

New APPR Regulations and Teacher/Principal Evaluation Legislation



At its April 2010 meeting, the Board of Regents amended, by emergency action, Section 100.2(o) of the Regulations of the Commissioner of Education to ensure school districts and BOCES can implement changes to the annual professional performance reviews (APPR) of all teachers providing instructional services before the 2011-2012 school year.

NYSUT has longstanding policy on teacher evaluations, including the fundamental function of teacher evaluation to improve instruction. NYSUT has steadfastly advocated that teachers and their unions should be involved in the development of teacher evaluation procedures. NYSUT took an active role in shaping these recent regulatory and statutory changes rather than having teacher evaluation require-

ments imposed upon us. NYSUT and the State Education Department reached an agreement on a legislative proposal to create a more objective teacher and principal evaluation process and to require a locally-negotiated teacher improvement plan.

Chapter 103 of the Laws of 2010, including a new section 3012-c of the Education Law, was enacted on May 28, 2010, effective July 1, 2011. Chapter 103 caps the use of student growth based on the results of state tests initially at 20 percent and at 25 percent upon approval of a value-added model by the Board of Regents.

This document provides information on the changes to section 100.2(o) of the regulations regarding APPR and Chapter 103 of the Laws of 2010 as it affects only teachers.

Collectively, under the new APPR regulations and Teacher/Principal Evaluation Legislation:

- Evaluations will emphasize professional growth and provide support for teachers who need it and change the focus of evaluations from discipline to improving teaching practice and student learning.
- Student test scores will not be the exclusive determinant of teacher effectiveness.
- The role of collective bargaining is maintained.
- Due process rights for teachers are protected.
- A Teacher and Principal Effectiveness Advisory Committee (TPEAC) comprised of teachers, principals, superintendents, school boards, school district and BOCES officials and other interested parties would be established to help the State Education Department define the details of the new teacher evaluation system.
- The process for granting or denying tenure does not change.

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Current Annual Professional Performance Review (APPR) Regulations, effective July 1, 2000

In 2000, in collaboration with educators, administrators and other educational partners, the Board of Regents developed and approved Section 100.2(o) of the Regulations of the Commissioner of Education, governing the Annual Professional Performance Review (APPR) of teachers. The regulation requires school districts/BOCES to conduct annual evaluations of probationary and tenured teachers providing instructional services or pupil personnel services, except evening school teachers of adults enrolled in nonacademic, vocational subjects; and supplementary school personnel.

The evaluation of teachers providing instructional services must be based on the following eight criteria prescribed in regulation:

- Content knowledge
- Pedagogical practices
- Instructional delivery
- Classroom management
- Knowledge of student development
- Use of assessment techniques/data
- Effective collaborative relationships
- Reflection of teaching practices

- The regulations require that each school district/BOCES in New York state submit a professional development plan under APPR identifying the procedures it will use to conduct required annual teacher evaluations.
- Each APPR plan must establish the levels of proficiency and evidence required for satisfactory performance. The development of a Teacher Improvement Plan (TIP) is required for teachers evaluated as unsatisfactory. The TIP is developed by the district in consultation with teachers.
- The APPR plan describes the approaches for assessing teachers' performance, which may include classroom observation, videotape assessment, self review, peer review and portfolio review.
- Performance reviews must be conducted by trained evaluators.
- The evaluation procedures used in the APPR are mandatory subjects of collective bargaining.

Additional APPR Regulatory Requirements, effective July 1, 2011

The evaluations of all classroom teachers providing instructional services conducted on or after July 1, 2011, are subject to the following requirements:

- In addition to the eight criteria indicated above, the new APPR teacher evaluation system adds student growth as a performance criterion. Student growth is defined as the change in student achievement between two or more points in time as determined by the school district or BOCES.

- Content knowledge
- Pedagogical practices
- Instructional delivery
- Classroom management
- Knowledge of student development
- Use of assessment techniques/data
- Effective collaborative relationships
- Reflection of teaching practices

■ Student Growth

- Growth measures must take into account the unique abilities and/or disabilities of each student, including English language learners. Procedures for the use of student growth are to be determined through collective bargaining.
- Each school district and BOCES will be required to rate all classroom teachers using one of four categories:

Highly Effective: teacher performing at a higher level than expected based on criteria

Effective: teacher performing at expected level based on criteria

Developing: teacher not performing at expected level based on criteria

Ineffective: teacher performance is unacceptable based on criteria

The APPR plans must describe how these categories are used to differentiate professional development, supplemental compensation, and promotion for teachers providing instructional services. The procedures for implementation of these rating categories and the elements comprising the composite effectiveness score must be developed locally through negotiations.

- School districts and BOCES must provide timely and constructive feedback to their teachers, including data on student growth and training on how teachers can use student data to improve instruction.
- Superintendents, in collaboration with teachers, pupil personnel professionals, administrators, parents, and other school personnel will develop the annual professional performance review plan.
- Prior to adoption of the APPR plan, organizations representing parents and the recognized representative of the teachers' bargaining unit, must be provided the opportunity to comment on the plan. By September 1, 2011, the governing body of each school district or BOCES must adopt an annual or multi-year plan for the annual professional performance review.

APPR and Teacher Evaluation Legislation, effective July 1, 2011

Section 3012-c of Education Law, as added by Chapter 103 of the Laws of 2010, includes the following standards prescribed in the APPR regulations.

Composite Score of Teacher Effectiveness

- Teachers will be rated on a 100-point composite score, which incorporates multiple measures that would place teachers in one of four categories: Highly Effective, Effective, Developing, and Ineffective.
- The 100-point composite score will be comprised of 40 percent based on student achievement measures and 60 percent based on evidence of teacher effectiveness. Evidence of teacher effectiveness will be based on the eight APPR criteria of instructional practice: content knowledge, pedagogical practices, instructional delivery, classroom management, knowledge of student development, use of assessment techniques/data, effective collaborative relationships and reflection of teaching practices.
- Except for the student growth measures on state assessments as prescribed by the commissioner or a comparable measure of student growth, the elements comprising the composite score will be locally developed and collectively bargained.
- Commissioner's regulations, developed with input from the Teacher and Principal Effectiveness Advisory Committee (TPEAC), will set the scoring bands for the four categories. This committee will provide recommendations on regulations to implement Chapter 103 to the Commissioner for consideration and approval by the Board of Regents. TPEAC will be comprised of representatives from key stakeholder groups, including: NYSUT, School Districts, BOCES and the District superintendents, teacher and principal preparation programs, the New York Council of School Superintendents, the New York School Boards Association, the School Administrators Association of New York State, the Council of School Supervisors and Administrators (New York City-based), the New York Association of School Personnel Administrators, and the New York Teacher Centers.

Student Growth as a Criterion

- For teachers of grades and subjects in which students take state ELA and math assessments, 40 percent of a teacher's composite score of effectiveness will be based on student achievement; 20 percent based on student growth on state exams, where applicable; and another 20 percentage points based on locally selected multiple measures of student achievement that have been determined to be rigorous and comparable across classrooms.
- For teachers of grades or subjects in which students do not take state tests, 20 percent of the teacher's evaluation will be based on comparable measures of student growth and 20 percent locally developed multiple measures of student achievement that are determined to be rigorous and comparable across classrooms. Locally-selected measures must be negotiated in accordance with the Commissioner's regulations and pursuant to the Taylor Law.

Timeline for Implementation of Use of Student Growth Data

School Year	Affected Teachers	Student Growth Data	Teacher Evaluations
Teacher evaluations conducted 2010-2011	All Classroom Teachers	Current APPR in effect (Does not include student growth criteria)	- Based on eight criteria included in APPR in effect.
Teacher evaluations conducted on or after July 1, 2011	Classroom teachers in grades 4-8 in common branch subjects and ELA and mathematics	Student assessment data on state ELA and math tests administered in 2010-2011 school year will be used as the baseline for the initial computation of the composite effectiveness score.	- 20% based on state ELA and Math tests or comparable measures of student growth - 20% based on locally selected multiple measures of student performance - 60% based on locally developed measures of instructional practice consistent with standards prescribed in Regulations
Teacher evaluations conducted on or after July 1, 2012, and subsequent years before Regents approval of a value-added model	All Classroom Teachers	Student assessment data administered in the 2011-2012 school year will be used as the baseline for the initial computation of the composite effectiveness score.	- 20% based on state ELA and Math tests or comparable measures of student growth - 20% based on locally selected multiple measures of student performance - 60% based on locally developed measures of instructional practice consistent with standards prescribed in Regulations
2012-2013 or subsequent years following Regents approval of a value-added model	All Classroom Teachers	Value-Added Growth Model	- 25% cap on use of state ELA and Math tests or a comparable measure of student growth - 15% based on locally selected multiple measures of student performance - 60% based on locally developed measures of instructional practice consistent with standards prescribed in Regulations and selected through negotiation, pursuant to the Taylor Law.

