

New York State Teacher and Principal Evaluation

Summary of Provisions in 3012c Regulations: May, 2011 (revised September 14, 2011 for impact of August Court decision and other clarifications)

In August 24, 2011, Justice Lynch of State Supreme Court, Albany County issued a Decision and Order in New York State United Teachers, et al. v. Board of Regents, determining that certain provisions of the APPR regulations are invalid to the extent set forth in the Decision and Order.

Only certain provisions of the regulations were challenged in the litigation – the remainder of the regulations remains in full force and effect (see SED’s “Guidance on New York State’s Annual Professional Performance Review Law and Regulations,”)for a full discussion of the specific provisions challenged). An appeal is being taken by the Board of Regents and the Commissioner from that Decision and Order. As a result, to the extent provided in the Decision and Order, the invalidated provisions are not enforceable, and should not be relied upon as valid by school districts and BOCES unless and until they are determined to be valid on appeal.

Provisions of this summary affected by the Court’s decision are noted in the Summary of Provisions on next pages:

Disclaimer: To the extent that the language in this memo differs from the regulatory language, the language in the regulation controls

Student Achievement Measures: Teachers

Student Achievement Measures: Teachers		
	ELA/Math 4-8 (2011-12 and beyond)	All Other Classroom Teachers (2012-13 and beyond)
<p>Growth on State Assessments</p> <p>20 points (25 with approved VA model)</p>	<ul style="list-style-type: none"> Result of student growth percentile model, which may include consideration of poverty, ELL, SWD status Value-added model with additional controls when approved, which can be no earlier than 2012-2013 Policies on Teacher of Record and linked students State has selected by RFP a provider of growth and value-added measures 	<ul style="list-style-type: none"> Approach 65% coverage of teachers with growth/value-added measures by extending growth/VA model, as applicable, to existing and new (if resources available) state assessments: <ul style="list-style-type: none"> 9-11 ELA 2011 Math Regents PARCC as available If approved: 6-8 science, social studies and related Regents If approved: progress monitoring in K-3 ELA, math Feasibility analysis with each expansion area to determine applicability of growth/VA methodology to pre/post tests
<p>Growth Using Comparable Measure</p> <p>(20 points) when no state assessment with an approved growth/VA model</p>	<p>N/A</p>	<p>For all applicable grades/subjects: State-determined district-wide student growth goal-setting process used with:</p> <p>For core subjects: 6-8 science and social studies, high school English Language Arts, math, science and social studies courses associated in 2010-11 with Regents exams or, in the future, with other state assessments:</p> <ul style="list-style-type: none"> State assessment if one exists (or Regent equivalents) If not, District determined assessment from list of state-approved 3rd party assessments and Regents equivalents <p>For other grades/subjects: District-determined assessments from options below:</p> <ul style="list-style-type: none"> List of State-approved 3rd party assessments District- or BOCES-developed assessments provided that the district or BOCES verifies comparability and rigor School-wide, group, or team results based on state assessments School or teacher-created assessment

**Student Achievement Measures:
Teachers
(Continued)**

Locally selected measures of Student Achievement

20 percent (15% after VA model)

Locally comparable means:

The same locally selected measures of student achievement or growth across all classrooms in same grade/subject in district or BOCES.

Districts may use more than one type of locally selected measure for different groups of teachers within a grade/subject if districts/BOCES prove comparability based on standards of Education and Psychological Testing.

May use growth or achievement measure from these: (Note: the August 2011 Court decision holds that local measures must be different from the growth measures used in the growth subcomponent above although the local measures may be based on the same state assessment, among other options)

- List of State-approved 3rd party, State or Regent-equivalent assessments.
- District, regional or BOCES-developed assessments provided that the district or BOCES verifies comparability and rigor
- School-wide, group, or team results based on state or allowable local assessments, provided that the district or BOCES verifies comparability and rigor
- Structured District or BOCES-wide goal setting process for use with any state, approved 3rd Party, or school (teacher-created) assessment agreed to by evaluator and teacher provided that the district or BOCES verifies comparability and rigor

State has published an initial list of 3rd party assessments that meet prescribed criteria for state-approved list.

