

The New York State Education Department is pleased to present for public comment proposed draft regulations to implement New York’s teacher and principal evaluation law, section 3012-c of the Education Law as added by Chapter 103 of the Laws of 2010. This new evaluation system is a critical element of the Regents reform agenda—an agenda aimed at improving teaching and learning in New York and increasing the opportunity for all students to graduate from high school ready for college and careers.

The new evaluation system is grounded in the New York State Teaching Standards and the ISLLC Educational Leadership Policy Standards. Within that framework, the proposed draft regulations afford flexibility for districts and Boards of Cooperative Educational Services (BOCES) to adopt the practices, measures, and tools that will work best in their diverse educational and fiscal contexts.

A primary objective of New York’s teacher and principal evaluation system is to foster a culture of continuous professional growth. The system’s three components are designed to complement one another:

- Statewide student growth measures will identify those educators whose students’ progress exceeds that of their peers, as well as those whose students are falling behind compared to similar students.
- Locally selected measures of student achievement will reflect local priorities, needs, and targets.
- Teacher observations, survey tools, and other measures will provide educators with detailed, structured feedback on their professional practice.

Taken together, this information will be used to tailor professional development and support for educators to develop and improve their instructional practices, with the ultimate goal of ensuring that there is an effective teacher in every classroom and an effective leader in every school.

The Department wishes to acknowledge the hard work and dedication of the Regents Task Force on Teacher and Principal Effectiveness—an advisory committee made up of representatives of teachers, principals, superintendents of schools, school boards, school districts, BOCES, and other interested parties—whose thoughtful recommendations are reflected in many places throughout the draft regulations.

#### AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 207, 3001, 3004, 3012-c of the Education Law and Chapter 103 of the Laws of 2010.

1. Paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education is repealed, effective xxx, 2011.

2. Paragraph (2) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education is renumbered paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education, effective xxx, 2011.

3. Subparagraph (ii) of renumbered paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective xxx, 2011, to read as follows:

(ii) Annual review. The governing body of each school district and BOCES shall ensure that the performance of all teachers providing instructional services

or pupil personnel services, as defined in section 80-1.1 of this Title, is reviewed annually in accordance with this subdivision, except evening school teachers of adults enrolled in nonacademic, vocational subjects; and supplementary school personnel, as defined in section 80-5.6 of this Title, and any classroom teacher subject to the evaluation requirements prescribed in Subpart 30-1 of this Title.

4. Subclause (1) of clause (a) of subparagraph (iv) of renumbered paragraph (1) of subdivision (o) of section 100.2 is amended, effective xxx, 2011, to read as follows:

(1) Except as otherwise provided in subparagraph (o)(1)(ii) of this subdivision. [By] by September 1, 2011, the governing body of each school district and BOCES shall adopt a plan, which may be an annual or multi-year plan, for the annual professional performance review of its teachers providing instructional services or pupil personnel services, as defined in section 80-1.1 of this Title, that meets the content requirements prescribed in clause (b) of this subparagraph.

5. Clause (b) of subparagraph (vii) of renumbered paragraph (1) of subdivision (o) of section 100.2 shall be repealed, effective xxx, 2011.

6. The title of Part 30 of the Rules of the Board of Regents is amended, effective xxx, 2011, to read as follows:

Part 30

[TENURE] ANNUAL PROFESSIONAL PERFORMANCE  
REVIEWS FOR CLASSROOM TEACHERS AND BUILDING  
PRINCIPALS AND TENURE AREAS

7. A new Subpart 30-2 is added, effective xxx, 2011, to read as follows:

Subpart 30-2 Annual Professional Performance Reviews of Classroom Teachers and Building Principals.

§30-2.1. Applicability.

(a) For annual professional performance reviews conducted by school districts or boards of cooperative educational services (BOCES) for the 2011-2012 school year, the governing body of each school district and BOCES shall ensure that:

(1) reviews of all classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals of schools in which such teachers are employed are conducted in accordance with the requirements of section 3012-c of the Education Law and the provisions of this Subpart; and

(2) reviews of classroom teachers (other than classroom teachers in the common branch subjects or English language arts or mathematics in grades four to eight) are conducted in accordance with subdivision (o) of section 100.2 of this Title.

(b) For annual professional performance reviews conducted by school districts or BOCES in the 2012-2013 school year and any school year thereafter, 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.

(c) Nothing in this Subpart shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on July 1, 2010 during the term of such agreement and until the 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 provisions of this Subpart shall apply.

§30-2.2 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 standardized student assessment approved by the Commissioner for inclusion in the State Education Department's lists of approved standardized student assessments for the locally selected measures subcomponent and/or to measure student growth in non-tested subjects for the State assessment or other comparable measures subcomponent.

