

*Frequently Asked Questions – Rural/Single Building School District Independent Evaluator  
Hardship Waiver*

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Updated June 23, 2016

## General information

### ***Q1. What is the Rural/Single Building School District Independent Evaluator Hardship Waiver?***

The Rural/Single Building School District Independent Evaluator Hardship Waiver (“Hardship Waiver”) is a waiver from the requirement under Education Law §3012-d and the corresponding provisions of Subpart 30-3 of the Rules of the Board of Regents that at least one observation/school visit be conducted by one or more impartial independent trained evaluators selected and trained by the district. Such waiver must be submitted on a form and in a manner prescribed by the Commissioner. Pursuant to Subpart 30-3 of the Rules of the Board of Regents, hardship waivers will only be granted for a rural school district or a school district with only one registered school pursuant to §100.18 of the Commissioner’s regulations that, due to the size and limited resources of the school district, is unable to obtain an independent evaluator within a reasonable proximity without an undue burden.

**Please note that approval of this Hardship Waiver does not constitute a waiver from the requirement that teachers/principals have at least two observations/school visits conducted annually.** If a Hardship Waiver is granted, the district must instead conduct such observations/school visits utilizing one or more evaluators selected and trained by the district who are different than the evaluator(s) that conducted the observations/school visits required to be performed by the principal/supervisor or other trained administrator (e.g., an assistant principal in the same school building as the teacher being evaluated).

### ***Q2. How does my district file the Independent Evaluator Hardship Waiver?***

The Hardship Waiver should be submitted to the Department for review via the SED Monitoring and Vendor Performance System, available through the NYSED Application Business Portal, available at: <http://portal.nysed.gov>. If you experience issues logging into the portal, contact [seddas@nysed.gov](mailto:seddas@nysed.gov) for assistance. Please note that technical difficulties do not constitute a valid reason for failing to submit a waiver application in any school year for which a waiver is needed. Please also note that the Department will not accept late or incomplete submissions for Hardship Waivers (a complete submission must include the completed and signed application, including all required materials), and all districts must submit their completed materials by February 1 of each school year.

### ***Q3. We have already received approval for an APPR plan pursuant to Education Law §3012-d, do we still need to submit this waiver? What if we are currently working with an SED reviewer on our submitted APPR plan?***

If your district is a rural school district (as defined in Q4) or a school district with only one registered school pursuant to §100.18 of the Commissioner’s regulations, and due to the size and limited resources of the district, it is unable to obtain an independent evaluator within a

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reasonable proximity without an undue burden, then the district must apply for and receive approval of a Hardship Waiver from this requirement.

If the district does not apply for or seek renewal of the waiver in each school year, then the observation/school visits in the second required subcomponent of the Teacher Observation/Principal School Visit category must be conducted by one or more impartial independent trained evaluators selected and trained by the district. Such evaluators may be employed within the district, but may not be assigned to the same school building (defined by its BEDS Code) as the teacher/principal being evaluated.

### ***Q4. How does the Department define a “rural school district” for the purpose of determining whether a school district is eligible to receive a Hardship Waiver?***

A rural school district is defined as a school district that has: 1) fewer than 50 students per square mile; or 2) fewer than 100 students per square mile and an enrollment of less than 2,500.

### ***Q5. My district plans to submit a Hardship Waiver in lieu of getting a §3012-d APPR plan approved by November 15, 2015, do we still need to submit this Independent Evaluator Hardship Waiver?***

During the time period when a district is seeking a Hardship Waiver from implementing the provisions of Education Law §3012-d and/or operating under such Hardship Waiver, the district must demonstrate that it continues to engage in efforts to collectively bargain in good faith and to train relevant staff, to the extent practicable, on the new evaluation system consistent with the provisions of Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents. Furthermore, if your district receives approval from the Department of an APPR plan consistent with the requirements of Education Law §3012-d on or before March 1, 2016, then that plan must be implemented for the 2015-16 school year.

Accordingly, depending on when your district receives approval of its §3012-d APPR plan, it is possible that observations/school visits by an independent evaluator would need to be completed during the 2015-16 school year. Thus, as indicated in Q3, if your district is eligible to apply for an Independent Evaluator Hardship Waiver and you anticipate being unable to obtain such evaluators without undue burden in the current school year, then you must apply for and receive approval of an Independent Evaluator Hardship Waiver by February 1 of each school year.

**Please note that approval of this Hardship Waiver does not constitute a waiver from the requirement that teachers/principals have at least two observations/school visits conducted annually.** If granted a Hardship Waiver, the district must instead conduct such observations/school visits utilizing one or more evaluators selected and trained by the district who are different than the evaluator(s) that conducted the observations/school visits required to be performed by the principal/supervisor or other trained administrator (e.g., an assistant principal in the same school building as the teacher being evaluated).

***Q6. Who do I contact if my district has questions?***

For non-technical questions regarding the Independent Evaluator Hardship Waiver or application process, please contact [hardship@nysed.gov](mailto:hardship@nysed.gov) and include “Independent Evaluator Hardship Waiver” in the subject line.

Technical issues related to the portal should be directed to [seddas@nysed.gov](mailto:seddas@nysed.gov).

