

NEW YORK STATE EDUCATION DEPARTMENT



GUIDANCE ON NEW YORK STATE'S ANNUAL PROFESSIONAL PERFORMANCE REVIEW FOR TEACHERS AND PRINCIPALS TO IMPLEMENT EDUCATION LAW §3012-d AND THE COMMISSIONER'S REGULATIONS

UPDATED: April 17, 2018

Purpose of the Guidance

The purpose of this guidance is to answer questions that educators, administrators, and community stakeholders may have about Education Law §3012-d and Subpart 30-3 of the Commissioner’s regulations for the 2015-16 school year and beyond.

Revised Teacher and Principal Evaluation Law

On April 13, 2015, the Assembly and Senate passed the New York State Budget for 2015-16 and signed into law a revised annual professional performance review system for teachers and principals as Chapter 56 of the Laws of 2015, which created Education Law §3012-d.

Section 3012-d of the Education Law can be found by visiting the [New York State Legislature website](#), selecting “Laws” then “Laws of New York” from the top menu bar, entering “3012-d” in the search box, and clicking on the second link, “Education Law § 3012-D.”

The [regulations that implement Education Law §3012-d](#) can be found on EngageNY.

[Additional information, tools, and resources related to Education Law §3012-d](#) can also be found on EngageNY.

The New York State Education Department will provide additional or updated guidance as necessary on its [website](#).

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A. Introduction

Background

On May 28, 2010, the Governor signed Chapter 103 of the Laws of 2010, which added a new Education Law §3012-c, establishing a comprehensive evaluation system for classroom teachers and building principals. The 2010 law required each classroom teacher and building principal to receive an annual professional performance review (APPR) resulting in a single composite effectiveness score and a rating of “highly effective,” “effective,” “developing,” or “ineffective.” The composite score was determined as follows:

- 20% is based on student growth on State assessments or other comparable measures of student growth (increased to 25% upon implementation of a value-added growth model);
- 20% is based on locally-selected measures of student achievement that are determined to be rigorous and comparable across classrooms as defined by the Commissioner (decreased to 15% upon implementation of value-added growth model);
- The remaining 60% is based on other measures of teacher/principal effectiveness consistent with standards prescribed by the Commissioner in regulation.

At its May 2011 meeting, the Board of Regents adopted emergency regulations to implement the new evaluation system established in the 2010 law.

On March 27, 2012, the Governor signed Chapter 21 of the Laws of 2012, making significant changes to enhance the 2010 evaluation law, including requiring the submission of APPR plans to the Commissioner for approval. Subpart 30-2 of the Rules of the Board of Regents was amended in March 2012 to conform to the new law.

In 2013, the Governor signed Chapter 57 of the Laws of 2013 to, among other things, require that all APPR plans continue in effect until a successor collective bargaining agreement (“CBA”) is reached and the plan is approved by the Commissioner. The evaluation law was also revised to provide the Commissioner with authority to impose an APPR plan on the New York City School District through arbitration.

In 2014, the Legislature made additional changes to the evaluation law to expedite material changes to reduce testing, to prohibit the administration of traditional standardized assessments in grades kindergarten through second, and to limit the amount of instructional time spent on testing and test preparation.

Education Law §3012-d

On April 13, 2015, the Governor signed Chapter 56 of the Laws of 2015 to add a new Education Law §3012-d to establish a new evaluation system for classroom teachers and building principals. The new law requires teachers and principals to be evaluated based on two categories: the Student Performance Category and the Observation/School Visit Category, each of which are

explained in further detail throughout this document. Under the new law, New York State continues to differentiate teacher and principal effectiveness using four rating categories – Highly Effective, Effective, Developing, and Ineffective. Education Law §3012-d requires APPRs to result in a single overall teacher or principal effectiveness rating that incorporates multiple measures of effectiveness. As in the past, the results of the evaluations shall be a significant factor in employment decisions, including but not limited to promotion, retention, tenure determination, termination, and supplemental compensation, as well as teacher and principal professional development (including coaching, induction support, and differentiated professional development).

As a result of the new legislation, during the June 2015 meeting of the Board of Regents, Subpart 30-2 was amended and a new Subpart 30-3 of the Rules of the Board of Regents was added as an emergency adoption in order to implement Education Law §3012-d. Subparts 30-2 and 30-3 were further amended as an emergency measure during the September 2015, December 2015, February 2016, and May 2016 meetings of the Board of Regents following the 45-day public comment period required under the State Administrative Procedure Act (SAPA). Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 30-day public comment period provided for in SAPA §§201(1) and (5), would be the September 2016 Regents meeting. Furthermore, pursuant to SAPA §203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be September 28, 2016, the date a Notice of Adoption would be published in the State Register.

The Department modified §100.2(o) of the Commissioner’s regulation to conform to Education Law §3012-d.