(c) Building principal or principal shall mean a principal or co-principal of a registered public school or an administrator in charge of an instructional program of a school district or board of cooperative educational services.

(d) 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.

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

(f) Composite effectiveness score shall mean the total effectiveness score out of 100 points assigned to a teacher or principal for an evaluation conducted pursuant to this Subpart. This score shall be calculated based on the sum of the three subcomponent scores described below:

(1) student growth on State assessments or other comparable measures: (0-20 points for the 2011-2012 school year and in subsequent years for those grades/subjects where there is no value-added growth model approved by the Board of Regents and 0-25 points for the 2012-2013 school year and thereafter for those grades/subjects where a value-added growth model is approved by the Board of Regents);

(2) locally selected measures of student achievement (0-20 points for the 2011-2012 school year and in subsequent years for those grades/subjects where there is no value-added growth model approved by the Board of Regents and 0-15 points for the 2012-2013 school year and thereafter for those grades/subjects where a value-added growth model is approved by the Board of Regents); and

(3) other measures of teacher and principal effectiveness (0-60 points for the 2011-2012 school year and thereafter).

(g) Developing means a rating received by a teacher or building principal, wherein the teacher or principal receives a composite effectiveness score within the minimum and maximum scoring range for this rating category as prescribed by the Commissioner in section 30-2.6 of this Subpart.

(h) Effective means a rating received by a teacher or building principal, wherein the teacher or building principal receives a composite effectiveness score within the minimum and maximum scoring range for this rating category as prescribed by the Commissioner in section 30-2.6 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 a rating received by a teacher or building principal, wherein the teacher or building principal receives a composite effectiveness score within the minimum and maximum scoring range for this rating category as prescribed by the Commissioner in section 30-2.6 of this Subpart.

(k) Ineffective means a rating received by a teacher or building principal, wherein the teacher or building principal receives a composite effectiveness score between the minimum and maximum scoring ranges for this rating category, as prescribed by the Commissioner in section 30-2.6 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.

(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).

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

(o) 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 measure and compares each student's performance to that of similarly achieving students.

(p) Subcomponents of the composite effectiveness score shall mean the three subcomponents of a teacher's or principal's evaluation and composite effectiveness score as described in subdivision (f) of this section.

(q) Teacher or principal student growth percentile score shall mean a measure of central tendency of the student growth percentile scores for a teacher's or principal's students after one or more of the following student characteristics are taken into consideration: poverty, students with disabilities and English language learners.

(r) Teacher(s) of record shall mean, for the 2011-2012 school year, those teachers who are primarily and directly responsible for a student's learning activities that are aligned to the performance measures of a course consistent with guidelines prescribed by the Commissioner. For the 2012-2013 school year and school years thereafter, teachers of record shall be defined in a manner prescribed by the Commissioner.

(s) 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; 2009- available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, New York 12234).

(t) The governing body of each school district shall mean the board of education of each school district, provided that, in the case of the City School District of the City of New York, it 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 of New York and, in the case of BOCES, it shall mean the board of cooperative educational services.

(u) Value-added growth score shall mean the result of a statistical model that incorporates a student's academic history and may use other student demographics and characteristics, school characteristics and/or teacher characteristics to isolate statistically the effect on student growth from those characteristics that are generally not in the teacher's or principal's control. The

characteristics included may be different for teachers and principals, based on empirical evidence and policy determinations.

§30-2.3 Requirements for annual professional performance review plans submitted under this Subpart.

(a) Applicability.

(1) By September 1, 2011, the governing body of each school district and BOCES shall adopt a plan in accordance with the requirements of this Subpart for the annual professional performance review of its classroom teachers of common branch subjects, English language arts or mathematics in grades four to eight and building principals of schools in which such teachers are employed.

(2) By September 1, 2012, the governing body of each school district and BOCES shall adopt a plan in accordance with the requirements of this Subpart, which may be an annual or multi-year plan, for the annual professional performance review of all of its classroom teachers and building principals.

(3) Such plan shall be approved by the governing body of each school district or BOCES, filed in the district or BOCES office, as applicable, and made available for review by any individual upon request no later than September 10<sup>th</sup> of each school year.

