, for the school year for which the teacher's or principal's performance is measured.

§30-3.4 Standards and criteria for conducting annual professional performance reviews of classroom teachers under Education Law §3012-d.

(a) Annual professional performance reviews conducted under this section shall differentiate teacher effectiveness resulting in a teacher being rated Highly Effective, Effective, Developing or Ineffective based on multiple measures in two categories: the student performance category and the teacher observation category.

(b) Student performance category. The student performance category shall have one mandatory subcomponent and one optional subcomponent as follows:

(1) Mandatory first subcomponent.

(i) for a teacher whose course ends in a State-created or administered test for which there is a State-provided growth model and at least 50% of a teacher's students are covered under the State-provided growth measure, such teacher shall have a State-provided growth score based on such model; and

(ii) for a teacher whose course does not end in a State-created or administered test or where less than 50% of the teacher's students are covered by a State-provided growth measure, such teacher shall have a Student Learning Objective (SLO) developed and approved by his/her superintendent or his or her designee, using a form prescribed by the commissioner, consistent with the SLO process determined or developed by the commissioner, that results in a student growth score; provided that, for any teacher whose course ends in a State-created or administered assessment for which there is no State-provided growth model, such assessment must be used as the underlying assessment for such SLO. The SLO process determined by the Commissioner shall include a minimum growth target of one year of expected growth, as determined by the superintendent or his or her designee. Such targets, as determined by the superintendent or his or her designee, may take the following characteristics into account: poverty, students with disabilities, English language learners status and prior academic history. SLOs shall include the following SLO elements, as defined by the commissioner in guidance:

(a) student population;

(b) learning content ;

(c) interval of instructional time;

(d) evidence;

(e) baseline;

(f) target;

(g) criteria for rating a teacher Highly Effective, Effective, Developing or Ineffective (“HEDI”); and

(h) rationale.

(iii) for a teacher whose course does not end in a State-created or administered test or where a State-provided growth measure is not determined, districts may determine whether to use SLOs based on a list of approved student assessments, or a school-or-BOCES-wide group, team, or linked results based on State/Regents assessments, as defined by the Commissioner in guidance.

(iv) Districts shall develop back-up SLOs for all teachers whose courses end in a State created or administered test for which there is a State-provided growth model, to use in the event that no State-provided growth score can be generated for such teachers.

(2) Optional second subcomponent. A district may locally select a second measure that shall be applied in a consistent manner, to the extent practicable, across the district based on State/Regents assessments or State-designed supplemental assessments and be either:

(i) a second State-provided growth score on a state-created or administered test; provided that the State-provided growth measure is different than that used in the required subcomponent of the student performance category, which may include one or more of the following measures:

(a) a teacher-specific growth score computed by the State based on percentage of students who achieve a State-determined level of growth (e.g., percentage of students whose growth is above the median for similar students);

(b) school-wide growth results based on a State-provided school-wide growth score for all students attributable to the school who took the State English language arts or math assessment in grades 4-8; or

(c) school-wide, group, team, or linked growth results using available State-provided growth scores that are locally-computed; or

(ii) a growth score based on a State-designed supplemental assessment, calculated using a State-provided or approved growth model. Such growth score may include school or BOCES –wide group, team, or linked results where the State-approved growth model is capable of generating such a score.

(3) All State-provided or approved growth model scores must control for poverty, students with disabilities, English language learners status and prior academic history. For SLOs, these characteristics may be taken into account through the use of targets based on one year of “expected growth”, as determined by the superintendent or his or her designee.

(4) The district shall measure student growth using the same measure(s) of student growth for all classroom teachers in a course and/or grade level in a district.

(c) Weighting of Subcomponents Within Student Performance Category.

(1) If a district does not locally select to use the optional second student growth subcomponent, then the mandatory subcomponent shall be weighted at 100%.



(2) If the optional second student growth subcomponent is selected, then the mandatory subcomponent shall be weighted at a minimum of 50% and the optional second subcomponent shall be weighted at no more than 50%.

(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 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. 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.

<b>SLOs</b>	<b>Scoring Range</b>
<b>Percent of Students Meeting Target</b>	
0-4%	0
5-8%	1
9-12%	2
13-16%	3
17-20%	4
21-24%	5
25-28%	6
29-33%	7
34-38%	8
39-43%	9
44-48%	10
49-54%	11
55-59%	12

60-66%	13
67-74%	14
75-79%	15
80-84%	16
85-89%	17
90-92%	18
93-96%	19
97-100%	20

(d) Overall Rating on Student Performance Category.

(1) Multiple student performance measures shall be combined using a weighted average pursuant to subdivision (c) of this section to produce an overall student performance category score of 0 to 20. Based on such score, an overall student performance category rating shall be derived from the table below:

	<b>Overall Student Performance Category Score and Rating</b>	
	<i>Minimum</i>	<i>Maximum</i>
H	18	20
E	15	17
D	13	14
I	0	12

(2) Teacher observation category. The observation category for teachers shall be based on at least two observations; one of which must be unannounced.

(i) Two Mandatory subcomponents.