The titles of **Section 30-2** and **Section 30-2.1** are amended to clarify that Subpart 30-2 only applies to APPRs conducted prior to the 2015-16 school year or APPRs conducted pursuant to a CBA entered into on or before April 1, 2015 which remains in effect on or after April 1, 2015 until a subsequent agreement is reached.

The amendments to Subpart 30-2 of the Rules of the Board of Regents are organized as follows:

Section 30-2.1(d) is amended to clarify that a school district or BOCES has an unfettered statutory right to terminate a probationary teacher or principal for any statutorily and constitutionally permissible reason, including but not limited to misconduct, and until a tenure decision is made, the performance of a teacher or principal in the classroom or school.

Section 30-2.11 also clarifies that a school district or BOCES may terminate a probationary teacher or principal during an appeal for any statutorily and constitutionally permissible reason, including a teacher’s or principal’s performance.

Section 30-2.13 is added to prescribe a State appeals process whereby certain teachers and principals who were rated Ineffective on their State-provided growth score during the 2014-15

school year and thereafter may appeal their State-provided growth score to the Department in certain limited circumstances.

Section 30-2.14 provides for the calculation of transition scores and ratings for the 2015-2016 school year for teachers and principals whose APPRs are based, in whole or in part, on State assessments and/or on State-provided growth scores on Regents examinations during a transition period while the State completes the transition to higher learning standards through new State assessments aligned to the higher learning standards, and a revised State-provided growth model.

A new **Subpart 30-3** is added to implement the new evaluation system.

Section 30-3.1 clarifies that the new evaluation system only applies to CBA's entered into after April 1, 2015 unless the agreement relates to the 2014-15 school year only. It further clarifies that nothing in the new Subpart shall be construed to abrogate any conflicting provisions of any CBA in effect on or after April 1, 2015 during the term of such agreement and until entry into a successor CBA agreement. It further clarifies that APPRs shall be a significant factor for employment decisions and teacher and principal development, consistent with the prior law. It also clarifies the unfettered right to terminate a probationary teacher or principal for any statutorily and constitutionally permissible reason. This section also provides that the Board will convene workgroup(s) comprised of stakeholders and experts in the field to provide recommendations to the Board on assessments and metrics that could be used for APPRs in the future.

Section 30-3.2 defines several terms used in the Subpart.

Section 30-3.3 prescribes the requirements for APPR plans submitted under the new Subpart

Section 30-3.4 describes the standards and criteria for conducting APPRs of classroom teachers under the new law. The new law requires teachers to be evaluated based on two categories: the Student Performance Category and the Teacher Observation Category.

Student Performance Category

The first category has two subcomponents, one mandatory and the other optional. For the first mandatory component, teachers shall be evaluated as follows:

- For teachers whose courses end in a State created or administered test for which there is a State-provided growth model and at least 50% of a teacher's students are covered under the State-provided growth measure, such teachers shall have a State-provided growth score based on such model.
- For teachers whose course does not end in a State created or administered test or where less than 50% of the teacher's students are covered under the State-provided growth measure, such teachers shall have a Student Learning Objective ("SLO") consistent with a goal setting process determined or developed by the Commissioner that results in a student growth score; provided that for any teacher whose course ends in a State created or administered assessment for which there is no State-provided growth model, such assessment must be used as the underlying assessment for such SLO.

The second optional subcomponent shall be comprised of the one or more the following options, as determined locally:

- A second State-provided growth score on a State-created or administered test; provided that the State-provided growth measure is different than that used in the required subcomponent of the student performance category, which may include one or more of the following measures:
 - a teacher-specific growth score computed by the State based on percentage of students who achieve a State-determined level of growth (e.g., percentage of students whose growth is above the median for similar students);
 - school-wide growth results based on a State-provided school-wide growth score for all students attributable to the school who took the State English language arts or math assessment in grades 4-8; or
 - district- or BOCES-wide or school- or program-wide, group, team, or linked growth results using available State-provided growth scores that are locally-computed;
- A growth score based on a state designed supplemental assessment calculated using a State-provided or approved growth model.

The law requires the Commissioner to establish weightings and scoring ranges for the subcomponents of the student performance category. The regulations apply the following weights to each of the subcomponents:

- If a district does not locally select to use the optional second student growth subcomponent, then the mandatory subcomponent shall be weighted at 100%.
- If the optional second student growth subcomponent is selected, then the weightings shall be established locally, provided that the mandatory student growth subcomponent shall be weighted at a minimum of 50% and the optional student growth subcomponent shall be weighted no more than 50%.