- Only after the Board of Regents adopts a value-added growth model (2012-2013 at the earliest), the percent of a teacher’s evaluation based upon growth on state assessments or other applicable assessments will cap at 25 percent, with 15 percent based on locally developed multiple measures.

Training and Teacher Evaluators

Appropriate training must be provided to each individual responsible for conducting an evaluation of a teacher in accordance with the regulations of the Commissioner of Education. NYSED will establish and develop training for teams of “evaluation coaches.” The training for teams of “evaluation coaches” will begin in the spring of 2011 and be ongoing. The APPR plan must describe how the school district or BOCES provides training for staff conducting performance evaluations.

Evaluations and the Role of Collective Bargaining in Employment Decisions

Collective bargaining determines how evaluations will figure into employment decisions including but not limited to:

- Promotion
- Retention
- Tenure determination
- Termination

- Supplemental compensation
- Teacher development, including but not limited to, coaching, induction support and differentiated professional development.

Teacher Improvement Plan

- Teachers who receive a rating of “developing” or “ineffective,” as a result of an evaluation conducted after July 1, 2011, must receive a Teacher Improvement Plan (TIP) focused on supporting that teacher’s growth, as soon as practicable but no later than 10 days after they report to work in September.
- The TIP process is to be developed through collective bargaining.
- The TIP must be developed in consultation with the teacher and include:
 - Identification of needed areas of improvement;
 - A timeline for achieving improvement;
 - The manner in which improvement will be assessed; and
 - Where appropriate, differentiated activities to support a teacher’s improvement in these areas.
- The district will be required to document that a TIP based upon two ineffective ratings was developed and implemented and multiple opportunities for improvement and supports have been afforded to the teacher that have not resulted in improvement in performance, student achievement, or both, before any disciplinary action based on a pattern of ineffective teaching can be taken against a teacher.

Mandatory APPR Appeal Process

- Each school district and BOCES will be required to establish an appeal procedure through collective bargaining under which the evaluated teacher can challenge:
 - The substance of the teacher’s APPR;
 - The failure of the district or BOCES to adhere to the standards and methodologies required for the APPR, including those specified in Commissioner’s Regulations and any applicable locally negotiated procedures; and
 - The failure to issue or implement a TIP.
- An evaluation which is the subject of an appeal may not be offered in evidence or placed in evidence in any 3020-a education law proceedings or any locally negotiated alternate disciplinary procedure, until the appeal process is concluded.

Expedited 3020-a Hearing Process

- A teacher with two consecutive ineffective annual ratings, may, but would not be required to be charged with incompetence based on a sole charge of a “pattern of ineffective teaching” and be subject to an expedited hearing. This does not preclude a district from filing disciplinary charges against a teacher in accordance with procedures specified in section 3020-a of the education law.
- An expedited hearing will be conducted within 60 days, the currently required number of days, before a single hearing officer for teachers charged with a “pattern of ineffective teaching.”
- The district must present evaluations and establish that the TIP was substantially developed and implemented and provide documentation of implementation when the teacher was first rated as “ineffective” and when the teacher was rated as “developing” if that rating preceded the first rating of “ineffective.”

- A hearing officer may grant limited adjournment of an expedited hearing for circumstances beyond the control of the requesting party and if an injustice would result if no adjournment is granted.
- The expedited hearing process does not preclude an employee from raising any defense in challenging the allegation of ineffective teaching and presenting evidence to support the teacher's case.

Next Steps

- Local leaders should consult with their labor relations specialist (LRS) and begin planning for implementation. The following information should be considered:
 - Any provisions of collective bargaining agreements in effect on July 1, 2010, are not negated and remain in effect until there is a successor agreement. Collective bargaining agreements which, prior to June 30, 2010, have been extended, rolled over, or otherwise have had their expiration date changed to a date beyond July 1, 2010, are also not affected until a new successor agreement is reached.
 - If an existing contract does not address APPR at all or it has been dealt with outside of the bargaining process, local leaders should be aware that the APPR must be negotiated in accordance with the new law and regulations prior to July 1, 2011. Expired agreements stay in place until a successor agreement is reached.
 - Collective bargaining agreements reached after July 1, 2010, must address APPR and conform to the new laws and regulations. NYSUT recommends locals consider the option of including language in the collective bargaining agreement acknowledging their intent to negotiate, but to defer negotiations on the new APPR until the new Commissioner's Regulations are adopted.
- NYSUT will keep members informed on the progress of the AFT innovation project and other initiatives that can be used to inform and guide local teacher evaluation discussions.
- NYSUT will ensure teacher representation on the state Teacher and Principal Effectiveness Advisory Committee (TPEAC). TPEAC, which is expected to be appointed by the Board of Regents, will include representatives of teachers, principals, superintendents, school boards and other stakeholders.
- NYSUT will keep locals informed on the regulations adopted by the Board of Regents in consultation with the Teacher and Principal Effectiveness Advisory Committee.
- NYSUT will identify and disseminate information on multiple measures of teacher effectiveness, including evidence of student learning.
- NYSUT Research and Educational Services, in collaboration with Field Services and the Education & Learning Trust, will develop and conduct informational sessions and provide supporting materials on changes to teacher evaluation and APPR for regional leadership conferences.
- Local measures of student achievement, procedures for evaluations and the appeals process must be negotiated. LRSs will assist locals with these issues in developing concepts and language for bargaining.

Race to the Top Final Scope of Work



Now that New York state has received a federal Race to the Top grant, every school district that signed on to the RTTT plan will be required to develop a final scope of work and budget. Because of the bargaining issues highlighted in this document, school districts participating in RTTT will have to engage their local union in the final scope of work.

During the 90 days, districts and locals will need to agree to negotiate over the issues required to implement the final scope of work during the four-year term of the grant.

We expect unions and school districts will need to continue bargaining after the 90-day period with the goal of implementation during the four-year term of the grant. Sample language to be used as a placeholder is included in this document.

As part of RTTT, districts will have to implement Section 3012-c of the Education Law. This new teacher evaluation law has timelines for implementation which continue during implementation of RTTT. Keep in mind, RTTT does not change the new law. As always, discuss next steps with your Labor Relations Specialist.

Preliminary Bargaining Principles

- Sample placeholder language for use in the event that negotiations have not been concluded within the 90-day final scope of work period:

“The parties acknowledge that they are engaged in good faith negotiations necessary to implement the final scope of work required by the Race to the Top grant issued to New York State by the United States Department of Education and that they shall conclude such negotiations as expeditiously as possible in accordance with and subject to their rights and obligations under Article 14 of the Civil Service Law.”

Taylor Law Rights and Duties:

- Both parties have the right and the duty to negotiate concerning terms and conditions of employment.
- A collective bargaining agreement which addresses a subject may not be reopened during the life of the agreement without mutual agreement.
- The duty to negotiate does not create a duty to agree.
- Subjects which are non-mandatory subjects of bargaining but are contained in a collective bargaining agreement are thereby converted to mandatory subjects of bargaining, and may not be unilaterally changed.
- Non-mandatory subjects of bargaining may but are not required to be negotiated; such non-mandatory subjects may be unilaterally implemented, but the impact of such subjects on terms and conditions of employment is mandatorily negotiable.
- A “zipper clause” in a collective bargaining agreement is an agreement that negotiations on all subjects, whether covered in the agreement or not, have been concluded until a new agreement is negotiated.
- Parties may negotiate any subjects unless prohibited by law or public policy or unless employer action is mandated by law.
- Terms of expired agreements remain in effect until a new agreement is negotiated and in effect.
- The 90-day scope of work requirement does not supersede the bargaining and impasse resolution provisions of the Taylor Law.