(a) One observation shall be conducted by a principal or other trained administrator and;

(b) a second observation shall be conducted by one or more impartial independent trained evaluator(s) selected and trained by the district. An independent trained evaluator may be employed within the district, but may not be assigned to the same school building as the teacher being evaluated.

(ii) Optional third subcomponent. The observations category may include a third optional subcomponent based on classroom observations conducted by a trained peer teacher rated Effective or Highly Effective on his or her overall rating in the prior school year from the same school or from another school in the district.

(iii) Frequency and Duration of Observations. The frequency and duration of observations shall be determined locally.

(iv) All observations must be conducted using a teacher practice rubric approved by the commissioner pursuant to an Request for Qualification ("RFQ") process, unless the district has an approved variance from the Commissioner.

(a) Variance for existing rubrics. A variance may be granted to a district that seeks to use a rubric that is either a close adaptation of a rubric on the approved list, or a rubric that was self-developed or developed by a third-party, upon a finding by the Commissioner that the rubric meets the criteria described in the Request for Qualification and the district has demonstrated that it has made a significant investment in the rubric and has a history of use that would justify continuing the use of that rubric.

(b) Variance for use of new innovative rubrics. A variance may be granted to a district that seeks to use a newly developed rubric, upon a finding by the Commissioner that the rubric meets the criteria described in the RFQ,has demonstrated how it will

ensure inter-rater reliability and the rubric's ability to provide differentiated results over time.

(v) All observations for a teacher for the school year must use the same approved rubric; provided that districts may locally determine whether to use different rubrics for teachers who teach different grades and/or subjects during the school year.

(vi) At least one of the mandatory observations must be unannounced.

(vii) Observations may occur either live or via recorded video, as determined locally.

(viii) Nothing in this Subpart shall be construed to limit the discretion of a board of education or superintendent of schools to conduct observations in addition to those required by this section for non-evaluative purposes.

(ix) Observations must be based only on observable rubric subcomponents. The evaluator may select a limited number of observable rubric subcomponents for focus within a particular observation, so long as all observable Teaching Standards/Domains are addressed across the total number of annual observations.

(x) New York State Teaching Standards/Domains that are part of the rubric but not observable during the classroom observation may be observed during any optional pre-observation conference or post-observation review or other natural conversations between the teacher and the evaluator and incorporated into the observation score.

(xi) Points shall not be allocated based on any artifacts, unless such artifact constitutes evidence of an otherwise observable rubric subcomponent (e.g., a lesson

plan viewed during the course of the observation may constitute evidence of professional planning).

(xii) Each observation shall be evaluated on a 1-4 scale based on a State-approved rubric aligned to the New York State Teaching Standards and an overall score for each observation shall be generated between 1-4. Multiple observations shall be combined using a weighted average pursuant to subparagraph (xiv) of this paragraph, producing an overall observation category score between 1-4. In the event that a teacher earns a score of 1 on all rated components of the practice rubric across all observations, a score of 0 will be assigned.

(xiii) Weighting of Subcomponents Within Teacher Observation Category. The weighting of the subcomponents within the teacher observation category shall be established locally within the following constraints:

(a) observations conducted by a principal or other trained administrator shall be weighted at a minimum of 80%.

(b) observations conducted by independent impartial observers shall be weighted at a minimum of 10% .

(c) if a district selects to use the optional third observation subcomponent, then the weighting assigned to the optional observations conducted by peers shall be established locally within the constraints outlined in clause (1) and (2) of this subparagraph.

(xiv) Overall Rating on the Teacher Observation Category. The overall observation score calculated pursuant to paragraphs (xii) and (xiii) shall be converted into an overall rating, using cut scores determined locally for each rating category;

provided that such cut scores shall be consistent with the permissible ranges identified below:

	<b>Overall Observation Category Score and Rating</b>	
	<i>Min</i>	<i>Max</i>
H	3.5 to 3.75	4.0
E	2.5 to 2.75	3.49 to 3.74
D	1.5 to 1.75	2.49 to 2.74
I	0	1.49 to 1.74

§30-3.5 Standards and criteria for conducting annual professional performance reviews of building principals under Education Law §3012-d.

(a) Ratings. Annual professional performance reviews conducted under this section shall differentiate principal effectiveness resulting in a principal being rated Highly Effective, Effective, Developing or Ineffective based on multiple measures in the following two categories: the student performance category and the school visit category.

(b) Student performance category. Such category shall have at least one mandatory first subcomponent and an optional second subcomponent as follows:

(1) Mandatory first subcomponent.

(i) for a principal with at least 30% of his/her students covered under the State-provided growth measure, such principal shall have a State-provided growth score based on such model; and

(ii) for a principal where less than 30% of his/her students are covered under the State-provided growth measure, such principal shall have a Student Learning Objective (SLO), on a form prescribed by the commissioner, consistent with the SLO process determined or developed by the commissioner, that results in a student growth score; provided that, for any principal whose building or program includes courses that end in a State-created or administered assessment for which there is no State-provided growth model, such assessment must be used as the underlying assessment for such SLO. The SLO process determined by the Commissioner shall include a minimum growth target of one year of expected growth, as determined by the superintendent or his or her designee. Such targets, as determined by the superintendent or his or her designee in the exercise of their pedagogical judgment, may take the following characteristics into account: poverty, students with disabilities, English language learners status and prior academic history. SLOs shall include the following elements, as defined by the Commissioner in guidance:

(a) student population;

(b) learning content;

(c) interval of instructional time;

(d) evidence;

(e) baseline;

(f) target;

(g) criteria for rating a principal Highly Effective, Effective, Developing or Ineffective ("HEDI"); and

(h) Rationale.