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

(1) describe the school district's or BOCES' 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 or BOCES will report to the Department the individual subcomponent scores and the total composite effectiveness score for each classroom teacher and building principal in the school district or BOCES;

(3) describe the assessment development, security, and scoring processes utilized by the school district or BOCES. Such processes shall ensure that any assessments and measures used to evaluate teachers and principals under this section 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;

(4) describe the details of the school district's or BOCES' evaluation system, which shall include, but not be limited to, the local measures of student achievement that will be used for the evaluation of teachers and principals, the name of the approved teacher and/or principal practices rubric that the district or BOCES uses or evidence that a variance has been granted from this requirement, any other instruments (such as observations, surveys, self-assessment, portfolios) that will be used to evaluate a teacher's or principal's performance for the remaining 60 points of the evaluation, and the district's or BOCES' scoring methodology for the assignment of points to the following

subcomponents: locally selected measures of student achievement and other measures of teacher or principal effectiveness;

(5) provide the ratio of teachers and principals to evaluators, with a description of the district's or BOCES' plan to ensure that evaluators have sufficient time/resources to complete their commitments;

(6) describe how the designated quality rating categories (Highly Effective, Effective, Developing and Ineffective) will be used as a significant factor in employment decisions, including promotion, retention, tenure determinations, termination, and supplemental compensation;

(7) describe how the annual professional performance review will be used as a significant factor in teacher and principal development, including, but not limited to, coaching, induction support and differentiated professional development; and

(8) describe how the school district or BOCES will provide timely and constructive feedback to classroom teachers and building principals on their annual professional performance review.

§30-2.4 Annual professional performance reviews conducted in the 2011-2012 school year for classroom teachers of common branch subjects, English language arts or mathematics in grades four to eight and all building principals employed in such schools.

(a) Composite effectiveness score. Annual professional performance reviews conducted pursuant to this section shall differentiate teacher and principal effectiveness using a composite effectiveness score. Based on such

composite effectiveness score, a classroom teacher or building principal shall be rated as Highly Effective, Effective, Developing or Ineffective as defined in this Subpart.

(b) State assessments or other comparable measures subcomponent.

(1) State assessments. Twenty points of the teacher's or principal's composite effectiveness score shall be based upon the teacher's or principal's student growth percentile score on State assessments in English language arts and/or mathematics in grades four to eight.

(c) Locally selected measures.

(1) Twenty points of the teacher's or principal's composite effectiveness score shall be based upon locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms.

(2) For purposes of this section:

(i) rigorous shall mean that the locally selected measure is aligned to the New York State learning standards and, to the extent practicable, is valid and reliable as defined by the Testing Standards.

(ii) comparable across classrooms shall mean that the same locally selected measure(s) of student achievement or growth is used across a subject and/or grade level within the school district or BOCES. For principals, the same locally selected measure(s) must be used for all principals in the same or similar program or grade configuration in that school district or BOCES.

(3) Classroom Teachers.

(i) Except as otherwise provided in subparagraphs (ii) and (iii) of this paragraph, one or more of the following locally selected measures of student achievement or growth may be used for the evaluation of classroom teachers:

(a) a student assessment approved by the Department pursuant to the request for qualification process described in section 30-2.8 of this Subpart;

(b) a district- or BOCES-developed assessment;

(c) a school-wide, group or team metric based on an approved student assessment or State assessment across multiple classrooms in a grade level or subject area (e.g., school-wide growth on a locally selected math assessment or grade-level growth on the grade four English language arts State assessment);

(d) student achievement on State assessments; or

(e) a structured district-wide student growth goal-setting process to be used with any State assessment, an approved student assessment, or other assessment (teacher-created).

(ii) For school districts or BOCES that use one of the measures enumerated in clauses (b), (c) or (e) of subparagraph (i) of this paragraph, the superintendent, district superintendent or Chancellor shall certify, in the annual professional performance review plan, that the measure is rigorous and comparable across classrooms as defined in this subdivision and explain how the locally selected measure meets these requirements.

(iii) For school districts or BOCES that use more than one of the local measures described in subparagraph (i) of this paragraph for a grade/subject (e.g., one measure is utilized for half of the fifth grade math class and another

measure is utilized for the other half of the fifth grade math class), the superintendent, district superintendent or Chancellor shall certify in the annual professional performance review plan that the measures are comparable, in accordance with the Testing Standards.

(iv) For school districts or BOCES that select a local measure based on State assessments, the district or BOCES may not use the same measure of student growth on the State assessment for both the State assessment subcomponent and the locally selected measures subcomponent.

(4) Principals.