The following table refers to specific sections of Race to the Top Memorandum of Understanding elements required to be negotiated in support of scope of work provisions:

OPERATIVE ELEMENTS OF RTTT MOU

NEGOTIATIONS REQUIRED

B. Enhanced student standards & high quality assessments	No
C. Data systems to support instruction	
i. Use of local instructional improvement systems	No
ii. Professional development on use of data	Yes (role of APPR in professional development plans and compensation for professional development outside the work day, consequence of failure by employer to provide professional development)
iii. Availability & accessibility of data to researchers	No
D. 2 Improving teacher effectiveness based on performance	
i. Measure student growth	Yes (design, criteria, implementation and uses of student performance measures)
ii. Design & implement evaluation systems	Yes
iii. Conduct annual evaluations	Yes
iv. a. Use evaluations to inform professional development	Yes
iv. b. Use evaluations to inform compensation	Yes
Use evaluations to inform promotions	Yes, to the extent that APPR is a factor in career ladder promotions, as well as issues related to compensation and procedures for appeals of promotion decisions.
Use evaluations for retention	Yes, to the extent that APPR is a factor in retention decisions. TIPs and procedures related to retention decisions are also subject to collective bargaining. An appeals process to challenge APPR is also required to be negotiated.
iv. c. Use evaluations to inform tenure decisions	Tenure decisions are not subjects of bargaining. The procedures leading up to the tenure decision are bargainable.
iv. d. Use evaluations to inform removal decisions	Yes, as it relates to the use of APPRs in disciplinary proceedings authorized by §3012-c. Formulation and implementation of TIP and APPR are to be negotiated as well.

OPERATIVE ELEMENTS OF RTTT MOU

NEGOTIATIONS REQUIRED

D. 3 Ensuring equitable distribution of effective Teachers	
i. High poverty/high minority schools	Yes (transfer/seniority rights, additional compensation)
ii. Hard to staff subjects/specialty areas	Yes (compensation)
D. 5 Providing effective support to teachers	
i. Quality professional development	Yes
ii. Measure effectiveness of PD	Yes (procedures)
E. Turning around lowest achieving schools	No (selection of model is non-mandatory)
i. Turnaround Model	Yes (bumping, transfer, seniority rights, separation benefits, discipline/layoff procedures)
ii. Restart Model	Yes (impact, continued status of CBA, continued status of bargaining agent)
iii. School Closure Model	Yes (impact on employees: transfer rights, separation pay, retirement incentive, bumping and recall rights, other)
iv. Transformation Model (Evaluation system that rewards effective and removes ineffective teachers; professional development; incentives and flexible working conditions; use of data, family/ community engagement; operational flexibility; technical assistance)	Yes (workday, work week, work year, instructional time, working conditions, compensation)

Implementing RTTT/School Improvement Grants



This document is designed to highlight the issues that may require collective bargaining in order to implement the federal Race to the Top and the School Improvement Grant program.

Bargaining issues are arranged by topic, with RTTT

elements referenced by Memorandum of Understanding section in parentheses.

As you review your district's implementation plan and discuss it with your Labor Relations Specialist, this should help you identify issues to consider.

I. Professional development

- On the use of student data (C.ii)
- Use of evaluations to inform professional development (D.2.iv.a)
- Measure effectiveness of professional development (D.5.ii)

Issues

- ▶ Check PDP regulations regarding coverage of issues
- ▶ Cost of professional development
- ▶ Compensation for non-workday professional development

II. Distribution of effective teachers

- High poverty/high minority schools (D.3.i)
- Hard to staff subjects and specialty areas (D.3.ii)

Issues

- ▶ Procedures for making transfer decisions (including identification of effective teachers, seniority, term of transfer – temporary or permanent, limits on employer discretion, right to return to original assignment, impact on transferred teacher's APPR rating)
- ▶ Additional compensation for accepting transfer
- ▶ Additional compensation for hard to staff subjects and specialty areas (including evidence required for determining which subjects/areas qualify, whether hiring above starting salary is permitted by CBA, should be expanded or is currently sufficient, whether top range should be higher)

III. Evaluations

■ Criteria (D.2.i, ii)

- ▶ Under the new APPR law, elements comprising the composite APPR effectiveness score, including the 20% of the APPR rating based on locally determined multiple measures of student achievement, are subject to collective bargaining, but must be consistent with law and Commissioner's regulations. (For a full discussion of all aspects of the new law on evaluations, see the NYSUT Fact Sheet: New APPR Regulations and Teacher/Principal Evaluation Legislation.)
- ▶ Similarly, the 20% of the composite APPR effectiveness score must be determined based on state assessments, if available, and on local assessments, if not.

Issues

- ▶ Details of what test scores will be used and how test scores will be determined (number of students, attendance, start scores, end scores, number and/or weighting of special education and ELL students, assistance of TAs or aides)
- ▶ Details of how test scores will be translated into performance ratings (overall student load average, class averages, percentage of students making less than, equal to or more than a year's growth, others)
- ▶ Details of how other measures of teacher performance (including those designated by Commissioner's regulations and others) will be used in determining the remaining 60% of APPR ratings.

Procedures

- ▶ All procedures relating to the conduct of evaluations, use of evaluations in informing professional development, compensation, promotion and employment status, appeals of evaluations, and design and implementation of TIPs are subject to collective bargaining.

Issues

- ▶ For a full discussion of the issues and procedures relating to evaluation appeals and TIPs see the NYSUT guidance document Options for Locals to Consider in Negotiating Teacher Evaluation Appeals and Teacher Improvement Plans.
- ▶ **Use of evaluations to inform compensation, promotions and employment status (D.2.iv.b)**
- ▶ The use of evaluations to inform employment decisions including, but not limited to, promotion, retention, tenure determination, termination and supplemental compensation is subject to collective bargaining.

Issues related to compensation

- ▶ Rating to determine step movement (e.g., ineffective = no step movement; highly effective = 2 step movement)
- ▶ Use of bonuses
- ▶ Compensation committee (membership, scope of authority)
- ▶ Eligibility for compensated positions/promotions
- ▶ Percentage of teachers per rating category if related to compensation
- ▶ Funding of supplemental compensation/base pay
- ▶ Retention or elimination of traditional salary schedule
- ▶ Ability to opt out of alternative compensation plan (e.g., currently employed/tenured teachers)

Issues related to promotions

- ▶ Different titles in career ladder (e.g., novice, apprentice, lead, master)
- ▶ Additional compensation based on title
- ▶ Applicability to all teachers, new teachers, permanently certified teachers
- ▶ Criteria for acquiring master teacher status (e.g., highly effective rating for 3 years, NBCT credential, peer review)
- ▶ Criteria for continuance or loss of master teacher status (e.g., maintenance or loss of highly effective rating)

Issues related to employment status

- ▶ For a full discussion of the issues and procedures relating to evaluation appeals and TIPs as they affect employment status, see the NYSUT guidance document Options for Locals to Consider in Negotiating Teacher Evaluation Appeals and Teacher Improvement Plans.

Turning around the lowest achieving schools (E.2)

The four models for turning around the lowest achieving schools (Transformation, Turnaround, Restart, School Closure) outlined in the State's RTTT plan and approved by the Commissioner present a wide range of issues that are subject to collective bargaining. It is expected that the vast majority of such schools will elect the Transformation Model.

■ Termination of staff (Turnaround Model, School Closure Model)

Issues

- ▶ Seniority, bumping and transfer rights
- ▶ Separation benefits
- ▶ Discipline/layoff procedures
- ▶ Conditions under which terminated staff may reapply for and be rehired in their former positions or other positions in the reorganized school (e.g., hired with same salary and benefits, years of credited service and seniority, tenure status)
- ▶ Recall rights

■ Flexibility in working conditions (Transformation Model, Turnaround Model)

Issues

- ▶ Length of school/work day and/or school/work year (e.g., to provide increased instructional time, professional development, professional collaborative opportunities, home visitations, student enrichment activities, AIG services)
- ▶ Modifications of the instructional schedule (e.g., flexible scheduling)
- ▶ Modification of working conditions (e.g., seniority rights in teaching assignments, rules governing number of classes taught, daily or weekly student load limits, administrative duties, preparation time, consecutive work periods)
- ▶ Staffing

■ External Lead Partner Management (Restart Model, Turnaround Model)

Issues

- ▶ Continued status of collective bargaining agreement
- ▶ Continued status of bargaining agent

Teacher Evaluation Appeals and Teacher Improvement Plans

wysut
A Union of Professionals
AUGUST 2010



Starting in 2011-12, classroom teachers will be rated in one of four categories: *highly effective*, *effective*, *developing* or *ineffective*. The new law requires a negotiated system of continual professional growth supported by meaningful evaluation and professional development.