Teacher Observation Category

The second category is comprised of three subcomponents; two mandatory and one optional. The two mandatory subcomponents shall be based on:

- One observation that shall be conducted by a principal or other trained administrator and;
- A second observation that shall be conducted by one or more impartial independent trained evaluator(s)¹ selected and trained by the district. An independent trained evaluator may be employed within the district but may not be assigned to the same school building as the teacher being evaluated.
- At least one of the mandatory observations must be unannounced.

The third optional subcomponent may include:

¹ If a district is granted an annual Independent Evaluator Hardship Waiver by the Department, the second observation(s) shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the observation(s) required to be performed by the principal/supervisor or other trained administrator.

- classroom observations conducted by a trained peer teacher rated Effective or Highly Effective on his or her overall rating in the prior school year from the same school or from another school in the district.

The law also requires the Commissioner to establish the frequency and duration of observations in regulations. The regulations allow the frequency and duration of observations to be established locally.

This section also requires all observations to be conducted using a teacher practice rubric approved by the commissioner pursuant to a Request for Qualification (“RFQ”) process, unless the district has an approved variance from the Commissioner and prescribes parameters for the observations category.

The law further requires the Commissioner to establish weightings and scoring ranges for the subcomponents of the teacher observations category. The regulations provide that the weighting of the subcomponents within the teacher observation category shall be established locally within the following constraints:

- observations conducted by a principal or other trained administrator shall be weighted at a minimum of 80%.
- observations conducted by independent impartial observers shall be weighted at a minimum of 10%.
- if a district selects to use the optional third observation subcomponent, then the weighting assigned to the optional observations conducted by peers shall be established locally within the constraints outlined above.

Section 30-3.5 describes the standards and criteria for conducting APPRs of building principals under the new law. The new law requires the Commissioner to establish a principal evaluation system that is aligned to the new teacher evaluation system set forth in Education Law §3012-d.

To implement the new law, the proposed amendment requires building principals to be evaluated based on two categories: the Student Performance Category and the School Visit Category.

Student Performance Category

The first category has two subcomponents, one mandatory and the other optional. For the first mandatory component, teachers shall be evaluated as follows:

- For principals with at least 30% of their students covered under a State-provided growth measure, such principal shall have a State-provided growth score based on such model.
- For principals where less than 30% of their students are covered under a State-provided growth measure, such principals shall have a SLO consistent with a goal setting process determined or developed by the Commissioner that results in a student growth score; provided that for any course that ends in a State created or administered assessment for which there is no State-provided growth model, such assessment must be used as the underlying assessment for such SLO.

If the district opts to use the second optional subcomponent, it shall be comprised of one or more of the following measures:

- A second State-provided growth score on a State-created or administered test; provided that the State-provided growth measure is different than that used in the required subcomponent of the student performance category, which may include one or more of the following measures:
 - a principal-specific growth score computed by the State based on percentage of students who achieve a State-determined level of growth (e.g., percentage of students whose growth is above the median for similar students); and/or
 - district- or BOCES-wide or school- or program-wide, group, team, or linked growth results using available State-provided growth scores that are locally-computed
- A growth score based on a state designed supplemental assessment calculated using a State-provided or approved growth model.

The law requires the Commissioner to establish weightings and scoring ranges for the subcomponents of the student performance category. The proposed amendment applies the following weights to each of the subcomponents:

- If a district does not locally select to use the optional second student growth subcomponent, then the mandatory subcomponent shall be weighted at 100%.
- If the optional second student growth subcomponent is selected, then the weightings shall be established locally, provided that the mandatory student growth subcomponent shall be weighted at a minimum of 50% and the optional student growth subcomponent shall be weighted no more than 50%.

Principal School Visit Category

The principal school visit category is comprised of three subcomponents; two mandatory and one optional. The two mandatory subcomponents shall be based on:

- one school visit shall be conducted by the principal's supervisor or other trained administrator; and
- a second school visit shall be conducted by one or more impartial independent trained evaluator(s)² selected and trained by the district. An independent trained evaluator may be employed within the district but may not be assigned to the same school building as the principal being evaluated.
- At least one of the mandatory school visits must be unannounced.

The third optional subcomponent may include:

- School visits conducted by a trained peer administrator rated Effective or Highly Effective on his or her overall rating in the prior school year from the same school or from another school in the district.

² If a district is granted an annual Independent Evaluator Hardship Waiver by the Department, the second school visit(s) shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the school visit (s) required to be performed by the supervisor or other trained administrator.

The law also requires the Commissioner to establish the frequency and duration of school visits in regulations. The proposed amendment requires the frequency and duration of school visits to be set locally.

The section also requires all school visit to be conducted using a principal practice rubric approved by the commissioner pursuant to a Request for Qualification (“RFQ”) process, unless the district has an approved variance from the Commissioner.