(i) Except as otherwise provided in subparagraph (ii) of this paragraph, one or more of the following types of local measures of student achievement or growth may be used for the evaluation of principals, provided that each measure is rigorous and comparable across classrooms as defined in this section:

(a) student achievement levels on State assessments in English language arts and/or mathematics in grades four to eight (e.g., percentage of students in the school whose performance levels on State assessments are proficient or advanced, as defined in section 100.2(p)(1)(5) of this Title);

(b) student growth on State or other assessments in English language arts and/or mathematics in grades four to eight for students in each of the performance levels described in section 100.2(p)(1)(5) of this Title;

(c) student growth or achievement on State assessments in English language arts and/or mathematics in grades four to eight for students with disabilities and English language learners in grades four to eight;

(d) student performance on any or all of the district-wide locally selected measures approved for use in teacher evaluations as described in paragraph (3) of this subdivision;

(e) high school graduation and/or dropout rates for principals employed in a school with high school grades;

(f) percentage of students who earn a Regents diploma with advanced designation and/or honors as defined in section 100.5(b)(7) of this Title, for principals employed in a school with high school grades;

(g) percentage of a cohort of students that achieve specified scores on Regents examinations and/or Department approved alternative examinations as described in 100.2(f) of this Title (including, but not limited to, Advanced Placement examinations, International Baccalaureate examinations, SAT II, etc.), for principals employed in a school with high school grades (e.g., the percentage of students in the 2009 cohort that scored at least a 3 on an Advanced Placement examination since entry into the ninth grade); and/or

(h) students' progress toward graduation in the school using strong predictive indicators, including but not limited to 9<sup>th</sup> and/or 10<sup>th</sup> grade credit accumulation and/or the percentage of students that pass 9<sup>th</sup> and/or 10<sup>th</sup> grade subjects most commonly associated with graduation and/or students' progress in passing the number of required Regents examinations for graduation, for principals employed in a school with high school grades.

(ii) For school districts or BOCES that choose to use more than one set of locally selected measures described in this paragraph for principals in the same

or similar grade configuration or program (e.g., one K-5 principal evaluated using one set of locally selected measures and another K-5 principal in the district evaluated using another set of locally selected measures), the superintendent or district superintendent shall, in their professional performance review plan, certify that the sets of measures are comparable, in accordance with the Testing Standards.

(iii) For school districts or BOCES that select a local measure based on State assessments, the district or BOCES may not use the same measure of student growth on the State assessment for both the State assessment subcomponent and the locally selected measures subcomponent.

(d) Other Measures of Teacher and Principal Effectiveness.

(1) Classroom Teacher.

(i) Sixty points of a teacher's composite effectiveness score shall be based on multiple measures, using the criteria prescribed in this subdivision. Such measures shall be aligned with the New York State Teaching standards, which are enumerated below, and their related elements and performance indicators:

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

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

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

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

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

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

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

(ii) Rubric. A teacher's performance under this subcomponent must be assessed based on a teacher practice rubric(s) approved by the Department in accordance with section 30-2.7 of this Subpart. The same rubric(s) shall be used for all classroom teachers in a given grade/subject across the district.

(a) Variance for use of existing rubrics. A variance may be granted to a school district or BOCES 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 section 30-2.7 of this Subpart and the school district or BOCES 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 school district or BOCES that seeks to use a newly developed rubric, upon a finding by the Commissioner that the rubric meets the criteria described in section 30-2.7 of this Subpart and the school district or BOCES has demonstrated how it will ensure inter-rater reliability and the rubric's ability to provide differentiated assessments over time.

(iii) Classroom Observations. In order to support continuous professional growth, at least half of these 60 points shall be based on classroom observations, which may be performed in-person or by video and shall include at least one observation by a principal or other trained administrator. Some of these points may also be based on one or more observations by independent trained evaluators or in-school peer teachers.

(iv) The remaining points of the 60 points shall be based on a combination of any of the following criteria:

(a) evidence of student development and performance through structured reviews of student work and/or artifacts of teacher practice using portfolios or evidence binder processes;

(b) evidence that the teacher develops effective relationships with students, parents, caregivers and relevant stakeholders to maximize student growth, development and learning through the use of surveys and/or feedback from students, parents/caregivers and/or their peers using structured survey tools; or

(c) evidence that the teacher sets informed professional growth goals and strives for continuous professional growth as demonstrated through teacher self-reflections and teacher progress on professional growth goals, provided that no more than five points shall be attributed to this criterion.

(2) Building Principals.

(i) Sixty points of a building principal's composite effectiveness score shall be based on multiple measures, using the criteria prescribed in this subdivision. Such measures shall be aligned with the Leadership Standards, enumerated below, and their related elements:

An education leader promotes the success of every student by:

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

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

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

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

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

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

(ii) Rubric. A principal's performance under this subcomponent must be assessed based on an approved principal practice rubric in accordance with section 30-2.7 of this Subpart. Such rubric shall be used for all building principals across the district.