The timing of implementation of changes to your district's Annual Professional Performance Review plan is dependent on your local contract. If your new contract is negotiated after July 1, 2010, the new contract must address the changes in APPR or provide for parties to reopen bargaining on APPR changes after the Education Commis-

sioner's regulations are established.

While negotiation of new contract language to implement changes in the evaluation process and related employment decisions is best addressed after the adoption of Education Commissioner's regulations, this bulletin will help you prepare for the many important issues to be addressed at the bargaining table when negotiating aspects of teacher evaluation appeals and the process for developing Teacher Improvement Plans (TIPs). As always, discuss next steps with your Labor Relations Specialist.

I. Underlying Premises and Assumptions

- Improving teacher practice and improving student learning are the primary goals of teacher evaluations.
- Evaluations play an important role in employment decisions and need to be conducted fairly and objectively.
- The new evaluation law represents a shift in emphasis to performance ratings. A rating is more critical than ever.
- Many locals have negotiated evaluation procedures that are subject to the grievance and arbitration provisions of their CBAs while limiting review of a rating to a committee, superintendent or other internal review.
- The new evaluation law requires that there be an appeal process negotiated by the parties for review of a teacher's evaluation.
- The purpose of Teacher Improvement Plans is to improve teaching practice and student learning.
- TIPs should provide teachers with appropriate resources and support leading to meaningful professional growth.

II. Options for Conducting Appeals of Evaluations

The appeals procedure required by the new law is subject to collective bargaining. As you prepare to negotiate the process, the following should be discussed with your Labor Relations Specialist:

A. Issues to be Considered

- Ability to appeal the composite score, evaluation procedures
- Appeals of *ineffective* ratings
- Appeals of *developing* and *effective* ratings
- Appeals of appropriateness of TIPs (upon rating as *ineffective* or *developing*)
- Appeals of implementation of TIPs (at conclusion of TIP period)
- Scope of authority of reviewer(s) to set aside, modify and/or require new evaluation
- Time limits for filing appeals.

B. Possible procedures for conducting appeals

- Provide separate review processes for evaluation procedures and ratings
- Provide one review process for evaluation procedures and *ineffective* ratings and a separate review process for *developing* and *effective* ratings
- Provide a unified/expedited review process for all procedural and rating determinations.

C. Options for Conducting Appeals

Locals should consider various factors in preparing to negotiate an APPR appeal procedure. The following questions and options are intended to suggest possibilities for your consideration and are not intended to exhaust all of the questions that may arise or options that are available to you. As always, it is strongly recommended you discuss these issues with your LRS.

What procedures can be used for conducting appeals?

Appeals of ratings or evaluation procedures can be conducted in various ways. You may decide that all appeals should be subject to a single procedure or that appeal procedures should be handled on a case-by-case basis. Among the possible procedures for hearing appeals are:

- Grievance and arbitration
- Review by a neutral hearing officer on an expedited basis
- Review by a joint labor-management committee
- Review by a committee of peers

A single procedure can be used for review of all aspects of the appeal process, or a combination of possible procedures might be used for different aspects of the process.

What can be appealed?

As indicated in Section B, appeals fall into two general categories: reviews of alleged violations of rating procedures and reviews of the ratings themselves.

- You may decide that different kinds of appeals should be subject to different procedures. For example, appeals of alleged *procedural* violations might be handled through grievance and arbitration while appeals of *ratings* might be submitted to a joint labor-management committee (or *vice-versa*).
- You may decide that teachers should be able to appeal certain ratings and not others. For example, *ineffective* and *developing* ratings might be subject to appeal, but not an *effective* rating. Or you may decide that appeals of all ratings should be permitted, particularly if additional compensation is tied to ratings.
- You may also decide to provide different appeal procedures for different ratings or to allow review of some ratings but not others. For example, *ineffective* ratings might be conducted by a impartial hearing officer while *developing* and *effective* ratings might be conducted by a peer committee, again depending upon the extent to which ratings may be a factor in additional compensation.

Who determines if it is permissible to appeal a rating?

The decision to appeal a rating, either on the basis of an alleged procedural violation or a challenge to the substance of the rating itself, should be at the option of the affected employee or determined by the local association and its answer may depend upon the type of appeal procedure selected.

How is the reviewer's scope of authority determined?

In negotiating an appeal procedure, consideration should also be given to the extent of authority granted to the reviewer(s) both to hear appeals and to provide a remedy where it is determined that a rating is substantively incorrect or that a violation of the evaluation procedure has occurred.

- Will the reviewer(s) have authority to review *both* the substance of a rating as well as the alleged violations of the evaluation procedure, or only the latter?

- If the reviewer(s) determines that a rating has been affected by substantial error or defect or by a procedural violation, the following remedies might be among those available:
 - Set aside a rating if it has been affected by substantial error or defect
 - Modify a rating if it is affected by substantial error or defect
 - Order a new evaluation if procedures have been violated

Recommendations for TIPs

TIPs have been part of the APPR process since its inception. Under the new law, TIPs play a bigger role. The following recommendations should be discussed with your LRS:

- Effective elements of a TIP should:
 - Be developed in consultation with the teacher, including procedures for resolving differences between the administrator and teacher on the components of the TIP;
 - Allow for the participation of a union representative;
 - Clearly specify in writing the area(s) needing improvement;
 - Clearly specify in writing the performance goals, expectations, timelines, benchmarks and standards a teacher must meet;
 - Clearly specify in writing the appropriate strategies and actions the district will make available to the teacher (e.g., peer coaching, portfolios, observations of other teachers, academic study, in-service courses, etc.);
 - Clearly specify in writing how improvement/progress will be measured and monitored;
 - Provide for periodic reviews of improvement/progress;
 - Afford the teacher access to appropriate differentiated Professional Development opportunities, materials, resources and supports, and time within the school day to meet with administrators/supervisors and/or peer coaches;
 - Provide that no disciplinary action shall be taken by the district against the teacher until the TIP has been implemented and its effectiveness in improving the teacher's performance has been evaluated;
 - Provide that there shall be no further action by the district if the teacher has met or exceeded the TIP's performance expectations;
 - Be provided at no cost to the teacher;
 - Clearly state that the TIP is an instrument to promote professional growth and is not disciplinary in nature and that it will not be accompanied by disciplinary sanctions such as the withholding of raises, step increments, etc;
 - Provide that any courses taken as part of the TIP will count toward salary advancement;
 - Provide that involvement by the teacher in TIP activities outside of the normal school day/year is voluntary and no cost to the teacher;
 - Provide protection of teachers' rights in the event that administrators do not follow through on TIP components;
 - Clearly specify the district's responsibility in providing professional development. Set a deadline for providing the TIP, as soon as possible or 10 days after teachers report to school.
- TIPs may:
 - Define the purposes and composition of the APPR Committee;
 - Provide for a TIP appeals process to the APPR Committee; and
 - Require training for district evaluators.

Checklist for Local Presidents Implementation of New APPR



Timing of the implementation of the changes to the Annual Professional Performance Review Plans is dependent on your local contract. If your contract has provisions related to APPR, you are not required to implement the changes required by the new law and regulations until your contract expires and a successor agreement has been reached. If your contract is negotiated after July 1, 2010, the new contract is required to reflect the changes in APPR.

While negotiation of new contract language to implement changes in the evaluation process and related employment decisions is best addressed after the Education Commissioner's regulations have been adopted, listed below are questions to consider and activities that locals may want to undertake now in preparation for future negotiations. Be sure to discuss next steps with your Labor Relations Specialist.