This section further prescribes parameters for the school visits category. The law requires the Commissioner to establish weightings and scoring ranges for the subcomponents of the school visits category. The proposed amendment provides that the weighting of the subcomponents within the principal school visits category shall be established locally within the following constraints:

- School visits conducted by the principal’s supervisor or other trained administrator shall be weighted at a minimum of 80%.
- School visits conducted by independent impartial trained evaluators shall be weighted at a minimum of 10%.
- If a district selects to use the optional third observation subcomponent, then the weighting assigned to the optional school visits conducted by peers shall be established locally within the constraints outlined above.

Section 30-3.6 describes how the overall rating is computed, based on the evaluation matrix established by the new law, which combines the teacher’s or principal’s ratings on the student performance category and the observation/school visit category. This section also provides that it must be possible to obtain each point in the scoring ranges, including 0, for each subcomponent and category. It further requires that the superintendent, district superintendent or Chancellor and the president of the collective bargaining representative, where one exists, must certify in the APPR plan that the evaluation system will use the weights and scoring ranges provided by the Commissioner and that the process by which weights and scorings are assigned to subcomponents and categories is transparent and available to those being rated before the beginning of each school year.

Section 30-3.7 lists the prohibited elements set forth in Education Law §3012-d, which precludes districts/BOCES from using the following as part of a teacher’s and/or principal’s evaluation:

- evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, except for student portfolios measured by a State-approved rubric where permitted by the department;
- use of an instrument for parent or student feedback;
- use of professional goal-setting as evidence of teacher or principal effectiveness;
- any district or regionally-developed assessment that has not been approved by the department; and
- any growth or achievement target that does not meet the minimum standards as set forth in regulations of the commissioner adopted hereunder.

Sections 30-3.8 and 30-3.9 set forth the approval processes for student assessments and teacher and principal practice rubrics.

Section 30-3.10 sets forth the training requirements for evaluators and lead evaluators; which now requires evaluators and lead evaluations to be trained on certain prescribed elements relating to observations and the applicable teacher/principal practice rubrics pursuant to Education Law §3012-d(15).

Section 30-3.11 addresses teacher and principal improvement plans, which now allows the superintendent in the exercise of his or her pedagogical judgment to develop and implement the improvement plans pursuant to Education Law §3012-d(15), which are subject to collective bargaining to the extent required by Article 14 of the Civil Service Law.

Section 30-3.12 addresses local appeal procedures for districts/BOCES. Currently, the regulations set forth the grounds for an appeal which includes the ability of a teacher or principal to challenge the substance of their APPR in an appeal. The proposed amendment defines the substance of an APPR to include appeals in circumstances where a teacher or principal is rated Ineffective on the student performance category, but rated Highly Effective on the observation/school visit category based on an anomaly, as determined locally pursuant to Education Law §3012-d(15).

Section 30-3.13, which addresses monitoring and consequences for noncompliance, which now allows the Department to require changes to a CBA pursuant to Education Law §3012-d(15). Such changes to a CBA are subject to collective bargaining to the extent required by Article 14 of the Civil Service Law.

Section 30-3.14 codifies the statutory requirement that no student be assigned to two teachers in the same subject in two consecutive school years, each of whom received a rating of Ineffective pursuant to an evaluation conducted pursuant to Education Law §3012-d in the school year immediately prior to the year in which the student is placed in the teacher's classroom. The proposed amendment provides for a teacher-specific waiver from the Department from such requirement where it is impracticable to comply with this requirement.

Section 30-3.15 describes which provisions of Education Law §3012-c(2)(d), (k), (k-1), (k-2) and (l), (4), (5), (5-a), (9) and (10) are carried over into the new evaluation system, as required by Education Law §3012-d(15).

Section 30-3.16 prescribes a State appeals process whereby certain teachers and principals who were rated Ineffective on their State-provided growth score during the 2014-15 school year and thereafter may appeal their State-provided growth score to the Department in certain limited circumstances.

Section 30-3.17 provides for the calculation of transition scores and ratings for the 2015-2016 through 2018-19 school years for teachers and principals whose APPRs are based, in whole or in part, on State assessments and/or on State-provided growth scores on Regents examinations during a transition period while the State completes the transition to higher learning standards through new State assessments aligned to the higher learning standards, and a revised State-provided growth model.