(iii) for a principal of a building or program whose courses do not end in a State-created or administered test or where a State-provided growth score is not determined, districts shall use SLOs based on a list of State approved student assessments.

(2) Optional second subcomponent. A district may locally select one or more other measures for the student performance category that shall be applied in a consistent manner, to the extent practicable, across the district based on either:

(i) a second State-provided growth score on a State-created or administered test; provided that a different measure is used than that for the required subcomponent in the student performance category, which may include one or more of the following measures:

(a) principal-specific growth computed by the State based on percentage of students who achieve a State-determined level of growth (e.g. percentage of students whose growth is above the median for similar students);

(b) school-wide growth results using available State-provided growth scores that are locally-computed; or

(ii) a growth score based on a State-designed supplemental assessment, calculated using a State-provided or approved growth model. Such growth score may include school or BOCES –wide group, team, or linked measures where the state-approved growth model is capable of generating such a score.

(3) All State-provided or approved growth scores must control for poverty, students with disabilities, English language learners status and prior academic history. For SLOs, these characteristics may be taken into account through the use of targets



based on one year of “expected growth”, as determined by the superintendent or his or her designee.

(4) The district shall measure student growth using the same measure(s) of student growth for all building principals within the same building configuration or program.

(c) Weighting of Subcomponents Within Student Performance Category.

(1) If a district does not locally select to use the optional second student growth subcomponent, then the mandatory subcomponent shall be weighted at 100%.

(2) If the optional second student growth subcomponent is selected, then the mandatory subcomponent shall be weighted at a minimum of 50% and the optional second subcomponent shall be weighted at no more than 50%.

(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 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. 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.

<b>SLOs</b>	
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Percent of Students Meeting Target	Scoring Range
0-4%	0
5-8%	1
9-12%	2
13-16%	3
17-20%	4
21-24%	5
25-28%	6
29-33%	7
34-38%	8
39-43%	9
44-48%	10
49-54%	11
55-59%	12
60-66%	13
67-74%	14
75-79%	15
80-84%	16
85-89%	17
90-92%	18
93-96%	19
97-100%	20

(4) Overall Rating on Student Performance Category. Multiple measures shall be combined using a weighted average, to produce an overall student performance category score of 0 to 20. Based on such score, an overall student performance category rating shall be derived from the table below:

	<b>Overall Student Performance Category Score and Rating</b>
--	--

	<i>Minimum</i>	<i>Maximum</i>
H	18	20
E	15	17
D	13	14
I	0	12

(d) Principal school visits category. The school visits category for principals shall be based on a State-approved rubric and shall include up to three subcomponents; two of which are mandatory and one of which is optional.

(1) Two Mandatory subcomponents. A district shall evaluate a principal based on at least:

(i) one school visit shall be based on a State-approved principal practice rubric conducted by the building principal's supervisor or other trained administrator; and

(ii) a second school visit shall be conducted by one or more impartial independent trained evaluator(s) selected and trained by the district. An independent trained evaluator may be employed within the district, but may not be assigned to the same school building as the principal being evaluated.

(2) Optional third subcomponent. The school visit category may also include a third optional subcomponent based on school visits conducted by a trained peer administrator rated Effective or Highly Effective on his or her overall rating in the prior school year from the same or another school in the district.

(3) Frequency and Duration of School Visits. The frequency of school visits shall be established locally.

(4) All school visits must be conducted using a principal practice rubric approved by the Commissioner pursuant to an RFQ process, unless the district has a currently approved variance from the Commissioner.

(i) Variance for existing rubric. A variance may be granted to a district that seeks to use a rubric that is either a close adaptation of a rubric on the approved list, or a rubric that was self-developed or developed by a third-party, upon a finding by the Commissioner that the rubric meets the criteria described in the RFQ, and the district has demonstrated that it has made a significant investment in the rubric and has a history of use that would justify continuing the use of that rubric.

(ii) Variance for use of new innovative rubrics. A variance may be granted to a district that seeks to use a newly developed rubric, upon a finding by the Commissioner that the rubric meets the criteria described in the RFQ and the district has demonstrated how it will ensure inter-rater reliability and the rubric's ability to provide differentiated results over time.

(5) All school visits for a principal for the year must use the same approved rubric; provided that districts may locally determine whether to use different rubrics for a principal assigned to different grade level configurations or building types.

(6) At least one of the mandatory school visits by the supervisor or trained administrator must be unannounced.

(7) School visits may not be conducted via video.

(8) Nothing in this Subpart shall be construed to limit the discretion of a board of education or superintendent of schools from conducting school visits of a principal in addition to those required under this section for non-evaluative purposes.

(9) School visits may be based only on observable rubric subcomponents.