A. Review Current Contract Provisions on Teacher Evaluations

	Yes	No
1. Does your contract provide procedures for annually evaluating both probationary and tenured teachers?	<input type="checkbox"/>	<input type="checkbox"/>
2. Does your contract establish rating categories?	<input type="checkbox"/>	<input type="checkbox"/>
3. Does your contract identify criteria for evaluation?	<input type="checkbox"/>	<input type="checkbox"/>
4. Does the grievance procedure apply to violations of the evaluation procedure?	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the evaluation procedure provide an appeals process for review of a rating?	<input type="checkbox"/>	<input type="checkbox"/>
6. Does your contract provide procedures for establishing Teacher Improvement Plans (TIPs)?	<input type="checkbox"/>	<input type="checkbox"/>
7. Does your contract provide for professional development (including payment for cost, time, and sustained professional development) for all teachers?	<input type="checkbox"/>	<input type="checkbox"/>
8. Does your contract provide for additional compensation or promotion for teachers for mentoring, peer coaching, lead teaching, department chairs, working in hard-to-staff schools, etc.?	<input type="checkbox"/>	<input type="checkbox"/>
9. Does a teacher's evaluation play any role in determining eligibility for additional compensation, promotion or special assignments?	<input type="checkbox"/>	<input type="checkbox"/>

NEXT STEPS:

- Establish a coordinating committee of the local to prepare for the new APPR, including the items listed below.
- Discuss with your LRS options for ensuring a fair process for:
 - conducting evaluations;
 - review of evaluation procedures;
 - review of ratings;
 - review of appropriateness of TIPs; and
 - review of compliance with TIPs.

[Note: A listing of options and sample contract language for appeal processes for locals to consider is being developed by NYSUT and will be available shortly].

- Discuss with your LRS the nine criteria to be used for evaluations required by Commissioner’s Regulation Section 100.2(o), and plan to incorporate each into the evaluation process.
- Consider what common elements are needed in individual TIPs that will best improve teacher performance for those rated as “developing” or “ineffective.”
- Strengthen your district Professional Development Plan to meet student needs and ensure that all teachers are successful.
- Consider whether and to what extent additional compensation/promotions/special assignments might be made available based on measures of teacher performance.

B. Identify District Measures of Student Achievement

The new teacher evaluation process will include locally developed measures of student achievement. In order to prepare for negotiating the procedures for inclusion of student achievement in the evaluations, it is important to identify what already exists in your district and develop a process within the local to get input from members who will be affected by the new evaluation process.

	Yes	No
1. Does your district have district-wide assessments by grade and subject?	<input type="checkbox"/>	<input type="checkbox"/>
2. Does your district have school-wide assessments by grade and subject?	<input type="checkbox"/>	<input type="checkbox"/>
3. Do the IEPs of students with disabilities include measurable, appropriate academic achievement goals?	<input type="checkbox"/>	<input type="checkbox"/>
4. Does your district establish individual goals for achievement of ELL or other special needs students?	<input type="checkbox"/>	<input type="checkbox"/>

Next Steps:

- Develop a list of student assessments currently in place in your school/district, by grade and subject, and use the list to engage committees of teachers to discuss which assessments could be appropriate for the locally developed portion of measures of student performance in the teacher evaluation process.
- Identify the student assessments used for special populations to determine whether the assessments fairly and appropriately measure student growth, and would be fairly applied to teacher evaluations.

C. Review Professional Development Plans

	Yes	No
1. Does your district have teachers selected by the union on your District Professional Development Committee?	<input type="checkbox"/>	<input type="checkbox"/>
2. Does the district's professional development plan meet the professional needs of all teachers by addressing each of the criteria upon which teachers are evaluated?	<input type="checkbox"/>	<input type="checkbox"/>
3. Are sufficient time and resources made available for professional development?	<input type="checkbox"/>	<input type="checkbox"/>
4. What special professional development options are available for teachers who receive the new "developing" or "ineffective" ratings, which can be included in their TIPs?	<input type="checkbox"/>	<input type="checkbox"/>
5. Does your district's Professional Development Plan include a mentoring component that at a minimum supports teachers holding initial certification?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is mentoring provided as required by the professional development plan?	<input type="checkbox"/>	<input type="checkbox"/>

Next Steps:

- Work with your district to convene the Professional Development Planning Committee to review professional development opportunities, availability of time and resources, and alignment of professional development with criteria for teacher evaluations as required by the Commissioner's Regulations.
- Consider the role of the PDP Committee in reviewing TIPs.
- Consider embedding language that supports and cultivates effective teaching using mentoring, peer coaching and other methods for assisting teachers to improve their practice.

Annual Professional Performance Review (APPR) Glossary of Terms



Editor's Note: As labor-management teams move forward with negotiating details of new teacher development and evaluation systems, here is a compilation of commonly used terms. It is a living document that will be updated periodically, as we seek to develop a common reference point. Check www.nysut.org/research for the latest.

A

Accommodations

Modifications in the way assessments are designed or administered for individual students/populations.

Accountability

The notion that people (e.g., students or teachers) or an organization (e.g., a school, school district, or state department of education) should be held responsible for improving student achievement and should be rewarded for their success or sanctioned for lack of success in doing so. (Ed. Source)

Action Research

Action research in education is a research strategy to use as continual disciplined inquiry conducted to inform and improve practice. It typically is designed and conducted by practitioners who analyze their practice and its context, explore the research base for ideas, compare what they find to their current practice, participate in training to support needed changes, and study the effects on themselves, their students and colleagues. Action research can be done by individuals or by teams of colleagues. The team approach is called collaborative inquiry. (Calhoun, 2002)

Alignment

The process of linking content standards to curriculum, instruction and assessment.

Anchor/Benchmark/Exemplar

Samples of student work that exemplify a specific level of performance.

Annual Professional Performance Review (APPR)

Section 100.2 of the Commissioner's Regulations requires each district and BOCES to conduct required annual teacher evaluations. An APPR plan must be updated annually. Beginning July 1, 2011, the following nine criteria are the performance criteria to be used to evaluate teachers of instructional services.

- Content knowledge - knowledge of the subject area and curriculum.
- Pedagogical preparation - employ the necessary pedagogical practices to support instruction.
- Instructional delivery - demonstration of delivery of instruction that results in active student involvement, appropriate teacher/student interaction and meaningful lesson plans resulting in student learning.
- Classroom management - demonstrate classroom management skills supportive of diverse student learning needs which create an environment conducive to student learning.
- Student development - demonstrate knowledge of student development, an understanding and appreciation of diversity and regular application of developmentally appropriate instructional strategies for the benefit of all students.
- Student assessment - implements assessment techniques based on appropriate learning standards designed to measure student progress in learning and successfully uses analysis of available student performance data and other relevant information.

- Collaboration-demonstrate effective collaborative relationships with students, parents, or caregivers and appropriate support personnel to meet the learning needs of students.
- Reflective and Responsive Practice–demonstrate that practice is reviewed, effectively assessed and appropriate adjustments are made on a continuing basis.
- Student Growth-a positive change in student achievement between at least two points in time as determined by the school district or BOCES, taking into consideration the unique abilities and/or disabilities of each student, including English language learners.

Appeals Procedure

According to section 3012-c of Education Law, as added by Chapter 103 of the Laws of 2010, each school district and BOCES is required to establish an appeals procedure through collective bargaining under which the evaluated teacher can challenge the substance of the APPR, the district's or BOCES adherence to the standards and methodologies for such reviews, adherence to the Commissioner's regulations and locally negotiated procedures, and the issuance or implementation of a teacher improvement plan.

Article 14 of the Civil Service Law (also referred to as the Taylor Law)

The Taylor Law, formally called the Public Employees' Fair Employment Act, is contained in Article 14 of the Civil Service Law. Enacted in 1967, the Taylor Law governs employment relations between public employers and public employees in New York state. Under the Taylor Law, public employees are guaranteed the right of self-organization and representation for collective negotiations. Self-organization rights enable public employees to join or refrain from joining employee organizations (unions) of their choice. Representation rights enable employees to designate an employee organization as their representative in collective negotiations with their public employer over wages, hours, and other terms and conditions of employment, and in the administration of grievances arising from their negotiated agreements. (From NYSUT glossary of terms, www.nysut.org)

Artifacts

Samples of student or teacher work that are included in a portfolio to demonstrate knowledge, skills, and/or dispositions related to a standard or goal. A student artifact could be an essay which shows progression from draft to final copy. A teacher artifact could be a lesson plan with annotation as to successes and areas to reexamine.

Assessment

The process of gathering, describing or quantifying information about an individual's performance. Different types of assessment instruments include achievement tests, minimum competency tests, developmental screening tests, aptitude tests, observation instruments, performance tasks, and authentic assessments.