(a) Variance for use of existing rubrics. A variance may be granted to a school district or BOCES that seeks to use a rubric that is either a close adaptation of a rubric in 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 section 30-2.7 of this Subpart and the school district or BOCES 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 school district or BOCES that seeks to use a newly developed rubric, upon a finding by the Commissioner that the rubric meets the criteria described in section 30-2.7 and the school district or BOCES has demonstrated how it will ensure inter-rater reliability and the rubric's ability to provide differentiated assessments over time.

(iii) At least half of the 60 points assigned to this subcomponent shall be based on a broad assessment of the principal's leadership and management actions by the building principal's supervisor or a trained independent evaluator. This assessment must incorporate one or more school visits by a supervisor and at least two other sources of evidence from the following options: structured

feedback from teachers, students, and/or families; school visits by other trained evaluators; review of school documents, records, state accountability processes and/or other locally-determined sources.

(iv) In addition, this subcomponent shall also include a locally selected measure of principal contribution to improving teacher effectiveness, which may include, but need not be limited to: improved retention of high performing teachers, the correlation between student growth scores of teachers granted tenure as opposed to those denied tenure, teacher satisfaction with feedback and professional development opportunities and/or the quality and effectiveness of teacher evaluations conducted under this section.

(v) Any remaining points of the 60 points shall be based on the following criteria:

(a) results of school improvement goals set collaboratively by the superintendent and principal; or

(b) individual professional development, with principal self-reflection, provided that no more than five points shall be attributed to this criterion.

§30-2.5 Annual professional performance reviews conducted for the 2012-2013 school year and each school year thereafter.

(a) State assessments or other comparable measures of student growth.

(1) Classroom teachers:

(i) For classroom teachers who teach English language arts or mathematics in grades four to eight or teach a subject in any grade for which there is a State assessment with an approved value-added growth model (e.g.,

Regents examinations, State assessments in science in grades four and eight or any other State assessment that may be created), a score from 0 to 25 points will be generated for the State assessment subcomponent of the teacher's composite effectiveness score based on the teacher's value-added growth score on such assessment(s).

(ii) In the event the Board of Regents has not approved a value-added growth model for English language arts or mathematics in grades four to eight in the 2012-2013 school year, a score from 0-20 points will be generated for this subcomponent using the teacher's or principal's student growth percentile score on such assessments.

(iii) Except as otherwise provided in subparagraph (ii) of this paragraph, for classroom teachers who teach one of the core subjects (English language arts, mathematics, science or social studies) in grades six to 11 where there is no State assessment with an approved value-added growth model at that grade level or in that subject, the school district or BOCES shall measure student growth based on a State-determined district-wide student growth goal setting process based upon State-approved standardized student assessments for such subjects. A school district or BOCES shall generate a score from 0 to 20 points for this subcomponent.

(iv) For all other classroom teachers who teach grades/subjects where there is no value-added growth model approved by the Board of Regents, the school district or BOCES shall generate a score from 0 to 20 points for this subcomponent based on a State-determined district-wide student growth goal-

setting process to be used with one or more of the following types of district-selected student assessments for each subject:

(a) State-approved third-party, State or other student assessments;

(b) district- or BOCES- developed student assessments, provided that the district or BOCES verifies comparability and rigor as defined in section 30-2.4 of this Subpart;

(c) school-wide, group or team results based on the most applicable State assessment(s); or

(d) school or classroom-developed student assessments.

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

(vi) If the classroom teacher is responsible for teaching one or more course(s) for which there is an approved value-added growth model and one or more other course(s) for which no growth model has been approved, a score shall be generated for this subcomponent based on a methodology prescribed by the Commissioner.

(2) Building Principals.

(i) For a building principal employed in a school or program where the English language arts and/or mathematics State assessments in grades four to eight were administered in that school year or in any other subject in any grade where the Board of Regents has approved a value-added growth model (e.g., Regents examinations, State assessments in science in grades four and eight or

any other State assessment that may be created), the principal shall be assigned a score from 0-25 points for this subcomponent based on a formula prescribed by the Commissioner.

(ii) In the event the Board of Regents has not approved a value-added growth model for English language arts and/or mathematics State assessments in grades four to eight in the 2012-2013 school year, a score from 0-20 points will be generated using the principal's student growth percentile score on such assessments.

(iii) Except as otherwise provided in subparagraph (ii) of this paragraph, for a building principal employed in a school or program where there is no value-added growth model approved by the Board of Regents for any course and/or subject taught in the school, a score from 0 to 20 points will be generated based on student growth on one or more of the locally selected measures approved by the Commissioner to evaluate teachers as part of the locally selected measures subcomponent of the evaluation as defined in this section. The school district or BOCES shall measure student growth using the same locally selected measure(s) for all building principals employed in a school within the same grade configuration or program.