(10) The evaluator may select a limited number of observable rubric subcomponents for focus on within a particular school visit, so long as all observable ISLLC Standards are addressed across the total number of annual school visits.

(11) Leadership Standards and their related functions that are part of the rubric but not observable during the course of the school visit may be observed through other natural conversations between the principal and the evaluator and incorporated into the observation score.

(12) Points shall not be allocated based on any artifacts, unless such artifact constitutes evidence of a rubric subcomponent observed during a school visit. Points shall not be allocated based on professional goal-setting; however, organizational goal-setting may be used to the extent it is evidence from the school visit and related to a component of the principal practice rubric.

(13) Each school visit shall be evaluated on a 1-4 scale based on a state approved rubric aligned to the ISLLC standards and an overall score for each school visit shall be generated between 1-4. Multiple observations shall be combined using a weighted average, producing an overall observation category score between 1-4. In the event that a principal earns a score of 1 on all rated components of the practice rubric across all observations, a score of 0 will be assigned. Weighting of Subcomponents Within Principal School Visit Category. The weighting of the subcomponents within the principal school visit category shall be established locally within the following constraints:

(i) school visits conducted by a superintendent or other trained administrator shall be weighted at a minimum of 80%.

(ii) school visits conducted by independent impartial trained evaluators shall be weighted at a minimum of 10%.

(iii) if a district selects to use the optional third school visit subcomponent, then the weighting assigned to the optional school visits conducted by peers shall be established locally within the constraints outlined in clause (i) and (ii) of this subparagraph.

(14) Overall Rating on the Principal School Visits Category. The overall principal school visit score shall be converted into an overall rating, using cut scores determined locally for each rating category; provided that such cut scores shall be consistent with the permissible ranges identified below:

(15) The overall principal/school visit score shall be converted into an overall rating, using cut scores determined locally for each rating category; provided that such cut scores shall be consistent with the permissible ranges identified below:

	Overall Observation Category Score and Rating	
	<i>Min</i>	<i>Max</i>
H	3.5 to 3.75	4.0
E	2.5 to 2.75	3.49 to 3.74
D	1.5 to 1.75	2.49 to 2.74
I	0	1.49 to 1.74

§30-3.6. Rating determination.

(a) The overall rating determination for a teacher or principal shall be determined according to a methodology as follows:

		<u>Observation/School Visit</u>			
		<u>Highly</u> <u>Effective (H)</u>	<u>Effective</u> <u>(E)</u>	<u>Developing</u> <u>(D)</u>	<u>Ineffective</u> <u>(I)</u>
<u>Student Performance</u>	<u>Highly</u> <u>Effective (H)</u>	<u>H</u>	<u>H</u>	<u>E</u>	<u>D</u>
	<u>Effective (E)</u>	<u>H</u>	<u>E</u>	<u>E</u>	<u>D</u>
	<u>Developing</u> <u>(D)</u>	<u>E</u>	<u>E</u>	<u>D</u>	<u>I</u>
	<u>Ineffective (I)</u>	<u>D</u>	<u>D</u>	<u>I</u>	<u>I</u>

(b) Notwithstanding subdivision (a) of this section, a teacher or principal who is rated using both subcomponents in the student performance category and receives a rating of Ineffective in such category shall be rated Ineffective overall; provided, however, that if the measure used in the second subcomponent is a State-provided growth score on a state-created or administered test, a teacher or principal who receives a rating of Ineffective in the student performance category shall not be eligible to receive a rating of Effective or Highly Effective overall;

(c) The district shall ensure that the process by which weights and scoring ranges are assigned to subcomponents and categories is transparent and available to those being rated before the beginning of each school year. Such process must ensure

that it is possible for a teacher or principal to obtain any number of points in the applicable scoring ranges, including zero, in each subcomponent. In the event that a teacher/principal earns a score of 1 on all rated components of the practice rubric across all observations, a score of 0 will be assigned. The superintendent, district superintendent or chancellor and the representative of the collective bargaining unit (where one exists) shall certify in the district's plan that the evaluation process shall use the weights and scoring ranges provided by the commissioner.

§30-3.7. Prohibited elements. Pursuant to Education Law §3012-d(7), the following elements shall no longer be eligible to be used in any evaluation subcomponent pursuant to this Subpart:

(a) evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, except for student portfolios measured by a State-approved rubric where permitted by the department;

(b) use of an instrument for parent or student feedback;

(c) use of professional goal-setting as evidence of teacher or principal effectiveness;

(d) any district or regionally-developed assessment that has not been approved by the department; and

(e) any growth or achievement target that does not meet the minimum standards as set forth in regulations of the commissioner adopted hereunder.

§30-3.8. Approval process for student assessments.

(a) Approval of student assessments for the evaluation of classroom teachers and building principals. An assessment provider who seeks to place an assessment on the



list of approved student assessments under this section shall submit to the Commissioner a written application in a form and within the time prescribed by the Commissioner.

(b) The commissioner shall evaluate a student assessment(s) for inclusion on the Department's list(s) of approved student assessments for use in the required and/or optional subcomponents of the student performance category, based on the criteria outlined in the RFQ or request for proposals ("RFP).