Student Achievement Measures Principals

<p>Growth on State Assessments</p> <p>20 points (25 with approved VA model)</p>	<p style="text-align: center;">Elem/Middle (2011-12 and beyond)</p>	<p style="text-align: center;">High Schools (2012-13 and beyond; optional in 2011-12)</p>
<p>Other Comparable measures</p> <p>If principal has no grades with state assessment and an approved VA model</p>	<p>State-determined district-wide student growth goal setting process with school-level results from :</p> <ul style="list-style-type: none"> • Approved assessments for core subjects as defined for teachers, if applicable • If no core subjects applicable to this school, District-determined school-level results from comparable measures used to assess student growth for teachers in schools with this grade configuration 	
<p>Locally Selected measures of Student Achievement</p> <p>20 points (15 after VA model)</p>	<p>Comparable means the same locally selected measures used for all principals in same or similar programs or grade configuration across District or BOCES</p> <p>Note: Although the Court’s decision did not explicitly address the regulatory provisions regarding evaluation for principals, SED interprets the decision as applying to principals to the same extent that it applies to teachers. As noted above, the Court decision holds that locally-selected measures must be different measures from those used in the growth subcomponent above, but may be based on the same state assessment, among other options.</p>	
	<p>May choose growth or achievement measure from these options:</p> <ul style="list-style-type: none"> • Student performance on any or all district-wide locally selected measures approved for use in teacher evaluations • Achievement on state tests (% proficient) • Growth or achievement for student subgroups (SWD, ELL, students starting at specific performance levels (e.g. level 1, 2) on state or other assessments. 	<p>May choose growth or achievement measure from these options:</p> <ul style="list-style-type: none"> • Applicable options from elem/middle school column • Percent of cohort achieving specified scores on Regents exams, AP, IB or other Regents-equivalents • Graduation rates (4,5,6 years) and/or drop-out rates • Graduation % with Advanced Regents designation and/or honors • Credit accumulation (e.g. 9th and 10th grade) or other strong predictor of progress to graduation

OTHER 60 POINTS	TEACHER	PRINCIPAL
Standards	NYS Teaching Standards	ISLLC 2008
Choice of rubrics	Menu of state-approved choices for rubrics to assess performance based on standards. Also district variance process available for district or BOCES that seeks to use a rubric not on State-approved list. State to issue RFQ for rubrics that meet prescribed criteria.	
<p>Requirements and Options:</p> <p>Note: The August 2011 Court decision invalidates provisions of the regulations that require that 40 out of 60 points be based on classroom observations, that there be multiple evaluations and that a maximum of 5 points can be used for individual professional growth goals, on the basis that Education Law §3012-c requires that the evaluation measures for the 60 point category be collectively bargained. While the court's decision did not explicitly address the regulatory provisions regarding evaluation for principals, SED interprets the decision as applying to principals to the same extent that it applies to teachers.</p>		
<p>Requirements:</p> <ul style="list-style-type: none"> Multiple measures At least 40 of the 60 points based on classroom observation Multiple observations by principal or other trained administrator are required Any remaining teaching standards not addressed in classroom observation must be assessed at least once a year <p>Optional:</p> <ul style="list-style-type: none"> Observation by trained evaluators independent of school and/or trained in-school peer teachers may be included in whatever portion of the 60 points is assigned to classroom observation Observations may be in-person or by video. Structured review of student work and/or teacher artifacts using "portfolio" or "evidence binder" processes Feedback from students, parents, and/or other teachers using structured survey tools Individual professional growth goals with teacher self-reflection (maximum 5 points) 	<p>Requirements:</p> <p>Multiple measures</p> <ul style="list-style-type: none"> At least 40 of 60 points based on supervisor's broad assessment of principal leadership and management actions <ul style="list-style-type: none"> Must incorporate supervisory visit(s) to school and at least two other sources of evidence from the following options: structured feedback from constituencies including: teachers, students, and/or families; school visits by other trained independent evaluators; review of school documents, records, state accountability processes and/or other locally-determined sources <p>Any remaining points will be based on results of one or more ambitious and measurable goals set collaboratively with their lead evaluators.</p> <ul style="list-style-type: none"> At least one goal must address the principal's contribution to improving teacher effectiveness, including but not limited to improved retention of high performing teachers, student growth scores of teachers granted vs. denied tenure; the quality of feedback provided to teachers, facilitation of teacher participation in professional development opportunities and/or the quality and effectiveness of teacher evaluations Any other goals shall address quantifiable and verifiable improvements in academic results or the school's learning environment resulting from principal's leadership and commitment to their own professional growth Any remaining leadership standards not addressed through above requirements must be assessed at least once a year 	

Teacher and Principal: Subcomponent and Composite Scoring and Ratings

The legislation requires the Regents to prescribe the scoring ranges for each of the following rating categories: Highly Effective, Effective, Developing and Ineffective (HEDI).