(iv) If the building principal is employed in a school where there are subjects being taught that have an approved value-added growth model and there are other course(s) for which no value-added growth model has been approved, the building principal's score on this subcomponent shall be based on a methodology prescribed by the Commissioner.

(b) Locally Selected Measures.

(1) The score for the locally selected measures subcomponent shall be based on the State subcomponent score (e.g., if 0-25 points assigned to State subcomponent based on value-added growth model, a score of 0-15 points will be assigned to this subcomponent; and if 0-20 points assigned to State subcomponent because there is no approved value-added growth model, a score of 0-20 points will be assigned to this subcomponent). A teacher's or principal's score for this subcomponent shall be based upon one or more of the approved locally selected measures of student achievement listed in section 30-2.4(c) of this Subpart, provided that such measures are rigorous and comparable across classrooms as defined in such section.

(c) The remaining 60 points of a teacher's or principal's composite effectiveness score shall be based on the standards prescribed in subdivision (d) of section 30-2.4 of this Subpart.

§30-2.6 Scoring Ranges for Rating Categories.

(a) The governing body of each school district and BOCES shall ensure that the rating category assigned to each classroom teacher and building principal is determined by a single composite effectiveness score that is calculated based on the scores received by the teacher or principal in each of the subcomponents in accordance with the requirements of this section.

(1) Overall Ratings. For the 2011-2012 school year, a classroom teacher and building principal shall be deemed to be:

(i) Highly Effective if they achieve a composite effectiveness score of 91-100.

(ii) Effective if they achieve a composite effectiveness score of 75-90.

(iii) Developing if they achieve a composite effectiveness score of 51-74.

(iv) Ineffective if they achieve a composite effectiveness score of 0-50.

(2) The Commissioner will review the specific scoring ranges for each of the rating categories annually before the start of each school year and will recommend any changes to the Board of Regents for approval.

(b) State assessments or Other Comparable Measures Subcomponent.

(1) For the 2011-2012 school year, a classroom teacher and building principal shall receive:

(i) a Highly Effective rating in this subcomponent if the teacher's or principal's results are well-above the State average for similar students and they achieve a subcomponent score of 18-20;

(ii) an Effective rating in this subcomponent if the teacher's or principal's results meet the State average for similar students and they achieve a subcomponent score of 12-17;

(iii) a Developing rating in this subcomponent if the teacher's or principal's results are below the State average for similar students and they achieve a subcomponent score of 6-11; or

(iv) an Ineffective rating in this subcomponent, if the teacher or principal's results are well-below the State average for similar students and they achieve a subcomponent score of 0-5.

(2) The Commissioner will review the specific scoring ranges for each of the quality review categories annually before the start of each school year and will recommend any changes to the Board of Regents for approval.

(c) Locally selected measures.

(1) For the 2011-2012 school year, a classroom teacher and building principal shall receive:

(i) a Highly Effective rating in this subcomponent if the teacher or principal exceeds district-adopted expectations for student growth or achievement and they achieve a subcomponent score of 18-20;

(ii) an Effective rating in this subcomponent if the teacher or principal achieves district-adopted expectations for growth or achievement and they achieve a subcomponent score of 12-17;

(iii) a Developing rating in this subcomponent if the teacher or principal partially achieves district-adopted expectations for growth or achievement and they achieve a subcomponent score of 6-11; or

(iv) an Ineffective rating in this subcomponent, if the teacher or principal does not achieve district-adopted expectations for growth or achievement and they achieve a subcomponent score of 0-5.

(2) The Commissioner will review the specific scoring ranges for each of the quality review categories annually before the start of each school year and will recommend any changes to the Board of Regents for approval.

(e) Other Measures of Teacher and Principal Effectiveness. The district or BOCES shall prescribe specific minimum and maximum scoring ranges for

each performance level within this subcomponent before the start of each school year and shall assign points to a teacher or principal based on the following standards:

(1) A teacher or principal shall receive:

(i) a Highly Effective rating in this subcomponent if the teacher's or principal's overall performance and results exceed the New York State Teaching or Leadership Standards;

(ii) an Effective rating in this subcomponent if the teacher's or principal's overall performance and results meet the New York State Teaching or Leadership Standards;

(iii) a Developing rating in this subcomponent if the teacher's or principal's overall performance and results need improvement to meet the New York State Teaching or Leadership Standards; or

(iv) an Ineffective rating in this subcomponent if the teacher's or principal's overall performance and results do not meet the New York State Teaching or Leadership Standards.

(f) The process by which points are assigned in subcomponents and the scoring ranges for the subcomponents must be transparent and available to those being rated before the beginning of each school year.

§30-2.7 Approval process for approved teacher and principal practice rubrics.