(c) Termination of approval. Approval shall be withdrawn for good cause, including, but not limited to, a determination by the commissioner that:

(1) the assessment does not comply with one or more of the criteria for approval set forth in Subpart or in the RFQ or RFP;

(2) the Department determines that the assessment is not identifying meaningful and/or observable differences in performance levels across schools and classrooms; and/or

(3) high quality academic research calls into question the correlation between high performance on the assessment and positive student learning outcomes.

#### §30-3.9. Approval process for approved teacher and principal practice rubrics.

(a) A provider who seeks to place a teacher or principal practice rubric on the list of approved rubrics under this section shall submit to the commissioner a written application in a form and within the time prescribed by the commissioner.

(b) Teacher practice rubric. The commissioner shall evaluate a rubric for inclusion on the department's list of approved practice rubrics for classroom teachers

pursuant to a request for qualification ("RFQ") process. Such proposals shall meet the criteria outlined by the commissioner in the RFQ process.

(c) Principal practice rubric. The commissioner shall evaluate a rubric for inclusion on the department's list of approved practice rubrics for building principals pursuant to a request for qualification ("RFQ") process. Such proposals shall meet the criteria outlined by the commissioner in the RFQ process.

(d) Termination of approval of a teacher or principal scoring rubric. Approval for inclusion on the department's list of approved rubrics may be withdrawn for good cause, including, but not limited to, a determination by the commissioner that the rubric:

(1) does not comply with one or more of the criteria for approval set forth in this section or the criteria set forth in the request for qualification;

(2) the department determines that the practice rubric is not identifying meaningful and/or observable differences in performance levels across schools and classrooms; and/or

(3) high-quality academic research calls into question the correlation between high performance on this rubric and positive student learning outcomes.

(e) The Department's lists of approved rubrics established pursuant to section 30-2.7 of the Part shall continue in effect until superseded by a list generated from a new RFQ issued pursuant to this section or the list is abolished by the commissioner as unnecessary.

#### §30-3.10. Training of evaluators and lead evaluators.

(a) The governing body of each district shall ensure that evaluators, including impartial and independent observers and peer observers, have appropriate training

before conducting a teacher or principal's evaluation under this section. The governing body shall also ensure that any lead evaluator has been certified by such governing body as a qualified lead evaluator before conducting and/or completing a teacher's or principal's evaluation in accordance with the requirements of this Subpart, except as otherwise provided in this subdivision. Nothing herein shall be construed to prohibit a lead evaluator who is properly certified by the Department as a school administrator or superintendent of schools from conducting classroom observations or school visits as part of an annual professional performance review under this Subpart prior to completion of the training required by this section provided such training is successfully completed prior to completion of the evaluation.

(b) To qualify for certification as a lead evaluator, individuals shall successfully complete a training course that meets the minimum requirements prescribed in this subdivision. The training course shall provide training on:

(1) the New York State Teaching Standards and their related elements and performance indicators and the Leadership standards and their related functions, as applicable;

(2) evidence-based observation techniques that are grounded in research;

(3) application and use of the student growth percentile model and any other growth model approved by the Department as defined in section 30-3.2 of this Subpart;

(4) application and use of the State-approved teacher or principal rubric(s) selected by the district for use in evaluations, including training on the effective application of such rubrics to observe a teacher or principal's practice;

(5) application and use of any assessment tools that the district utilizes to evaluate its classroom teachers or building principals;

(6) application and use of any locally selected measures of student growth used in the optional subcomponent of the student performance category used by the district to evaluate its teachers or principals;

(7) use of the statewide instructional reporting system;

(8) the scoring methodology utilized by the department and/or the district to evaluate a teacher or principal under this Subpart, including the weightings of each subcomponent within a category; how overall scores/ratings are generated for each subcomponent and category and application and use of the evaluation matrix(es) prescribed by the commissioner for the four designated rating categories used for the teacher's or principal's overall rating and their category ratings; and

(9) specific considerations in evaluating teachers and principals of English language learners and students with disabilities.

(c) Independent evaluators and peer evaluators shall receive training on the following elements:

(1) the New York State Teaching Standards and their related elements and performance indicators and the Leadership standards and their related functions, as applicable;

(2) evidence-based observation techniques that are grounded in research; and

(3) application and use of the State-approved teacher or principal rubric(s) selected by the district for use in evaluations, including training on the effective application of such rubrics to observe a teacher or principal's practice;

(d) Training shall be designed to certify lead evaluators. Districts shall describe in their annual professional performance review plan the duration and nature of the training they provide to evaluators and lead evaluators and their process for certifying lead evaluators under this section.

(e) Districts shall also describe in their annual professional performance review plan their process for ensuring that all evaluators maintain inter-rater reliability over time (such as data analysis to detect disparities on the part of one or more evaluators; periodic comparisons of a lead evaluator's assessment with another evaluator's assessment of the same classroom teacher or building principal; annual calibration sessions across evaluators) and their process for periodically recertifying all evaluators.

(f) Any individual who fails to receive required training or achieve certification or re-certification, as applicable, by a district pursuant to the requirements of this section shall not conduct or complete an evaluation under this Subpart.