**Timelines**

***Q7. When is my district required to apply for an Independent Evaluator Hardship Waiver?***

Districts seeking an Independent Evaluator Hardship Waiver in the 2015-16 school year must submit the completed and signed application, including all required materials, to the Department for review by February 1, 2016. For the 2016-17 school year and thereafter, the application window will be from September 1 – February 1 of that school year. Districts may not prospectively apply for waiver for future school years, nor can they apply for multiple school years in one waiver. Independent Evaluator Hardship Waivers must be renewed on an annual basis. Renewal applications must be submitted by February 1 of the school year for which the waiver will be in effect. The Department encourages districts to submit their waiver applications as soon as possible to ensure that there is sufficient time for the Department to review and approve the application. As stated above, all districts must submit their completed materials by the filing deadline.

***Q8. When will the Independent Evaluator Hardship Waiver be available? Where will I find instructions on how to complete it?***

Instructions for how to complete the Independent Evaluator Hardship Waiver can be found within the waiver application. Districts must access the Waiver in the NYSED Application Business Portal at <http://portal.nysed.gov>. The Waiver is currently available and will remain open for completion through February 1, 2016. In subsequent school years, the waiver application will open on September 1 of each school year and the application will remain open until February 1 of the school year for which the waiver will be in effect.

Technical issues related to the portal should be directed to [seddas@nysed.gov](mailto:seddas@nysed.gov). All other non-technical issues related to APPR or proper completion of the form should be directed to [hardship@nysed.gov](mailto:hardship@nysed.gov).

***Q9. How long is an Independent Evaluator Hardship Waiver valid?***

Independent Evaluator Hardship Waivers are only valid for the current school year for which they are approved and must be renewed by the district annually. If a district does not seek renewal of this waiver for a subsequent school year, then the observation/school visits in the second required subcomponent of the Teacher Observation/Principal School Visit Category must be conducted by one or more impartial independent trained evaluators selected and trained by the district. Such evaluators may be employed within the district, but may not be assigned to the

same school building (defined by its BEDS Code) as the teacher/principal being evaluated.

### **Evidence of hardship**

***Q10. What evidence will my district be required to provide when submitting its application for an Independent Evaluator Hardship Waiver?***

Districts are required to provide the following information in the waiver application:

- a) school district name;
- b) school district BEDS code;
- c) school district type (i.e., rural and/or single building);
- d) a description of the size and/or resource constraints that are preventing the district from obtaining an independent evaluator within a reasonable proximity without an undue burden; and
- e) signature from the district's superintendent.

### **Notification of status**

***Q11. How will I know if my district has been granted an Independent Evaluator Hardship Waiver?***

After a review of your Hardship Waiver application has been conducted by the Department, the superintendent, district superintendent, or chancellor of your district will receive a notification letter from [educatoreval@nysed.gov](mailto:educatoreval@nysed.gov) via the email address on file with the Department regarding the approval status of your Hardship Waiver. Approved Independent Evaluator Hardship Waivers will be posted online at <http://usny.nysed.gov/rttt/teachersleaders/plans/home.html>. Reviews will be conducted on a rolling basis based on the date of application submission.

***Q12. If my district's Independent Evaluator Hardship Waiver is denied for technical reasons such as incomplete signatures, how do I resubmit the waiver? What happens if my district's waiver is denied on the merits?***

If your application is determined to be insufficient for technical reasons, you will be notified via email. Your application will then be un-submitted within the portal to allow you to make changes or additions to your application. The application must then be resubmitted in the portal. Please note that the portal will not allow for a submission to be made without all portions of the application completed.

If your Hardship Waiver is denied prior to the submission deadline of February 1 each school year, you may submit a revised application. Your district may also submit an email via the [hardship@nysed.gov](mailto:hardship@nysed.gov) mailbox requesting review support. If, however, your application is denied and the approval period has expired, i.e., it is after February 1, you may not resubmit an application for a hardship waiver for that school year.

## **Renewal process**

### ***Q13. How does my district renew its Independent Evaluator Hardship Waiver?***

Independent Evaluator Hardship Waivers must be submitted on an annual basis. Thus, if your district submits by February 1, 2016 and is approved by the Commissioner for an Independent Evaluator Hardship Waiver for the 2015-16 school year, but finds that it is still experiencing a hardship and requires a waiver in the subsequent school year, your district must apply by February 1, 2017 in order to receive a waiver for the 2016-17 school year.

Each subsequent renewal application will require your district to submit the information outlined in Q10.

## **APPR requirements during the waiver period**

### ***Q14. Does my district need to complete both required subcomponents of the Observation/School Visit Category for classroom teachers and building principals under Education Law §3012-d if we have received approval of an Independent Evaluator Hardship Waiver from the Department?***

Yes, the purpose of this application is for a rural school district or school district with only one registered school to request a Hardship Waiver from the requirement that at least one observation/school visit be conducted by one or more impartial independent trained evaluators selected and trained by the district.

If granted a Hardship Waiver, the district must instead conduct such observations/school visits utilizing one or more evaluators selected and trained by the district who are different than the evaluator(s) that conducted the observations/school visits required to be performed by the principal/supervisor or other trained administrator (e.g., an assistant principal in the same school building as the teacher being evaluated).

### ***Q15. If my district has received approval for an Independent Evaluator Hardship Waiver, how should I indicate this in the Review Room portal?***

Tasks 4.5, 4.7, 9.5, and 9.7 in the Review Room portal have been revised to allow districts to indicate the number of observations/visits that will be conducted by “Independent Evaluator(s) or Other Evaluator(s)” and the corresponding weight of such observations/school visits. No further information will be necessary in the portal to indicate that the district will be operating under this waiver.