(a) A provider who seeks to place a teacher or principal practice rubric in 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 in the Department's list of approved practice rubrics for classroom teachers pursuant to a request for qualification ("RFQ") process. Such proposals shall meet the following minimum criteria and any supplemental criteria outlined by the Commissioner in the RFQ process:

(1) the rubric must broadly cover the Teaching Standards and their related elements;

(2) the rubric must be grounded in research about teaching practice that supports positive student learning outcomes;

(3) the rubric must have four performance rating categories. If a rubric does not have four levels that match the rating categories of Highly Effective, Effective, Developing and Ineffective, the rubric's summary ratings must be easily convertible to the four rating categories that New York State has adopted;

(4) the rubric must clearly define the expectations for each rating category. The Highly Effective and Effective rating categories must encourage excellence beyond a minimally acceptable level of effort or compliance;

(5) to the extent possible, the rubric should rely on specific, discrete, observable, and/or measurable behaviors by students and teachers in the classroom with direct evidence of student engagement and learning;

(6) the rubric must use clear and precise language that facilitates common understanding among teachers and administrators;

(7) the rubric must be specifically designed to assess the classroom effectiveness of teachers;

(8) the rubric must include descriptions of any specific training and implementation details that are required for the rubric to be effective; and

(9) rubric shall be applicable to all grades and subjects or if designed explicitly for specific grades and/or subjects, a rubric will only be approved for use in the grades or subjects for which it is designed.

(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 following minimum criteria and any supplemental criteria outlined by the Commissioner in the RFQ process:

(1) the rubric must broadly cover the Leadership Standards and their related domains and elements;

(2) the rubric must be grounded in research about leadership practice that supports positive student learning outcomes;

(3) the rubric must have four performance rating categories. If a rubric does not have four levels that match the rating categories of Highly Effective, Effective, Developing, and Ineffective, the rubric’s summary ratings must be easily convertible to the four rating categories that New York State has adopted;

(4) the rubric must clearly define the expectations for each rating category.

The Highly Effective and Effective rating categories must encourage excellence beyond a minimally acceptable level of effort or compliance;

(5) to the extent possible, the rubric should rely on specific, discrete, observable, and/or measurable behaviors by principals and their staff and students;

(6) the rubric must use clear and precise language that facilitates common understanding among building principals and their evaluators;

(7) the rubric must be specifically designed to assess the effectiveness of school leaders; and

(8) the rubric must include descriptions of any specific training and implementation details that are required for the rubric to be effective.

(d) Termination of approval of a teacher or principal scoring rubric.

(1) 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:

(i) 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;

(ii) the Department determines that the practice rubric is not identifying meaningful and/or observable differences in performance levels across schools and classrooms; and/or

(iii) high-quality academic research calls into question the correlation between high performance on this rubric and positive student learning outcomes.

(2) Termination of a rubric from the approved list shall be conducted in accordance with the following procedures:

(i) The Commissioner or his/her designee shall notify the provider of the approved rubric in writing of the intent to terminate approval at least 30 calendar days prior to the effective date of the termination. Such notification shall include a list of the identified deficiencies.

(ii) The provider may reply in writing within 10 calendar days of receipt of the Commissioner's notification, addressing the Commissioner's statement of reasons, indicating whether deficiencies and/or violations exist, what steps have been taken to correct conceded deficiencies and/or violations, and the time period and steps by which deficiencies and/or violations will be corrected. If no reply is received, termination and removal from the list will become effective 30 calendar days from the date of receipt of the Commissioner's notification.

(iii) Within three business days of receipt of the Commissioner's notification, the provider may request oral argument before the Commissioner or his/her designee.

(iv) After consideration of any written response and of any oral argument, a determination shall be made whether approval shall be terminated. Notice of such determination shall be provided in writing to the provider.

§30-2.8 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 for inclusion on the Department's list of approved student assessments for the locally selected measures subcomponent, based on the following minimum criteria and any supplemental criteria established by the Commissioner in the RFQ:

(1) the assessment is aligned with the New York State learning standards; and

(2) the assessment must comply with industry standards of reliability and validity as defined in the Testing Standards.

(c) The Commissioner shall also evaluate student assessment for inclusion on the Department's list of approved student assessments for student growth in non-tested subjects based on the following minimum criteria and any supplemental criteria established by the Commissioner in the RFQ Process:

(1) the assessment is aligned with the New York State learning standards;

(2) the assessment must comply with industry standards of reliability and validity as defined in the Testing Standards;

(3) the provider must demonstrate to the Department, with a detailed procedure for measuring growth using the student assessment, that such assessment will result in normative inferences about each individual's student growth; and

(4) the provider must provide information to the Department on the one or more norming groups used to calculate normative growth as well as the required test administration procedure, including a recommended testing timeline when using the instrument to measure growth, including the potential use of a pre-test or other tool in the first year of implementation.