#### §30-3.11. Teacher or principal improvement plans.

(a) Upon rating a teacher or a principal as Developing or Ineffective through an annual professional performance review conducted pursuant to Education Law section 3012-d and this Subpart, a district shall formulate and commence implementation of a teacher or principal improvement plan for such teacher or principal by October 1 in the school year following the school year for which such teacher's or principal's performance is being measured or as soon as practicable thereafter.

(b) Such improvement plan shall be developed by the superintendent or his or her designee in the exercise of their pedagogical judgment and shall include, but need not be limited to, identification of needed areas of improvement, a timeline for achieving

improvement, the manner in which the improvement will be assessed, and, where appropriate, differentiated activities to support a teacher's or principal's improvement in those areas.

§30-3.12. Appeal procedures.

(a) An annual professional performance review plan under this Subpart shall describe the appeals procedure utilized by a district through which an evaluated teacher or principal may challenge their annual professional performance review. Pursuant to Education Law §3012-d, a teacher or principal may only challenge the following in an appeal:

(1) the substance of the annual professional performance review; which shall include the following:

(i) in the instance of a teacher or principal rated Ineffective on the student performance category but rated Highly Effective on the observation/school visit category based on an anomaly, as determined locally.

(2) the district's adherence to the standards and methodologies required for such reviews, pursuant to Education Law §3012-d and this Subpart;

(3) the adherence to the regulations of the commissioner and compliance with any applicable locally negotiated procedures, as required under Education Law §3012-d and this Subpart; and

(4) district's issuance and/or implementation of the terms of the teacher or principal improvement plan under Education Law §3012-d and this Subpart.

(b) Appeal procedures shall provide for the timely and expeditious resolution of any appeal.

(c) An evaluation that is the subject of an appeal shall not be sought to be offered in evidence or placed in evidence in any proceeding conducted pursuant to Education Law §§3020-a and 3020-b or any locally negotiated alternate disciplinary procedure until the appeal process is concluded.

(d) Nothing in this section shall be construed to alter or diminish the authority of the governing body of a district to grant or deny tenure to or terminate probationary teachers or probationary building principals during the pendency of an appeal pursuant to this section for statutorily and constitutionally permissible reasons, including the teacher's or principal's performance that is the subject of the appeal.

(e) Nothing in this Subpart shall be construed to authorize a teacher or principal to commence the appeal process prior to receipt of his or her rating from the district.

#### §30-3.13. Monitoring and consequences for non-compliance.

(a) The department will annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify districts and/or schools where evidence suggests that a more rigorous evaluation system is needed to improve educator effectiveness and student learning outcomes. The department will analyze data submitted pursuant to this Subpart to identify:

(1) schools or districts with unacceptably low correlation results between student growth on the student performance category and the teacher observation/principal school visit category used by the district to evaluate its teachers and principals; and/or

(2) schools or districts whose teacher and principal overall ratings and subcomponent scores and/or ratings show little differentiation across educators and/or the lack of differentiation is not justified by equivalently consistent student achievement

results; and/or schools or districts that show a pattern of anomalous results in the student performance and observation/school visits categories.

(b) A district identified by the department in one of the categories enumerated above may be highlighted in public reports and/or the commissioner may order a corrective action plan, which may include, but not be limited to, a timeframe for the district to address any deficiencies or the plan will be rejected by the Commissioner, changes to the district's target setting process, a requirement that the district arrange for additional professional development, that the district provide additional in-service training and/or utilize independent trained evaluators to review the efficacy of the evaluation system.

(c) Corrective action plans may require changes to a collective bargaining agreement.

#### §30-3.14. Prohibition against Student Being Instructed by Two Consecutive Ineffective Teachers.

(a) A student may not be instructed, for two consecutive school years, in the same subject by any two teachers in the same district, each of whom received a rating of Ineffective under an evaluation conducted pursuant to this section in the school year immediately prior to the school year in which the student is placed in the teacher's classroom; provided, that if a district deems it impracticable to comply with this subdivision, the district shall seek a teacher-specific waiver from the department from such requirement, on a form and timeframe prescribed the commissioner.

(b) If a district assigns a student to a teacher rated Ineffective in the same subject for two consecutive years, the district must seek a waiver from this requirement for the



specific teacher in question. The commissioner may grant a waiver from this requirement if:

(1) the district cannot make alternative arrangements and/or reassign a teacher to another grade/subject because a hardship exists (for example, too few teachers with higher ratings are qualified to teach such subject in that district); and

(2) the district has an improvement and/or removal plan in place for the teacher at issue that meets certain guidelines prescribed by the commissioner.

