

Summary of APPR Settlement

I. Assuring Compliance with APPR Law

NYSUT's first and foremost objective through the APPR settlement has been to ensure that the law as amended conforms in all respects to the language and spirit of the 2010 law (*Education Law* §3012-c), consistent with the Court decision. Most importantly, it needed to protect collective bargaining rights. The proposed settlement achieves that by: (a) nullifying a series of regulations which the Court found unlawful; and (b) adopting a series of statutory provisions to clarify and improve the law.

Including the agreed upon changes in the original statute rather than relying on Regulations, which could be readily altered by Board of Regents (BOR), is considered a highly advantageous approach and prevents the SED from changing these provisions unilaterally.

Specifically, the new proposed Regulations:

1. Expressly state, in conformity with the Court decision, that the selection of the local measures (both the 2nd 20% & 60% = 80% of the APPR score) shall be determined through collective bargaining. (This also addresses and fully puts to rest the claim by some districts that the 20% local assessment was to be selected by school districts and only the procedures needed to be bargained). Under the proposed amended APPR law both the selection of the local assessment and the procedures associated with that selection are subject to local collective bargaining.
2. Confirms that the cut points for the local measures (both the local 20% & the other measures 60% = 80% of the APPR score) will be determined through collective bargaining. The cut point signifies how a teacher reaches a HEDI category for the measure.
3. Requires adherence to the Supreme Court decision which states that the results of the APPR shall be "a significant factor" in tenure determination, retention and dismissal.
4. Under the proposed settlement, the revised APPR law will contain a series of 5 options, including an option for using the state assessments for the locally developed measures of student achievement to be selected through the collective bargaining process. The court decision allowed the use of state tests as a local measure so long as the measure on the state test is different from the measure used to determine the 20% on state growth and is developed through collective bargaining.
 - Under the proposed Regulations, a state assessment can (in some cases) be used for the 20% local measure, as long as it is a different measure from the state-provided growth measure used for the first 20% and again provided it is selected and developed through the collective bargaining process.
 - There are 3 other options for the local assessments remaining to select from for the local 20% that do not require the use of state assessments.

II. Observations – Other Measures subcomponent.

1. In response to the court decision, NYSUT was able to get SED to reduce the points for observation from 40 to a majority (greater than or equal to 31) of the 60 points. This subcomponent will include multiple observations, and at least one observation must be unannounced. However, all of the remaining procedures, including for the unannounced visit (e.g. the actual number of observations whatever type, duration, etc.) must be collectively bargained.
2. The remainder of the 60 points not covered by classroom observations are to be locally negotiated through selection from a series of options, including:
 - o Evidence of student development and performance through lesson plans, student portfolios and other artifacts of teacher practices through a structured review process.
 - o The option to utilize classroom observations conducted by trained in-school peer teachers.
 - o District hiring outside trained observers.
 - o The option to use state approved parent and student surveys.

III. Early Warning – The amended APPR law will require that school districts create an early warning system that will notify teachers before the end of the school year their rating and score for the 60% Other Measures, and the 20% Local Measures, if available. The early warning system is important because SED has indicated that the state growth data will not be available prior to the end of the school year and evaluations cannot be completed until the state growth measure is provided.

1. This will give teachers more time to assess their practice and plan accordingly, including professional development and support during the summer.
2. The TIP must be prepared and implemented as soon as practicable, but no later than 10 school days from the opening of classes. Under the APPR law, the TIP must be developed locally through negotiations.

IV. Scoring Bands – The scoring bands which under current law are set by the Commissioner, are now incorporated in the amended APPR law. The amended law expands the scoring bands for the effective category in the State 20% and the Local 20% (*please see charts below*). Placing the scoring bands into the law diminishes the authority of SED to unilaterally change the bands.

Scoring bands with a growth measure

Regulation	Student Growth	Local Measures	Other 60	Overall Composite
Ineffective	0-2	0-2		0-64
Developing	3-8	3-8		65-74
Effective	9-17	9-17		75-90
Highly Effective	18-20	18-20		91-100

Scoring bands with value added measure

Regulation	Student Growth	Local Measures	Other 60	Overall Composite
Ineffective	0-2	0-2		0-64
Developing	3-9	3-7		65-74
Effective	10-21	8-13		75-90
Highly Effective	22-25	14-15		91-100

V. Appeals – Under the amended law, the appeals process continues to be determined through collective bargaining.

VI. Review and approval process – In the Executive Budget, the Governor has expressly linked the APPR to any increase in school funding for the 2012-13 school year. For districts to be eligible to receive any increase in state aid (the 4%) they must submit an APPR plan that complies with Education Law 3012-c by Jan. 16, 2013. That budget bill also requires the Commissioner to review all APPR plans to assure conformity with the law. This means that SED is now required to create an APPR approval process. The review and approval process will call for the following:

1. SED will create a standard form that districts will submit to the Commissioner. The school superintendent and the local president must sign-off indicating that the locally negotiated APPR conforms with the APPR law as amended.
2. The plan must be submitted by July 1st, or as soon as negotiations are complete on all of the terms of the plan. The language of the law should put to rest any threats from districts regarding the PERB opinion in the Wappinger's Case. NYSUT Legal is prepared to challenge all attempts by school districts to unilaterally impose APPR plans.
3. Should a plan be rejected, the Commissioner must inform the school district of the specific deficiencies in the plan. If the deficiency involves a provision requiring negotiations, it must be resolved through collective bargaining and the plan re-submitted.