Summary of Regulations

New York State Teacher and Principal Evaluation 2015-16 and thereafter

Summary of regulations approved by the Board of Regents on June 16, 2015 to implement Education Law 3012-d

Student Performance Category: Teachers		
	ELA/Math 4-8	All Other Classroom Teachers
<p>Required - State-provided Growth Score on State Assessments³</p> <p><i>100% (At least 50%, locally determined, if an optional student performance measure is selected)</i></p>	<ul style="list-style-type: none"> • State-provided teacher growth scores comparing student growth to those with similar past test scores and includes considerations for poverty, ELL, and SWD status⁴ • Policies on Teacher of Record and linked students • See below for teachers whose State-provided growth scores do not cover at least 50% of all students on the teacher’s course rosters. • During the 2015-16 through 2018-19 school years, such score and ratings shall only be used for purposes of calculating original scores and ratings. 	<ul style="list-style-type: none"> • Additional grades/subjects covered by growth scores, as measures become available, based on existing and new State assessments
<p>Required - Growth Using Student Learning Objectives (SLOs)⁵</p> <p><i>100% (At least 50%, locally determined, if an optional student performance measure is selected)</i></p>	<ul style="list-style-type: none"> • <i>All teachers who receive a State-provided growth score must also have a back-up SLO set by the Superintendent or his/her designee in case there are not enough students, not enough scores, or other unforeseen data issues that will not allow the Department to generate a growth score.</i> • Where the State-provided growth score covers less than 50% of a 	<p>For subjects associated with a State assessment or Regents exam (or, in the future, with any new State assessments): State/Regents assessment(s) must be used as the evidence for the SLO where they exist.⁶</p> <p>For other grades/subjects where no State assessment or Regents exam currently exists, SLOs based on district-determined assessments from the options below:</p>

³ All measures must result in a 0-20 HEDI point score following the State’s scoring ranges.

⁴ For the 2015-16 school year, State-provided growth scores will be calculated using the existing growth model. Factors may be updated in future school years depending on decisions by the Board of Regents. The Department will consult with stakeholders and technical experts on recommendations for future school years.

⁵ Student Learning Objectives shall be developed and approved by the Superintendent or his/her designee. All measures must result in a 0-20 HEDI point score following the State’s scoring ranges.

⁶ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

	<p>teacher’s students, SLOs must be developed following the rules and options set forth for “all other classroom teachers.”</p>	<ul style="list-style-type: none"> • State-approved assessment consisting of the following: <ul style="list-style-type: none"> ○ State-approved third-party assessment⁷ ○ State-approved district, regional, or BOCES-developed assessment⁸ • District- or BOCES-wide or school- or program-wide, group, team, or linked results based on State/Regents assessments or other student assessments approved by the Department.⁹
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<p>Optional - Locally Selected Measures of Student Growth¹⁰</p> <p><i>Up to 50%, locally determined</i></p>	<p>The same locally selected measures of student growth across all classrooms in the same grade/subject in the district/BOCES must be used in a consistent manner to the extent practicable.</p> <p>Growth measures from these options:</p> <ul style="list-style-type: none"> • A second State-provided growth score on a State-created or administered test¹¹, provided that this is different than the measure used for the required student performance subcomponent: <ul style="list-style-type: none"> ○ Teacher-specific growth score computed by the State based on the percentage of students who achieve a State-determined level of growth (e.g., the percentage of students whose growth is above the median for similar students); ○ School-wide growth results based on a State-provided school-wide growth score for all students attributable to the school taking the State ELA or math assessment(s) in grades 4-8; ○ District- or BOCES-wide or school- or program-wide, group, team, or linked growth results using available State-provided growth scores computed in a manner determined locally.
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⁷ 3rd party assessments that are currently approved for use under Education Law §3012-c may be re-submitted by their providers, in an expedited manner, to be considered for use with SLOs. These assessments must be able to measure one year of expected growth.

⁸ Assessments will be approved by the Department through an RFQ. All assessments that are submitted for use with SLOs must be able to measure one year’s expected growth.

⁹ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

¹⁰ All measures must result in a 0-20 HEDI point score following the State’s scoring ranges.

¹¹ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

	<ul style="list-style-type: none"> • Growth scores based on a State-designed supplemental assessment, calculated using a State-provided or approved growth model.¹² <ul style="list-style-type: none"> ○ Such growth score may include teacher-specific growth scores or a district- or BOCES-wide or school- or program-wide, group, team, or linked results where a State-provided or approved growth model is capable of generating such a score.
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Teacher Observation Category	
Menu of State-approved rubrics ¹³ (or State-approved variance to use alternative rubric) to assess performance based on the NYS Teaching Standards	
Requirements and options based on practice rubric: All observations for a teacher for the school year, and across observer types, must use the same approved rubric; provided that districts may locally determine whether to use different rubrics for teachers who teach different grades and/or subjects during the school year.	
<p>Required - Observation by principal or other trained administrator</p> <p><i>At least 80%, locally determined</i></p>	<ul style="list-style-type: none"> • At least one observation by building principal or other trained administrator: <ul style="list-style-type: none"> ○ Observations may occur live or by live or recorded video, as determined locally. ○ Districts/BOCES may locally determine whether to use more than one observation by principal or other trained administrator. ○ Nothing shall be construed to limit the discretion of management to conduct observations in addition to those required by this section for non-evaluative purposes. ○ At least one of the mandatory observations must be unannounced. ○ The frequency and duration of observations are locally determined. • Evaluators may select a limited number of observable rubric subcomponents for focus within a particular observation so long as all <u>observable</u> Teaching Standards/domains of the selected practice rubric (e.g., Domains 2 and 3 of the Danielson’s 2013 Framework for Teaching) are addressed across the total number of observations. <ul style="list-style-type: none"> ○ New York State Teaching Standards/domains that are part of the rubric but not observable during the classroom observation may be observed during any optional pre-observation conference or post-observation review or other natural conversations between the teacher and evaluator and incorporated into the observation score. ○ Points shall not be allocated based on any artifacts, unless such artifact constitutes evidence of an otherwise observable rubric subcomponent (e.g., a lesson plan viewed during the course of the classroom observation may constitute evidence of professional planning).
<p>Required - Observation by</p>	<ul style="list-style-type: none"> • At least one observation by impartial independent trained evaluator(s): <ul style="list-style-type: none"> ○ Observations may occur live or by live or recorded video, as determined locally.