(c) Termination of approval.

(1) Approval shall be withdrawn for good cause, including, but not limited to, a determination by the Commissioner that:

(i) does not comply with one or more of the criteria for approval set forth in this section or the criteria set forth in the RFQ;

(ii) the Department determines that the assessment is not identifying meaningful and/or observable differences in performance levels across schools and classrooms; and/or

(iii) high quality academic research calls into question the correlation between high performance on the assessment and positive student learning outcomes.

(2) Termination of a student assessment from the approved list shall be conducted in accordance with the following procedures:

(i) The Commissioner or his/her designee shall notify the provider of the approved assessment in writing of the intent to terminate approval at least 30 calendar days prior to the effective date of the termination, including a list of the identified deficiencies.

(ii) The provider may reply in writing within 10 calendar days of receipt of the Commissioner's notification, addressing the Commissioner's statement of reasons, indicating whether deficiencies and/or violations exist, what steps have been taken to correct conceded deficiencies and/or violations, and the time period and steps by which deficiencies and/or violations will be corrected. If no reply is received, termination and removal from the list will become effective 30 calendar days from the date of receipt of the Commissioner's notification.

(iii) Within three business days of receipt of the Commissioner's notification, the provider may request oral argument before the Commissioner or his/her designee.

(iv) After consideration of any written response and of any oral argument, a determination shall be made whether approval shall be terminated. Notice of such determination shall be provided in writing to the provider.

§30-2.9 Training of evaluators and lead evaluators.

(a) The governing body of each school district and BOCES shall ensure that evaluators have appropriate training before conducting an evaluation under this section. The governing body shall also ensure that any lead evaluator has been certified as a qualified evaluator before conducting and/or completing a teacher's or principal's evaluation in accordance with the requirements of this section.

(b) To qualify for certification as a lead evaluator under this section, 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 the Leadership Standards and their related elements and performance indicators, as applicable;

(2) evidence-based observation techniques that are grounded in research;

(3) application and use of the student growth percentile model and the value-added growth model as defined in section 30-2.2 of this Subpart;

(4) application and use of the State-approved teacher or principal rubric(s) selected by the district or BOCES for use in evaluations, including training on the effective application of such rubric to observe a teacher or principal's practice;

(5) application and use of any assessment tools that the school district or BOCES utilizes to evaluate its classroom teachers or building principals, including but not limited to, structured portfolio reviews; student, parent, teacher and/or community surveys; professional growth goals and school improvement goals, etc.;

(6) application and use of any State-approved locally selected measures of student achievement used by the school district or BOCES to evaluate its teachers or principals;

(7) use of the Statewide Instructional Reporting System; and

(8) the scoring methodology utilized by the Department and/or the district or BOCES to evaluate a teacher or principal under this Subpart, including how

scores are generated for each subcomponent and the composite effectiveness score and application and use of the scoring ranges prescribed by the Commissioner for the four designated rating categories used for the teacher's or principal's overall rating and their subcomponent ratings.

(c) 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.

(d) School districts and BOCES shall also describe in their annual professional performance review plan their process for ensuring that lead 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 lead evaluators.

(e) Any individual who fails to achieve required training or certification or re-certification, as applicable, by a school district or BOCES pursuant to the requirements of this section shall not conduct or complete an evaluation under this Subpart.

§30-2.10 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 this Subpart, a school district or BOCES shall develop and commence

implementation of a teacher or principal improvement plan for such teacher or principal as soon as practicable but in no case later than 10 days after the date on which teachers are required to report prior to the opening of classes for the school year.

(b) Such improvement plan shall be developed locally through negotiations pursuant to article 14 of the Civil Service Law 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.

§30-2.11 Appeal Procedures.

(a) A professional performance plan under this Subpart shall describe the appeals procedure utilized by a school district or BOCES through which an evaluated teacher or principal may challenge their annual professional performance review. Pursuant to section 3012-c of the Education Law, a teacher or principal may only challenge the following in an appeal:

(1) the substance of the annual professional performance review;

(2) the school district's or BOCES' adherence to the standards and methodologies required for such reviews, pursuant to this Subpart;

(3) the adherence to the regulations of the Commissioner and compliance with any applicable locally negotiated procedures, as well as the school district's or BOCES' issuance and/or implementation of the terms of the teacher or principal improvement plan, as required under this Subpart.

(b) Appeal procedures shall provide for the timely and expeditious resolution of any appeal under this section.

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