The effectiveness of a particular approach to assessment depends on its suitability for the intended purpose. For instance, multiple-choice, true-or-false, and fill-in-the-blank tests can be used to assess basic skills or to find out what students remember. To assess other abilities, performance tasks may be more appropriate.

Assessment Approaches

For the purpose of teacher evaluations, assessment approaches are the methods that school districts or BOCES employ to assess student or teacher performance. The methods may include, but are not limited to, the following: classroom observation, videotape assessment, self review, peer review and portfolio review.

Assessment System

Combination of multiple assessments into a comprehensive reporting format that produces credible, dependable information upon which important decisions can be made about students, classes, schools, districts or states.

Authentic Assessment

Assessment that measures realistically the knowledge and skills needed for success in adult life. The term is often used as the equivalent of performance assessment, which, rather than asking students to choose a response to a multiple-choice test item, involves having students perform a task, such as serving a volleyball, solving a particular type of mathematics problem, or writing a short business letter. There is a distinction, however. Specifically, authentic assessments are performance assessments that are not artificial or contrived.

B

Baseline Data

For purposes of measurement of student growth, baseline data is basic information gathered to provide a comparison for assessing individual student achievement at the beginning of instruction.

C

Classroom Observations

Observation of instruction by a trained evaluator, administrator or peer is one method of teacher evaluation. To be a fair and valid assessment element, the observation requires a common standard and rubric of expectations for performance.

Common Core State Standards

The Common Core State Standards Initiative is a state-led effort coordinated by the National Governors Association Center for Best Practices (NGA Center) and the Council of Chief State School Officers (CCSSO). The standards were developed in collaboration with teachers, school administrators, and experts. The content standards define what students must know and be able to do and provide a clear and consistent framework to prepare students for college and the workforce.

A state may supplement the common standards with additional standards, provided that the additional standards do not exceed 15 percent of the state's total standards for that content area.

Comparable Across Classrooms

Chapter 103 of the Laws of 2010 specifies that student achievement will comprise 40 percent of teacher evaluations. Initially, 20 percent will be locally selected measures of student achievement that are rigorous and “comparable across classrooms” in accordance with regulations to be prescribed by the Commissioner. In subsequent years following Regents approval of a value-added model, 15 percent will be locally selected measures of student achievement that are rigorous and “comparable across classrooms” in accordance with regulations to be prescribed by the Commissioner. The term “comparable across classrooms” is not yet defined in federal or state policy. Laura Goe (2010) offers the following considerations in measures of student growth:

- **Standardized**, meaning that all teachers used the assessment in exactly the same way.
- **Valid**, meaning that it measures what is intended.
- **Recorded**, meaning that student progress can be compared across classrooms and schools.

Comparable Measures of Student Growth

Chapter 103 of the Laws of 2010 specifies student achievement will comprise 40 percent of teacher evaluations. Initially, 20 percent will be based on student growth on State Assessments or “comparable measures.” In subsequent years following Regents approval of a value-added model, 25 percent will be based on student growth on State Assessments or “comparable measures.”

Guidance on the definition of comparable measures may be obtained by examining the State Education Department's criteria for alternative assessments. New York State Education Commissioner's Regulations Part 100.2 (f) (1)-(6), states: “With the approval of the commissioner, assessments which measure an

equivalent level of knowledge and skill may be substituted for Regents examinations. Based on these criteria, examples of comparable measures are suggested below.

- Measure the state learning standards in the content area;
- Are as rigorous as state assessments;
- Are consistent with technical criteria for validity, reliability, and freedom from bias;
- Administered and the results are interpreted by appropriately qualified school staff in accordance with described standards.

Composite Score of Teacher Effectiveness

Annual professional performance reviews of teachers and principals conducted on or after July 1, 2011, must result in a single composite effectiveness score, which incorporates multiple measures of effectiveness.

- Forty percent of the composite score of effectiveness will be based on student achievement measures.
- Sixty percent evidence of teacher effectiveness based on locally developed measures through collective bargaining, in accordance with regulations to be prescribed by the Commissioner.

The definitions of these categories of teacher effectiveness: highly effective, effective, developing, and ineffective, with minimum and maximum scoring ranges for each category, will be developed by the newly created Teacher and Principal Effectiveness Advisory Committee. The ratings will be combined into a composite score. Composite scores will include 60 percent locally developed standards based on the 8 criteria in APPR regulation and 20 percent on student growth on state assessments and 20 percent on locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms. These categories are part of new Education Law 3012-c.

Comprehensive Teacher Evaluation System (CTES)

A continuous improvement cycle of teacher evaluation that links teaching standards, performance expectations defined in a rubric, individual goal setting for improvement of practice and differentiated professional development to meet the needs of the individual teacher throughout the span of a teaching career. The five key components include:

- Professional teaching standards;
- Multiple measures used to assess teaching performance;
- Details for effective teacher evaluation;
- The teaching and learning conditions affecting good teaching and positive student learning; and
- Teacher support and assistance.

Constructed Response

A test question or task that requires the test-taker to create his or her own response. Examples would be a short answer or an essay question.

Content Standards (Learning Standards) - (See also Common Core State Standards)

Clear and specific expectations of what students should know and be able to do.

Criterion-Referenced Tests

Tests designed to measure how thoroughly a student has learned a particular body of knowledge without regard to how well other students have learned it. Most nationally standardized achievement tests are norm-referenced, meaning that a student's performance is compared to how well students in the norming group did when the test was normed. Criterion-referenced tests are directly related to the curriculum of a particular school district or state and are scored according to fixed criteria. Results are reported by performance level.

Curriculum-based assessment

The term curriculum-based assessment means simply measurement that uses "direct observation and recording of a student's performance in the local curriculum as a basis for gathering information to make instructional decisions" (Deno, 1987, p. 41).

D

Developmental Assessment

An ongoing process of observing a child's current competencies (including knowledge, skills, dispositions and attitudes) and using the information to help the child develop further in the context of family and care-giving and learning environments (CCSSO).

Diagnostic Tests

Tests that provide detailed information about a student's strengths and weaknesses with respect to specific skills and concepts. Results are used to design and modify instruction. Results of diagnostic assessments are not intended to be used for evaluation or accountability purposes.

District-Based Mentoring

Section 100.2 (dd) of the Commissioner's Regulations requires that every school district and BOCES provide mentored experience for holders of initial teaching certificates. The goal of mentoring is to provide support for new teachers in the classroom teaching service in order to ease the transition from teacher preparation to practice, thereby increasing retention of teachers in the public schools, and to increase the skills of new teachers in order to improve student achievement in accordance with state learning standards. Mentoring programs should be developed and implemented consistent with any collective bargaining obligation negotiated under Article 14 of the Civil Service Law. The mentoring program must also be described in the district's Professional Development Plan (PDP). Participation in mentoring is a requirement for an individual to receive a professional certificate.

Document-Based Questions (DBQ)

DBQs assess the ability of each student to work with historical sources in multiple forms. The DBQ involves interpreting primary and secondary sources, evaluating sources, considering multiple points of view, using historic evidence, developing and supporting a thesis. Document-based questions could be a component of a portfolio or type of assessment question.

E

Essay

An assessment in which students write a response to a question or problem. This assessment is used to demonstrate reasoning, proficiency, and to demonstrate knowledge of complex issues. An essay could be a component of a portfolio, representing competencies, exemplary work, or the student's developmental progress.

Evaluation

The measurement, comparison, and judgment of the value, quality or worth of children's work and/or of their schools, teachers, or a specific educational program based upon valid evidence gathered through assessment.

Evidence

Concrete proof or examples that document student learning or teacher effectiveness and/or improvement. Evidence may be included as part of a portfolio or summarized in a report.

F

Formative Assessment

Assessment questions, tools, and processes that are embedded in instruction and are used by teachers and students to provide timely feedback for purposes of adjusting instruction to improve learning. Formative assessment is used primarily to determine what students have learned in order to plan further instruction. By contrast, an examination used primarily to document students' achievement at the end of a unit or course is considered a summative test.

Formative Evaluation

Provides teachers with feedback on how to improve their craft to promote student learning. It is a critical component of career professional growth. Data from formative evaluation also can identify specific professional development opportunities for teachers that will facilitate student learning (e.g., instructional techniques that meet the needs of diverse learners, effective classroom management strategies, and use of student assessments).