¹² Assessments on this list must be approved by the Department pursuant to an RFQ. These assessments must have a corresponding growth model that meets the requirements specified in the RFQ.

¹³ Rubrics approved for use under Education Law §3012-c will be available for use under §3012-d. Additional rubrics may be approved by the Department through an RFQ process.

<p>impartial independent trained evaluator</p> <p><i>At least 10%, locally determined</i></p>	<ul style="list-style-type: none"> ○ Impartial independent trained evaluators are trained and selected by district/BOCES. ○ May be employed within the district but may not be assigned to the same school building as the teacher being evaluated. This could include other administrators, department chairs, or peers (e.g., teacher leaders on career ladder pathways), so long as they are not from the same building (defined as same BEDS code) as the teacher being evaluated. ○ Districts/BOCES may locally determine whether to use more than one observation by impartial independent trained evaluator(s). ○ At least one of the mandatory observations must be unannounced. ○ The frequency and duration of observations are locally determined. <ul style="list-style-type: none"> ● Evaluators may select a limited number of observable rubric subcomponents for focus within a particular observation so long as all <u>observable</u> Teaching Standards/domains of the selected practice rubric (e.g., Domains 2 and 3 of the Danielson’s 2013 Framework for Teaching) are addressed across the total number of observations. <ul style="list-style-type: none"> ○ New York State Teaching Standards/domains that are part of the rubric but not observable during the classroom observation may be observed during any optional pre-observation conference or post-observation review or other natural conversations between the teacher and evaluator and incorporated into the observation score. ○ Points shall not be allocated based on any artifacts, unless such artifact constitutes evidence of an otherwise observable rubric subcomponent (e.g., a lesson plan viewed during the course of the classroom observation may constitute evidence of professional planning). ● If a district is granted an annual Independent Evaluator Hardship Waiver by the Department, the second observation(s) shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the observation(s) required to be performed by the principal/supervisor or other trained administrator.
<p>Optional – Observation by trained peer teacher</p> <p><i>Locally determined, consistent with the requirements that at least 80% of the overall Observation category score be based on observations by the principal/other trained administrator and at least 10% of the overall</i></p>	<ul style="list-style-type: none"> ● May include at least one observation by trained peer teacher: <ul style="list-style-type: none"> ○ Trained peer teacher must have been rated Effective or Highly Effective on his or her overall rating in the prior school year. ○ Observations may occur live or by live or recorded video, as determined locally. ○ Peer teachers are trained and selected by district/BOCES. ● Evaluators may select a limited number of observable rubric subcomponents for focus within a particular observation so long as all <u>observable</u> Teaching Standards/domains of the selected practice rubric (e.g., Domains 2 and 3 of the Danielson’s 2013 Framework for Teaching) are addressed across the total number of observations. <ul style="list-style-type: none"> ○ New York State Teaching Standards/domains that are part of the rubric but not observable during the classroom observation may be observed during any