SED will require districts to do the following around scoring of the subcomponents of evaluation for local achievement measures and the “other 60%”.

- The process by which points are assigned in subcomponents must be transparent and provided in advance to those being rated.
- District plans must be made publicly available on the district’s or BOCES’ website and must specify how points will be assigned based on locally selected student achievement and other measures.
- The method for assigning subcomponent points must identify how points will be awarded within four performance levels (HEDI) for the “local measures of student achievement” and the “other measures of effectiveness” subcomponents using the following standards:

Level	Growth	Local assessment growth or achievement	Other (Teacher and Leader standards)
Ineffective	Results are well-below state average for similar students (or district goals if no state test).	Results are well-below District or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results do not meet standards.
Developing	Results are below state average for similar students. (or district goals if no state test).	Results are below District or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results need improvement in order to meet standards.
Effective	Results meet state average for similar students. (or district goals if no state test).	Results meet District or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results meet standards.
Highly Effective	Results are well-above state average for similar students. (or district goals if no state test).	Results are well-above District or BOCES -adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results exceed standards.

Commissioner will review specific scoring ranges annually before the start of each school year and recommend any changes to the Board of Regents. For 2011-12, these will be:

Level	Measures of student growth	Local measures of student achievement	Other 60 points	Overall Composite Score
Ineffective	0-2	0-2	Ranges determined locally	0-64
Developing	3-11	3-11		65-74
Effective	12-17	12-17		75-90
Highly Effective	18-20	18-20		91-100

Note: The August 2011 Court decision invalidates the above composite scoring bands to the extent they violate the multiple measures provision of the statute, but explicitly upholds the Commissioner’s authority to set the composite scoring bands.

District Annual Professional Performance Review Plan

Annually, each district will submit to the State a professional performance review plan and make it public on their web-site including:

- the process for ensuring that SED receives timely and accurate teacher, course and student “linkage” data, and the process for teachers and principals to verify the courses and/or student rosters assigned to them;
- process for reporting to SED the individual subcomponent scores and the total composite effectiveness score for each applicable educator;
- description of the assessment development, security, and scoring processes utilized by district or BOCES including ensuring that assessments are not disseminated to students before administration and that teachers or principals do not have a vested interest in the outcome of the assessments they score;
- decisions about local measures of student achievement; teacher and principal practice rubrics; any other instruments (such as surveys, self-assessments, portfolios); and the scoring methodology for the assignment of points to locally selected measures of student achievement and other measures of teacher or principal effectiveness;
- how educators will receive timely and constructive feedback as part of the evaluation process;
- how appeals of annual performance evaluations will be handled.

NOTE: The August 2011 Court decision invalidates section 30-2.11(c) of the proposed regulations, which relates to determinations by districts to terminate or deny tenure to probationary teachers during the pendency of appeals, to the extent set forth in the Decision and Order.)

Other Requirements in Regulations

- District or BOCES must address how the performance of teachers or principals whose performance is evaluated as needing an individual improvement plan;
- District or BOCES must ensure that all evaluators are properly trained and that lead evaluators, who complete an individual's performance review, will be "certified" to conduct evaluations, consistent with regulations. Evaluator training will address specific considerations in evaluating teachers and principals of English Language Learners and students with disabilities;
- How District or BOCES will ensure that lead evaluators maintain inter-rater reliability over time and the how they will periodically recertify lead evaluators;
- SED will conduct ongoing monitoring and may require corrective action around evaluation implementation (**NOTE The August 2011 Court decision invalidates section §30-2.12[b], which relates to the Commissioner's authority to order appointment of independent evaluators.**)

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