



May 6, 2015

1. To be meaningful, a teacher and principal evaluation system must serve the ultimate goal of improving student performance.
2. A teacher and principal evaluation system must help to improve the practice of teaching for the benefit of both students and educators.

Few would disagree, as well, that the new regulations must be simple and in plain language to

4. At the local level, an extension of time would allow school districts to engage in required



- To be eligible to submit a default section 3012-d evaluation plan, school districts would have to submit evidence of good faith efforts to engage in and conclude negotiations regarding the outstanding issues required to be collectively bargained.
2. Or, it could be required that all section 3012-d evaluation plans be **approved** by July 1, 2016. This would allow for full implementation of the new evaluation system with the start of the 2016-17 school year, with the required notice to all affected.

Failure to comply with the July 1, 2016 deadline for plan approvals would trigger the default system outlined immediately above.

### ***WEIGHTS AND SCORING RANGES***

***In general*** – The assignment of weights and scoring ranges for the two categories of evaluation should be set:

1. Based on educational judgments that are supported by valid and relevant research.
2. In a manner that does not predetermine the overall outcome of a teacher or principal's evaluation.

***Student performance category*** –

1. The weights, scoring ranges and parameters for appropriate targets for student growth for both subcomponents of this evaluation category should be set according to sound educational judgments that consider the rigor of tests approved for use under this category.
2. To avoid public misconceptions, it is important that the State Education Department make available information that, from the outset, provides transparency regarding the validity of such tests. In addition, to maintain stability and avoid unnecessary delays, it also is important that the Department allow the continued use of assessments that are currently approved and in use for the





Department for statewide use, in consultation with stakeholders and at no cost to school districts and BOCES including costs associated with evaluator training on the use of such a rubric.

### ***ADMINISTRATORS***

Regarding the principal evaluation system, generally, the status quo should be maintained, except as otherwise expressly directed by section 3012-d.

Nonetheless, as in the case of teacher observations, the regulations should provide that school districts have non-negotiable sole discretionary authority to conduct, as they deem necessary, school visits in excess of the minimum number of visits required by regulation.

In addition, the regulations should differentiate between the minimum number of required school visits from probationary principals and tenured principals.

As mentioned above, both organizations are available to answer any questions you might have, and to discuss in more specific terms their recommendations and any other issues you might want to address further.

Respectfully Submitted,

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cc:

Members of the New York State Board of Regents  
The Honorable Andrew Cuomo, Governor  
Elizabeth Berlin, Acting Commissioner of Education  
Ken Wagner, Senior Deputy Commissioner of Education  
Jim Malatras, Director of State Operations  
Senate Majority Leader Dean Skelos  
Senator John Flanagan, Senate Education Chair  
Senator Jeff Klein, IDC Leader  
Senate Democratic Leader, Andrea Stewart-Cousins  
Senator George Latimer, Ranking Democratic Member Education Committee  
Assembly Speaker Carl Heastie  
Assemblymember Catherine Nolan, Chair Assembly Education Committee  
Assembly Republican Leader, Brian Kolb  
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# ADDENDUM



January 9, 2015

The Honorable Andrew M. Cuomo  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12224

Dear Governor



effectiveness. It affects as well the scoring of such measures and the levels of differentiation among the various categories of effectiveness. Thus, the impact of the collective bargaining requirements is not insignificant. This is particularly so given that inherent in the collective bargaining process are “give and takes” which often have to yield to expediencies that depend on the practical and financial realities at play during the bargaining process. Entrusting such issues to the collective bargaining process has instead yielded a system that makes it impossible to get an accurate picture of educator levels of effectiveness on a statewide basis.

- x Not only the selection of local measures and educator effectiveness rubrics, but also the scoring bands, with ranges that define the levels of differentiation used for rating an educator’s performance under those two sets of standards, are subject to negotiations. Given the proportion of the scales, the collective bargaining requirements ultimately affect the overall composite score of an educator’s effectiveness, as well. As a result, it can be challenging to gain a complete and accurate picture of an educator’s effectiveness.
- x The APPR law sets up an educator evaluation system that was intended to ensure all school students have access to effective educators able to convey the most basic knowledge and skills students need to succeed in their academic and professional endeavors. However, implementation of the law’s collective bargaining requirements has produced, instead, a system that cannot guarantee an educator deemed effective in one school district will be deemed at the same in another.
- x The APPR law requires that school districts and BOCES establish an appeals procedure that allows educators to appeal various aspects of their evaluation including, but not limited to, their rating scores. However, those procedures, which are also required to provide for the timely and expeditious resolution of such appeals, are subject to collective bargaining. As a result, some of those procedures might be more cumbersome and confusing in some school districts and BOCES than in others, which in turn can affect a school board’s ability to make timely decisions within statutorily prescribed time frames. For example, the APPR law requires that an educator’s APPR be a significant factor



However, any review of the APPR system also must acknowledge the ongoing academic and public debate regarding the reliability of using student performance on standardized testing in both student growth analysis and teacher models. Related concerns include, for example, the impact of factors beyond teachers control on student learning and, thus, on an educator's evaluation; the accompanying possibility of a diminishing willingness on the part of educators to serve special student populations; and the impact of undue emphasis on tested subjects and te

evaluators are trained and certified by the State Education Department on its use, at no cost to the school district and BOCES.