<i>Observation category score be based on observations by impartial, independent trained evaluator(s) selected by the district</i>	<p>optional pre-observation conference or post-observation review or other natural conversations between the teacher and evaluator and incorporated into the observation score.</p> <ul style="list-style-type: none"> ○ Points shall not be allocated based on any artifacts, unless such artifact constitutes evidence of an otherwise observable rubric subcomponent (e.g., a lesson plan viewed during the course of the classroom observation may constitute evidence of professional planning).
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Student Performance Category: Principals		
	Elementary/Middle and High Schools ¹⁴	All Other Building Principals ¹⁵
<p>Required - State-provided Growth Score on State Assessments¹⁶</p> <p><i>100% (At least 50%, locally determined, if an optional student performance measure is selected)</i></p>	<p><u>Elementary/Middle Schools</u></p> <ul style="list-style-type: none"> ● Result of student growth measure as applied to State assessments in 4-8, ELA/math ● Add grades and/or subjects as growth measure applies <p><u>High Schools (all of grades 9-12)</u></p> <ul style="list-style-type: none"> ● Result of principal student growth percentile measure as applied to State assessments ● Growth in Regents examinations passed ● Add subjects as growth measure applies <p>See below for principals whose State-provided growth scores do not cover at least 30% of all students in the principal's building/program.</p>	<ul style="list-style-type: none"> ● Additional building configurations/programs covered by growth scores, as measures become available, based on existing and new State assessments
<p>Required - Growth Using Student Learning Objectives (SLOs)¹⁷</p> <p>If principal has less than 30% of his/her students</p>	<ul style="list-style-type: none"> ● <i>All principals who receive a State-provided growth score must also have a back-up SLO set by the Superintendent or his/her designee in case there are not enough students, not enough scores, or</i> 	<p>For subjects associated with a State assessment or Regents exam (or, in the future, with any new State assessments): State/Regents assessment(s) must be used as the evidence for the SLO where they exist.</p>

¹⁴ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

¹⁵ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

¹⁶ All measures must result in a 0-20 HEDI point score following the State's scoring ranges.

¹⁷ Student Learning Objectives shall be developed and approved by the Superintendent or his/her designee. All measures must result in a 0-20 HEDI point score following the State's scoring ranges.

<p>covered by the State-provided growth score</p> <p><i>100% (At least 50%, locally determined, if an optional student performance measure is selected)</i></p>	<p><i>other unforeseen data issues that will not allow the Department to generate a growth score.</i></p> <ul style="list-style-type: none"> • Where the State-provided growth score covers less than 30% of a principal’s students, SLOs must be developed following the rules and options set forth for “all other building principals.” 	<p>For other grades/subjects where no State assessment or Regents exam currently exists, SLOs based on district-determined assessments from the options below:</p> <ul style="list-style-type: none"> • District- or BOCES-wide results from State-created or administered tests, or other student assessments approved by the Department. • State-approved assessment consisting of the following: <ul style="list-style-type: none"> ○ State-approved third-party assessment¹⁸ ○ State-approved district, regional, or BOCES-developed assessment¹⁹
<p>Optional – Locally Selected Measures of Student Growth²⁰</p> <p><i>Up to 50%, locally determined</i></p>	<p>The same locally selected measures of student growth across all buildings with the same grade configuration or program in district/BOCES must be used.</p> <p>Growth measures from these options:</p> <ul style="list-style-type: none"> • A second State-provided growth score²¹, provided that this is different than the measure used for the required student performance subcomponent: <ul style="list-style-type: none"> ○ Principal-specific growth computed by the State based on the percentage of students who achieve a State-determined level of growth (e.g., percentage of students whose growth is above the median for similar students). ○ District- or BOCES-wide or school- or program-wide growth results using available State-provided growth scores computed in a manner determined locally. • Growth scores based on a State-designed supplemental assessment, calculated using a State-provided or approved growth model.²² Growth scores may include district- or BOCES-wide or school- or program-wide 	

¹⁸ 3rd party assessments that are currently approved for use under Education Law §3012-c may be re-submitted by their providers, in an expedited manner, to be considered for use with SLOs. These assessments must be able to measure one year of expected growth.

¹⁹ Assessments will be approved by the Department through an RFQ. All assessments that are submitted for use with SLOs must be able to measure one year’s expected growth.

²⁰ All measures must result in a 0-20 HEDI point score following the State’s scoring ranges.

²¹ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

²² Assessments on this list must be approved by the Department pursuant to an RFQ/RFP. These assessments must have a corresponding growth model that meets the requirements specified in the RFQ/RFP.