G

Governing Body

Section 100.2(o) of the Regulations, requires the governing body of each school district or BOCES to ensure the annual professional performance reviews of teachers. For purposes of this section of the Regulations, governing body means the board of education of each school district or BOCES and in the case of the City School District of the City of New York it refers to the Board of Education of the City School District of the City of New York.

Growth Model

A growth model is a means to measure the change in the performance of students on specified assessments over time.

A key question in the design of a growth model is to determine how “academic progress” over time is to be measured and how much growth “is enough.” As a result of Chapter 103 of the Laws of 2010, The Teacher and Principal Effectiveness Advisory Committee (TPEAC) will provide recommendations to the Board of Regents for using the growth model for teacher/principal evaluations.

New York will adopt the use of the Common Core State Standards and the resulting assessments as they become available, and the growth model will be aligned concurrently.

H

High Stakes Tests

One-shot tests administered to students with results used for determining consequences to students, teachers, and schools. Such tests include Regents Examinations, Teacher Certification Examinations and the grades 3-8 ELA and Math Assessments.

I

Interim Assessment (Also referred to as benchmark assessment)

An assessment administered at regular and specified intervals throughout the school year, designed to evaluate a student’s knowledge and skills relative to a specific set of academic standards and produce results that can be aggregated (e.g., by course, grade level, school, or LEA) in order to inform teachers and administrators at the student, classroom, school, and district levels.

Inter-Rater Reliability

The extent to which two or more individuals (coders or raters) agree. Inter-rater reliability addresses the consistency of the implementation of a rating system. Training for all evaluators on the use of a teacher evaluation tool or protocol is one way to increase inter-rater reliability.

M

Mentor

An experienced, skilled teacher who helps primarily beginning teachers strengthen their instructional and pedagogical skills. In New York state, the mentor’s role is confidential and non-evaluative, unless the local collectively bargains otherwise. Ideally, a mentor will have certificate and expertise in the same content area as the person being mentored. Generally, mentors and mentees are located in the same building.

Multiple Measures

Using more than one source of evidence or documentation in assessment of student growth or teacher effectiveness.

■ Multiple Measures of Student Growth

Two or more measures of assessments to obtain evidence of student learning. Some examples include teacher observation, tests (state, district, grade level, classroom, standardized, criterion reference, norm referenced), essays, tasks, projects, laboratory work, presentations, portfolios.

■ Multiple Measures of Teacher Effectiveness

Two or more measures of teaching effectiveness based on prescribed standards, including principal observation, creation of a professional evidence binder (portfolio), student achievement scores, parent and student surveys, reflective journals and others.

N

National Board Certification Standards

National Board Certification (NBC), developed for teachers by teachers, represents professional acknowledgement of “accomplished” teaching practice meeting the highest standards. NBC Teachers could serve as mentors, coaches or peer reviewers.

According to Section 3004-a of Education Law, candidates must be experienced teachers (three years minimum) voluntarily seeking recognition for meeting rigorous standards in one of 25 areas defined by subject and students’ developmental level. A National Board certificate is valid for 10 years and is renewable. Additionally, the National Board standards can serve as a solid base for, or a component of, professional development, resulting in improvements in teaching and learning. (NYSUT Information Bulletin No. 200902)

Norm-Referenced Tests

Standardized tests designed to measure how a student’s performance compares with that of other students. Most standardized achievement tests are norm-referenced, meaning that a student’s performance is compared to the performances of students in a norming group. Scores on norm-referenced tests are often reported in terms of grade-level equivalencies or percentiles derived from the scores of the original students.

New York State Assessments

The following is a list of assessments included in the state’s assessment system:

- **Grades 3-8 Assessments** - an assessment system designed to measure concepts, processes, and skills as defined by the State’s Learning Standards and Performance Indicators. The purpose is to measure the extent to which individual students achieve the New York State Learning Standards in English Language Arts and mathematics and to determine whether schools and districts meet the required progress targets specified in the accountability system. Unlike the Regents high school examinations, the 3-8 testing program is designed to be a point in time summative assessment of a student’s progress to date, versus an end-of-course summative assessment. The Grades 3-8 Testing Program includes assessments in grades 3-8 English Language Arts and mathematics, elementary and intermediate assessments in science, and intermediate assessment in foreign language.
- **Regents examinations** - state achievement test based upon syllabi prescribed by the department.
- **Alternative assessments** - assessments which measure an equivalent level of knowledge and skills which may be substitutes for Regents examinations. For example, the AP World History Exam for Global History and Geography Regents Exam. See NYSUT Briefing Bulletin 10-02 *NYS Education Department Approved Alternatives to Regents Examinations*.
- **Second language proficiency examination** - state test of language skills in modern or classical languages other than English or in Native American languages.
- **Career and technical education proficiency examinations** - state tests taken by students pursuing approved sequences in career and technical education subjects.

- **Regents competency test** - state test of achievement in reading, writing, mathematics, American history and government, global studies and science administered in grades 9 through 12.

O

Outcome-Based Learning

Outcome-based education is an integrated system of educational programs that aligns specific student outcomes, instructional methods, and assessment. (North Central Regional Educational Laboratory, NCREL)

P

Pattern of Ineffective Teaching

Defined by Chapter 103 of the Laws of 2010 as two consecutive annual ineffective ratings, a pattern of ineffective teaching or performance could establish evidence of incompetence.

Peer Assistance and Review (PAR)

PAR includes two separate and distinct components - assistance and review. The assistance program ensures that teachers receive the support and guidance to improve their teaching performance. Peer review involves teachers in the assessment of a colleague's performance. It is a negotiated process in which teachers assess the performance of teachers. Peer reviewers may also be referred to as consulting teachers. Peer assistance can exist without peer review but peer review should not exist without an assistance program such as mentoring and professional development. The goal of a PAR system is to help teachers to improve their teaching effectiveness. All PAR programs in New York state are collectively bargained.

Peer Coaching

Peer coaching is a professional development strategy for educators to consult with one another, to discuss and share teaching practices, to observe one another's classrooms, to promote collegiality and support, and to help ensure quality teaching for all students.

In peer coaching, usually two teachers (though sometimes three or more) come together, share in conversations, and reflect on and refine their practice. Their relationship is built on confidentiality and trust in a non-threatening, secure environment in which they learn and grow together; therefore, peer coaching is usually not part of an evaluative system. (ASCD, formerly the Association for Supervision and Curriculum Development)

Performance Assessment (also referred to as Authentic Assessment)

An assessment that is designed to measure what students know through their ability to perform certain tasks. For example, a performance assessment might require a student to serve a volleyball, solve a particular type of mathematics problem, or write a short business letter to inquire about a product as a way of demonstrating that they have acquired new knowledge and skills. Such assessments—sometimes called performance-based assessments—may provide a more accurate indication of what students can do than traditional assessments, (which include: fill in the blank, true or false, or multiple choice questions). Performance-based assessments typically include exhibitions, investigations, demonstrations, written or oral responses, journals, and portfolios.

Performance Indicators (PI)

Observable and measurable statements that provide evidence of the application of knowledge and skills in practice. Performance Indicators are part of the NYS Learning Standards. These indicators note the required expectations for students at the elementary, intermediate, and commencement levels.

Performance Tasks

Activities, exercises, or problems that require students to show what they can do. Some performance tasks provide formative information to guide instruction or are intended to assess a skill, such as solving a particular type of mathematics problem. Others are designed to have students demonstrate their understanding by applying knowledge. Performance tasks often have more than one acceptable solution.

Portfolio Assessment

A collection of work, which, when subjected to objective analysis, become an assessment tool. This occurs when (1) the assessment purpose is defined; (2) criteria or methods are made clear for determining what is put into the portfolio, by whom, and when; and (3) criteria for assessing either the collection or individual pieces of work are identified and used to make judgments about student learning (CCSSO).

■ Portfolio of Student Work

A collection of student work chosen to exemplify and document a student's learning progress over time. Students are required to maintain a portfolio illustrating various aspects of their learning. Some teachers specify what items students should include, while others let students decide. Portfolios are difficult to score reliably and may be a logistical problem for teachers, yet they encourage student reflection and maybe a more descriptive and accurate indicator of student learning than grades or changes in tests scores.