§30-3.15. Applicability of the provisions in Education Law §3012-c. The provisions of Education Law §3012-c shall apply to annual professional performance reviews pursuant to this Subpart as follows:

(a) the provisions of paragraphs (d) and (k) of subdivision (2) , subdivision (4), subdivision (5) and subdivision (9) of Education Law §3012-c that apply are set forth in the applicable language of this Subpart;

(b) the provisions of paragraphs (k-1), (k-2) and (l) of subdivision (2) of Education Law §3012-c shall apply without any modification;

(c) the provisions of subdivision (5-a) of Education Law §3012-c shall apply without modification except:

(1) Any reference in subdivision (5-a) to a proceeding pursuant to Education Law §3020-a based on a pattern of ineffective teaching shall be deemed to be a reference to a proceeding pursuant to Education Law §3020-b against a teacher or principal who receives two or more consecutive composite Ineffective ratings; and in accordance with Education Law §3020(3) and (4)(a), notwithstanding any inconsistent language in subdivision (5-a), any alternate disciplinary procedures

contained in a collective bargaining agreement that becomes effective on or after July 1, 2015 shall provide that two consecutive Ineffective ratings pursuant to annual professional performance reviews conducted in accordance with the provisions of Education Law §3012-c or 3012-d shall constitute prima facie evidence of incompetence that can only be overcome by clear and convincing evidence that the employee is not incompetent in light of all surrounding circumstances, and if not successfully overcome, the finding, absent extraordinary circumstances, shall be just cause for removal, and that three consecutive Ineffective ratings pursuant to annual professional performance reviews conducted in accordance with the provisions of Education Law §3012-c or 3012-d shall constitute prima facie evidence of incompetence that can only be overcome by clear and convincing evidence that the calculation of one or more of the teacher's or principal's underlying components on the annual professional performance reviews pursuant to Education Law §3012-c or 3012-d was fraudulent, and if not successfully overcome, the finding, absent extraordinary circumstances, shall be just cause for removal.

(d) the provisions of subdivision (10) of Education Law §3012-c shall apply without modification except any references to composite effectiveness scores shall be deemed to mean the overall scores and ratings in the student performance category and the overall score and rating in the observations/school visits category.

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION

The proposed rule is necessary to implement Education Law sections 3012-c and 3012-d, as amended and added by Subpart E of Part EE of Chapter 56 of the Laws of 2015, regarding annual professional performance reviews (APPRs) of classroom teachers and building principals.

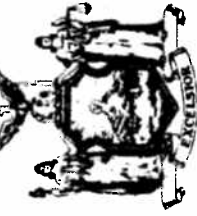
Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the September 16-17, 2015 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be October 7, 2015, the date a Notice of Adoption would be published in the State Register. However, Chapter 56 of the Laws of 2015 was signed by the Governor on April 13, 2015, and the provisions of Subpart E of Part EE became effective immediately and require the Commissioner to promulgate regulations to implement the new Education Law §3012-d by June 30, 2015. Therefore, emergency action is necessary at the June 15-16, 2015 Regents meeting for the preservation of the general welfare in order to immediately establish standards to timely implement the provisions of Subpart E of Part EE of Chapter 56 of the Laws of 2015 relating to a new annual evaluation system for classroom teachers and building principals and thereby ensure that school districts and

BOCES may timely implement the new evaluation requirements for classroom teachers and building principals in accordance with the statute.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the September 16-17, 2015 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act for State agency rule makings.

# ATTACHMENT IV

The



State of New York  
Department

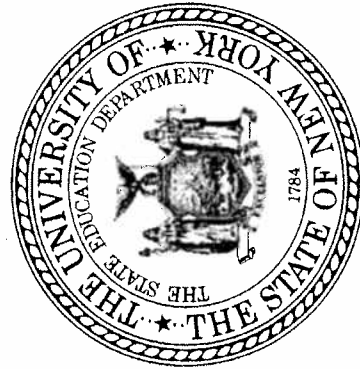
University of the  
Education

Be it known that  
the Board of Regents have awarded the

Chancellor McGovern Scholarship Award

to

Cory Marriott



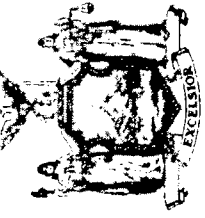
In witness whereof the Regents issue this award  
under seal of The University of The State of New York  
in the month of June 16, 2015

*Meryl A. Licher*

Chancellor of The University  
of the State of New York

# ATTACHMENT V

The



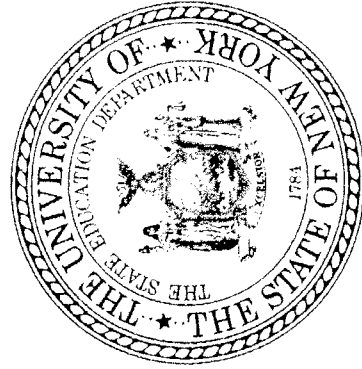
State of New York  
Department  
of Education

Be it known that  
the Board of Regents have awarded the

Chancellor McGovern Scholarship Award

to

Alexandra Betancourt-Perez



In witness whereof the Regents issue this award  
under seal of The University of The State of New York  
in the month of June 16, 2015

*Meryl A. Licher*

Chancellor of The University  
of the State of New York

# ATTACHMENT VI



## CITATION

### *Hannelore Marx*

*For the Year 2015 Louis E. Yavner Citizen Award  
for Distinguished Contributions to Teaching the Holocaust  
and Other Violations of Human Rights*

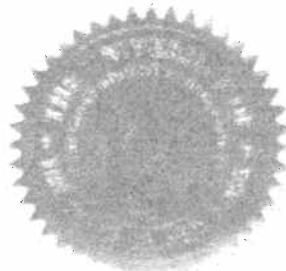
Hannelore Marx, as a Holocaust survivor, you have chosen to write your story so that your son, your grandson and all future generations will know of the Holocaust—that it did in fact happen and it could happen again. You wrote your story in German when you were 71 years old using a manual typewriter and typing using one finger. Today, at 92 years of age, your story is now available in English. Larry, your son, helped you and has worked to share that story using 21<sup>st</sup> century technology to publicize *From Despair to Happiness* through the website [www.hannelorem Marx.com](http://www.hannelorem Marx.com).