- x Authorize school districts and BOCES, to gather observational evidence on an ongoing basis rather than at a set number of times throughout the school year, and to conduct all APPR related observations without advance notice to teachers. This authority shall not be subject to collective bargaining.

This proposal addresses two key objectives. First, it permits a more accurate scoring of the rubric based on a more comprehensive set of data. Second, it facilitates the early identification and resolution of possible problem areas in need of attention, rather than waiting until after a teacher receives an overall score of developing or ineffective for the development and implementation of an improvement plan.

- o Activities undertaken to remediate any identified problem areas shall not be subject to collective bargaining either, but shall be specifically targeted to the areas in need of attention based on administrative review of the observational evidence and interactive consultation between the school building principal and the teacher.
  - o For similar reasons, the same concept and process should apply to the evaluation of school building principals. They should apply, as well, to the development and implementation of teacher and principal improvement plans which currently are subject to collective bargaining.
- x Standardize the bands and the process used for scoring the various subcomponents of the APPR evaluation system and the overall composite rating, in a manner consistent with the objectives reflected in the various recommendations set out in this letter.
- x Link the evaluation of school building principals to the quality of teacher evaluations with respect to the second and third subcomponents of the system, and the use of other comparable measures of student growth where no state assessments are available, to foster fidelity and reliability regarding the implementation of the APPR system.
- x Make available the human and financial resources necessary for the State Education Department to provide uniform training on conducting evaluations under the APPR system to all school district and BOCES staff charged with that responsibility. The training should be provided on a regional basis to facilitate participation and minimize disruption to school operations.

## The Issues:

- x The APPR law limits the definition of what constitutes a pattern of ineffective teaching or performance to two consecutive ineffective ratings pursuant to APPRs conducted under the APPR educator evaluation system. As a result, an tenured educator who, for example, receives two ineffective ratings in a three year period, but not in a consecutive sequence, would not be subject to an expedited Section 3020-a proceeding.
- x A pattern of ineffective teaching or performance, as defined under the APPR law, constitutes only “very significant evidence of ineffective teaching or performance”. However, school districts must establish pedagogical incompetence proceedings by a preponderance of the evidence.
- x The impact of an overall composite score other than ineffective because of an effective rating on the other measures APPR subcomponent.

## Reform Proposals:

- x Revise the definition of pattern of ineffective teaching or performance to include multiple years of ineffective ratings that are not consecutive in sequence.
- x Make multiple ineffective ratings constitute a presumption of pedagogical incompetence rather than merely “very significant evidence”.
- x Re-institute the appellate authority of the commissioner of education to review and adjudicate Section 3020-a case, and make available the human and financial resources necessary to effectuate that purpose, in order to ensure a uniform statewide body of law critical to the successful implementation of the APPR educator evaluation system throughout the state.

It is important to note that there are other Section 3020-a issues which are not directly related to the APPR educator evaluation system but nonetheless require attention and need to be examined for possible reform. Those additional issues evince the need for statutory revisions that, for example:

- x Authorize the automatic dismissal of tenured educators who (a) have been convicted of criminal offenses beyond those already set out in the statute, (b) have had their certification revoked by the State Education Department in a Part 83 proceeding, or have (c) failed to obtain permanent certification within requisite statutory timeframes.
- x Lift undue constraints that prevent school officials from requiring a tenured educator cooperate with a school district’s investigation into the educator’s own alleged misconduct.
- x Eliminate paid suspensions while Section 3020-a proceedings are pending, or establish a cap for those facing charges not covered by the current rule allowing suspension without pay in the limited circumstances set out in the statute.



- x Require tenured educators who are the subject of a Section 3020a to provide "reciprocal discovery" to their employing school district.
- x Establish a state panel of hearing officers and decide Section 3020a cases

As mentioned above, both organizations are available to answer any questions you might have, and for a more in-depth discussion of any issues you want to discuss further.

Thank you for your consideration.

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Respectfully Submitted,



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Timothy G. Kremer

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Robert H. Cohen