



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

Executive Director
New York State Education Department
Office of Educator Quality and Professional Development
89 Washington Avenue, 360 EBA
Albany, NY 12234
Office: (518) 486-2573
Fax: (518) 474-4130

To: District Superintendents of BOCES
Superintendents of Public Schools
Public School Principals

From: Alexander Trikalinos *AlexTrikalinos*

Date: May 18, 2022

RE: 2021-22 School Year Annual Professional Performance Review (APPR) Update

On May 13, 2022, Governor Kathy Hochul signed Chapter 201 of the Laws of 2022, which, in part, provides that, for the 2021-22 school year, no school district or BOCES shall be required to complete an annual teacher or principal evaluation for any classroom teacher or building principal due to concerns related to the ongoing response to the COVID-19 pandemic.

In effect, the bill excuses school districts and BOCES from the requirement to complete a teacher's or principal's evaluation under Education Law §3012-d and Regents Rules 30-3 for the 2021-22 school year. The bill also eliminates any state aid penalties for school districts that fail to implement any component of their approved APPR plans.

Chapter 201 of the Laws of 2022 also amends several sections of the Education Law related to the granting of tenure for classroom teachers and building principals first appointed to a probationary period during the 2017-18 through 2021-22 school years. Pursuant to the statutory amendments, a board of education or the trustees of a common school district are entitled to grant tenure to a classroom teacher or building principal recommended by the superintendent of schools in the final year of their probationary period notwithstanding that their annual evaluations were not completed in the 2019-20, 2020-21, and/or 2021-22 school years so long as all other specified conditions are met and the educator would have been, in the superintendent of school's discretion, qualified for appointment on tenure based on performance.

The statutory amendments also provide that previously tenured classroom teachers who accept a new position at a new school district in the 2020-21, 2021-22, and 2022-23 school years will be appointed to a three-year probationary period provided that they have received an overall evaluation rating in either the 2017-18 or 2018-19 school year rather than in their final year of service as is typically required by law. Additionally, for those teachers who accept a position at a BOCES, their 2017-18 or 2018-19 overall evaluation rating must have been either Effective or Highly Effective.

Any questions related to this memorandum should be directed to the Office of Educator Quality and Professional Development (OEQPD) by e-mail at educatoreval@nysed.gov.

Questions and Answers

Can we still complete evaluations if we were able to implement our APPR plan for the 2021-22 school year?

Yes. The amendments to the law eliminate the requirement for LEAs to complete teacher and principal evaluations for the 2021-22 school year, but do not prohibit evaluations from being completed where an LEA is able to do so.

Do LEAs still have to report APPR data for the 2021-22 school year?

Yes. To the extent that LEAs are able to complete all or part of an educator's evaluation, the Department expects that such scores and ratings will be reported. Information and resources related to the submission of staff evaluation data will be forthcoming and will be posted on the [Resources for Staff Evaluation Data Collection page](#). To reduce the burden on LEAs, the Department will not be requiring LEAs to certify data or complete an APPR implementation certification for the 2021-22 school year. There will be a 2021-22 Staff Evaluation Status form available in the [NYSED Business Portal](#) to allow LEAs to report the status of their APPR for the 2021-22 school year. This form will be posted at the conclusion of the 2021-22 school year and can be submitted electronically.

What if I already have an approved variance for this school year?

If your LEA has a variance approved by the Department and such variance was able to be implemented during this school year, then you may, but are not required to, complete evaluations for the applicable teachers and principals using the measures described in that variance.

If I have a multiple-year variance, can I still use it next year?

If your variance is not COVID-related and was approved for multiple years, you can still implement it during its period of approval. Some COVID-related variances were approved for multiple years on a conditional basis pending the status of the pandemic. Further guidance from our office will be forthcoming regarding whether multiple-year COVID-related variances may be implemented in the 2022-23 school year depending on the specific terms of such variances.

Can a board of education or the trustees of a common school district grant tenure to a classroom teacher or building principal who was not evaluated during the 2019-20 through 2021-22 school years?

Yes, so long as all other statutory conditions are met. The amendments to the education law create a different set of conditions for appointing classroom teachers and building principals on tenure who are missing one or more evaluation ratings depending on the school year in which the educator was first appointed to their probationary period.

The chart below provides an overview of these statutory amendments but is not an exhaustive list of criteria for granting tenure. LEAs should consult with their local counsel regarding the specific circumstances under which an educator can be recommended for appointment on tenure.

School Year Educator was Appointed to Probationary Term	Tenure Eligibility Criteria Under Chapter 201 of the Laws of 2022
2017-2018	<ul style="list-style-type: none"> • Educator received either an Effective (E) or Highly Effective (HE) rating in at least one of the four preceding school years; and • did not receive an Ineffective (I) rating in the final year of their probationary period (or the most recent year a score was received if no overall rating was received in the final year). *
2018-2019	<ul style="list-style-type: none"> • Educator is not required to have received any overall evaluation ratings for three consecutive years; and • did not receive an Ineffective (I) rating in the final year of their probationary period (or the most recent year a score was received if no overall rating was received in the final year). *
2019-2020	<ul style="list-style-type: none"> • Educator is not required to have received any overall evaluation ratings for three consecutive years; and • did not receive an Ineffective (I) rating in the final year of their probationary period (or the most recent year a score was received if no overall rating was received in the final year). *
2020-2021	<ul style="list-style-type: none"> • Educator received either an Effective (E) or Highly Effective (HE) rating in at least one of the four preceding school years; and • did not receive an Ineffective (I) rating in final year of their probationary period (or the most recent year a score was received if no overall rating was received in the final year). *
2021-2022	<ul style="list-style-type: none"> • Educator received either an Effective (E) or Highly Effective (HE) rating in at least two of the last four preceding school years; and • did not receive an Ineffective (I) rating in final year of their probationary period (or the most recent year a score was received if no overall rating was received in the final year). *

* Eligibility for tenure is always subject to the superintendent of school's recommendation. Prior to recommending an educator for appointment on tenure, the superintendent of schools must find that such educator is competent, efficient, and satisfactory. Additionally, for those classroom teachers and building principals who did not receive an overall evaluation rating during the 2019-20 through 2021-22 school years, the superintendent of schools must find that the classroom teacher or building principal would have been qualified for appointment on tenure based upon performance, notwithstanding that their evaluations were not completed and no overall rating was received.