Peter Miner met you in 1992 and listened to your story. He was an English Language Arts teacher in a Washington Heights middle school, I.S. 143M. The majority of his students were first or second generation immigrants from the Dominican Republic. He wanted to help his students understand that people are always making choices in their lives which can either help and nurture people or hurt and destroy people. His students would learn of the Holocaust and had the opportunity to listen to you tell your story. Although you were nervous about speaking to the young people, particularly as some of your friends had indicated that those kids who lived on the other side of Broadway could be a rowdy bunch, you were received with warmth and respect. The students listened as you told your story—one where you still regret not being able to complete your education, where your mother and father were murdered, where you were forced to abandon everything. You told this story because you wanted those young people to understand that all people, no matter their differences from one another, are still people.

That day was the beginning of your visits to schools to tell your story personally. Those visits have had long-lasting impacts on the students who listened. One student, a victim of child abuse, stated, "For the first time in my young life, I had hope because of Hannelore that despite the reality I lived in day-to-day, I COULD and WOULD survive." This individual went on to convert to Judaism, marry a rabbi and teach in New York City public schools where she shared her own story with her students.

You are still sharing your story when possible. A recent visitor, Rena Papierno, whose paternal grandparents were Holocaust victims writes, "Hanne is a wonderful speaker and she encourages whomever hears her to stand strong and not let adversity pull one down."

It is therefore with special pride and great pleasure that the Board of Regents honors you, Hannelore Marx, as the 2015 recipient of the Louis E. Yavner Citizen Award for educating others about the Holocaust and other violations of human rights.



  
Merryl H. Tisch

Chancellor  
New York State Board of Regents

  
Elizabeth Berlin

Acting Commissioner of  
Education

# ATTACHMENT VII



## CITATION

### *Kathy D. Kimball-Wurster*

#### *For the Year 2015 Louis E. Yavner Teaching Award for Distinguished Contributions to Teaching the Holocaust and Other Violations of Human Rights*

Kathy Kimball-Wurster, as a teacher at Washingtonville High School in Washingtonville, New York and an active community member, you have demonstrated your commitment to human rights. Roberta Greene, the superintendent of schools wrote: "Her goals, in the classroom and beyond, have always been to help students understand human rights, value human rights, and take responsibility for respecting, defending and promoting human rights."

As the creator and teacher of the Human Rights course at Washingtonville High School you have offered students opportunities to explore human rights. Students who have chosen this course have reported that, "Not only is Mrs. Wurster a knowledgeable, helpful and enthusiastic teacher, but the course material has changed our world view."

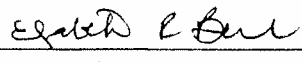
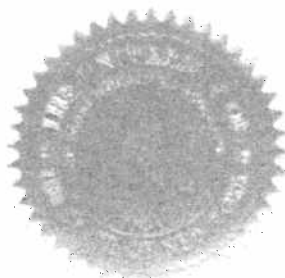
Beyond the classroom, your work as co-advisor to the Community Service Club encourages students to serve their local community. The club has sponsored an annual Coffee House where students perform in a coffee house setting while collecting money and donations for a local charity. Your work with Habitat for Humanity has served as a model for your students and you welcome them to join in this volunteer work of providing basic, decent housing to disadvantaged people in Orange County.

Your service to the Mid-Hudson Council for the Social Studies and the New York State Council for the Social Studies extends your influence to others in the profession through sustained leadership and presentations at conferences. Your work with Orange County Human Rights Commission and the Mid-Hudson Council has led to the offering of a professional development workshop entitled "Teaching Tough Issues". The workshop, designed for English and social studies teachers, addresses issues of gender inequality and violence against women and the importance of being inclusive toward LGBTQ students, disadvantaged students and students for whom English is a second language. Your work with the Orange County Human Rights Commission has led to the creation of an annual "An Artist's Response to Human Rights Exhibition" where students create and exhibit visual or literary artwork depicting one of the articles of the Universal Declaration of Human Rights.

You have been honored as a 2006 Educator of Distinction Award for Exemplary Dedication to the Field of Education from the Coca-Cola Scholars Foundation and a 2007 Orange County Human Rights Commission Award Recipient for your wide-ranging contributions to human rights education. It is therefore with special pride and with great pleasure that the Board of Regents honors you, Kathryn Kimball-Wurster as the 2015 recipient of the Louis E. Yavner Teaching Award for educating others about the Holocaust and other violations of human rights.



Merryl H. Tisch  
Chancellor  
New York State Board of Regents



Elizabeth Berlin  
Acting Commissioner of  
Education