■ Portfolio of Teacher Work (also referred to as Evidence Binder)

Collections of items, exhibits and artifacts intended to show a teacher's accomplishments and abilities and increase in knowledge and skill. Teacher portfolios when used as a method of evaluation, involve goal setting, collection of artifacts, self reflection and self reporting. The teacher certification program being pioneered by the National Board for Professional Teaching Standards uses teacher portfolios.

Professional Development

A comprehensive, sustained, and intensive approach to improving teachers' and principals' effectiveness in raising student achievement. Professional Development promotes collective responsibility for improved student performance. Professional development is comprised of professional learning that:

- Is aligned with rigorous state student learning standards;
- Is conducted among educators at the school and facilitated by well-prepared professional development coaches, mentors, master teachers, or other teacher leaders;
- Is ongoing and engages educators in a continuous cycle of improvement.

Professional development may be supported by activities such as courses, workshops, institutes, networks of content-area specialists and other education organizations and associations, and conferences. (National Staff Development Council, NSDC).



Quality Rating Categories/Criteria

The performance of Teachers evaluated on or after July 1, 2011, will be rated as one of the following categories based on a single composite effectiveness score:

- **Highly Effective** means a teacher who is performing at a higher level than typically expected of a teacher based on the evaluation criteria prescribed in regulations, including, but not limited to acceptable rates of student growth.
- **Effective** means a teacher who is performing at the level typically expected of a teacher based on the evaluation criteria prescribed in the regulations, including but not limited to acceptable rates of student growth.
- **Developing** means a teacher who is not performing at the level typically expected of a teacher and the reviewer determines that the teacher needs to make improvements based on the evaluation criteria prescribed in regulation, including but not limited to less than acceptable rates of student growth.
- **Ineffective** means a teacher whose performance is unacceptable based on the evaluation criteria prescribed in regulation, including but not limited to unacceptable or minimal rates of student growth.

R

Reliability

An estimate of how closely the results of a test would match if the tests were given repeatedly to the same student under the same conditions (and there was no practice effect). Reliability is a measure of consistency.

Rigorous

Chapter 103 of the Laws of 2010 specifies that teacher evaluations will be based in part on locally selected measures that are “rigorous” and comparable across classrooms. While there is no consensus as to what constitutes rigor in education, the process of increasing rigor is connected to how rigor is defined. Three significant components of rigor in education are: setting high expectations, supporting students and teachers so they can reach those expectations, and accountability for reaching high expectations. (Blackburn, 2008)

Rubric

A set of rules, guidelines, or benchmarks at different levels of performance, or prescribed descriptors for use in quantifying measures of program attributes and performance (adapted from Western Michigan University Evaluation Center).

- Rubrics promote learning by giving clear performance targets based upon agreed-upon learning goals.
- Rubrics are used to make subjective judgments about work or status more objective through clearly articulated criteria for performance.
- Rubrics can be used to understand next steps in learning or how to improve programs (adapted from CCSSO).

■ **Rubric to evaluate student work**

Specific descriptions of performance of a given task at several different levels of quality. Teachers use rubrics to evaluate student performance on performance tasks. Students are often given the rubric, or may even help develop it, so they know in advance what is expected.

■ **Rubric to evaluate teacher effectiveness**

Rubrics describe performance for each criteria at the level of effectiveness: Highly Effective, Effective, Developing, Ineffective.

S

Scaled Scores

A conversion procedure used to convert raw scores into a common standard scale which is needed when comparing performance on different tests.

Standards-Based Assessment

A process through which the criteria for assessment are derived directly from content and/or performance standards (CCSSO).

Standardized Testing

Tests that are administered and scored under uniform (standardized) conditions. Because most machine-scored, multiple-choice tests are standardized, the term is sometimes used to refer to such tests, but other tests may also be standardized.

Student Achievement

Student growth is the change in student achievement for an individual student between two or more points in time. Student achievement in the tested grades and subjects means: (1) a student’s score on the state’s assessments required under the federal Elementary and Secondary Education Act (ESEA); and, as appropriate, (2) other measures of student learning, such as those described for the non-tested grades and subjects, provided they are rigorous and comparable across classrooms.

For non-tested grades and subjects: alternative measures of student learning and performance such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

Student Growth

The change in student achievement for an individual student between two or more points in time. A state may also include other measures that are rigorous and comparable across classrooms.

Summative Assessment

A test given to evaluate and document what students have learned at the end of a period of instruction. The term is used to distinguish such tests from formative tests, which are used primarily to diagnose what students have learned in order to plan further instruction.

Summative Evaluation for Teachers

Used to judge whether a standard has been met. It can be used for tenure decisions, intensive assistance decisions, dismissal decisions, career path decisions and compensation decisions.

Surveys of parents and students

A method of gathering information about teacher effectiveness from the customers who receive the services. Survey questions should be aligned with appropriate standards and performance indicators.



Teaching Standards

A framework and definition of specific expectations for what teachers should know and be able to do:

- Provide a clear definition of effective instructional practice;
- Define teacher competencies and describe what teachers should know and be able to do;
- Promote student learning;
- Serve as the base for teacher evaluation;
- Inform professional learning and development.

Tenure

An employment status a teacher earns by successfully completing a probationary period of employment. In New York, tenure is conferred by a board of education upon the affirmative recommendation of the Superintendent. A tenured teacher has earned the right to due process.

Teacher Principal Effectiveness Advisory Committee (TPEAC)

Chapter 103 of the Laws of 2010 establishes the Teacher Principal Effectiveness Advisory Committee (TPEAC). It will be known as the Regents Task Force on Teacher and Principal Effectiveness. It will be comprised of representatives of key stakeholder groups and will include representatives of teachers, principals, superintendents, school boards and other stakeholders. The State Education Department will consult with TPEAC in developing the value-added growth model and prior to recommending the value-added growth model to the Board of Regents to approve its use in evaluations. The APPR regulations will be developed in consultation with TPEAC.

Teacher (Principal) Improvement Plan (TIP)

On or after July 1, 2011, Chapter 103 of the Laws of 2010 requires a teacher receiving a rating of developing or ineffective to receive a Teacher Improvement Plan. The TIP must be developed and implemented no later than ten days after the date on which teachers are required to report prior to the

opening of classes for the school year. The TIP is required to include, but not limited to, identification of the needed area of improvement, a timeline for achieving improvement, the manner in which improvement will be assessed and where appropriate, differentiate activities to support a teacher's or principal's improvement in those areas. The TIP is to be developed locally through negotiations and consistent with the regulations of the commissioner.

V

Validity

Validity means that scores obtained from an instrument (test) represent what they are intended to represent. Validity refers to the appropriateness, meaningfulness and usefulness of the specific inferences made from test scores. For example, if a test is designed to measure achievement, then scores from the test really do represent various levels of achievement.

Value-Added Assessment

A form of a growth model that includes an evaluation of the specific effects of programs, and other relevant factors, on the academic progress of individual students over time.

Value-Added Model

- A fair, valid value-added model aims to fairly estimate teacher's contribution to achievement growth of his/her students.
- Compare class-wide achievement growth to expected growth.
- Statistical adjustments account for what each student brings to the classroom:
 - Student's previous achievement.
 - Other student factors such as poverty, attendance, special education status, etc.
- In principle, fairest way to use student achievement in teacher evaluation (Gill).

Vertically Aligned Assessments

Vertically aligned assessments allow for comparisons of students between grades. Creating vertical scales involves linking test forms to a common scale. Vertical alignment requires expressing assessment scores on a single vertical scale. Vertical scaling contributes to the creation of developmentally appropriate performance standards over grade levels. A vertical scale allows student progress to be tracked from grade-to-grade to determine the amount of growth each student made in a school year.

Video Recording of Student and Teacher Performance

Video recording is one method of generating data about student and teacher performance for evaluation of effective practice.

W

Weighting

Determining teacher effectiveness requires that the evidence of multiple measures – classroom observations, parent surveys, student test scores, and other evidence of student learning – be incorporated into a single composite score. In calculating the composite score, all evidence may not be equally important and/or significant to the specific purpose(s) of the evaluation. Weighting refers to assigning different levels of consideration to the evidence obtained by classroom observations, parent and student surveys and to student work samples and/or test data.