	group, team, or linked results where the State-approved growth model is capable of generating such a score.
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Principal School Visit Category	
Menu of State-approved rubrics ²³ (or State-approved variance to use alternative rubric) to assess performance based on ISLLC 2008 standards	
Requirements and options based on practice rubric: All school visits for a principal for the year, and across observer types, must use the same approved rubric; provided that districts may locally determine whether to use different rubrics for a principal assigned to different grade level configurations or building types.	
<p>Required – School visit by supervisor or other trained administrator</p> <p><i>At least 80%, locally determined</i></p>	<ul style="list-style-type: none"> • At least one school visit by supervisor or other trained administrator: <ul style="list-style-type: none"> ○ Districts/BOCES may locally determine whether to use more than one school visit by superintendent or other trained administrator. ○ Nothing shall be construed to limit the discretion of a board of education or superintendent of schools from conducting additional school visits for non-evaluative purposes. ○ At least one of the mandatory school visits must be unannounced. ○ The frequency and duration of school visits are locally determined. • Evaluators may select a limited number of observable rubric subcomponents for focus within a particular school visit, so long as all <u>observable</u> ISLLC 2008 standards are addressed across the total number of annual school visits. <ul style="list-style-type: none"> ○ Leadership Standards and their related functions that are part of the rubric but not observable during the course of the school visit may be observed through other natural conversations between the principal and the evaluator and incorporated into the school visit score. • Points shall not be allocated based on any artifacts, unless such artifact constitutes evidence of a rubric subcomponent observed during a school visit. • Professional goal-setting is a prohibited element of principal evaluations under Education Law §3012-d. However, organizational goal-setting may be used to the extent that it is evidence from the school visit and related to a component of the selected practice rubric. • School visits may not occur by live or recorded video.
<p>Required – School visit by impartial independent trained evaluator</p>	<ul style="list-style-type: none"> • At least one school visit by impartial independent trained evaluator(s): <ul style="list-style-type: none"> ○ Impartial independent trained evaluators are trained and selected by district/BOCES. ○ May be employed within the district but may not be assigned to the same school building as the principal being evaluated. This could include other administrators, department chairs/directors, or peers, so long as they are not

²³ Rubrics approved for use under Education Law §3012-c will be available for use under §3012-d. Additional rubrics may be approved by the Department through an RFQ process.

<p><i>At least 10%, locally determined</i></p>	<p>from the same building (defined as same BEDS code) as the principal being evaluated.</p> <ul style="list-style-type: none"> ○ Districts/BOCES may locally determine whether to use more than one school visit by impartial independent trained evaluator(s). ○ The frequency and duration of school visits are locally determined. <ul style="list-style-type: none"> ● Evaluators may select a limited number of observable rubric subcomponents for focus within a particular school visit, so long as all <u>observable</u> ISLLC 2008 standards are addressed across the total number of annual school visits. <ul style="list-style-type: none"> ○ Leadership Standards and their related functions that are part of the rubric but not observable during the course of the school visit may be observed through other natural conversations between the principal and the evaluator and incorporated into the school visit score. ● Points shall not be allocated based on any artifacts, unless such artifact constitutes evidence of a rubric subcomponent observed during a school visit. ● Professional goal-setting is a prohibited element of principal evaluations under Education Law §3012-d. However, organizational goal-setting may be used to the extent that it is evidence from the school visit and related to a component of the selected practice rubric. ● School visits may not occur by live or recorded video. ● If a district is granted an annual Independent Evaluator Hardship Waiver by the Department, the second school visit(s) shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the school visit(s) required to be performed by the supervisor or other trained administrator.
<p>Optional – School visit by trained peer principal</p> <p><i>Locally determined, consistent with the requirements that at least 80% of the overall School Visit category score be based on school visits by the superintendent/other trained administrator and at least 10% of the overall School Visit category score be based on school visits</i></p>	<ul style="list-style-type: none"> ● May include at least one school visit by trained peer principal: <ul style="list-style-type: none"> ○ Trained peer principals must have been rated Effective or Highly Effective on his or her overall rating in the prior school year. ○ Trained peer principals are trained and selected by district/BOCES ● Evaluators may select a limited number of observable rubric subcomponents for focus within a particular school visit, so long as all <u>observable</u> ISLLC 2008 standards are addressed across the total number of annual school visits. <ul style="list-style-type: none"> ○ Leadership Standards and their related functions that are part of the rubric but not observable during the course of the school visit may be observed through other natural conversations between the principal and the evaluator and incorporated into the school visit score. ● Points shall not be allocated based on any artifacts, unless such artifact constitutes evidence of a rubric subcomponent observed during a school visit.

by impartial, independent trained evaluator(s) selected by the district

- Professional goal-setting is a prohibited element of principal evaluations under Education Law §3012-d. However, organizational goal-setting may be used to the extent that it is evidence from the school visit and related to a component of the selected practice rubric.

- **School visits may not occur by live or recorded video.**

Teacher and Principal Category and Overall Ratings

Teacher and Principal Performance Scoring Ranges²⁴: SLOs

Highly Effective	Effective	Developing	Ineffective
18-20 points	15-17 points	13-14 points	0-12 points
90-100% of students meeting or exceeding expected growth targets determined by the superintendent	75-89% of students meeting or exceeding expected growth targets determined by the superintendent	60-74% of students meeting or exceeding expected growth targets determined by the superintendent	0-59% of students meeting or exceeding expected growth targets determined by the superintendent

- Each performance measure (State-provided growth, SLO using State assessments, other SLOs, State-designed supplemental assessments, other additional measures using State-provided or approved growth model scores) must result in a score between 0-20.
- Multiple measures will be combined using a weighted average to produce an overall Student Performance category score between 0-20.
- This overall Student Performance score will be converted into a HEDI rating based on the ranges listed below:

	Overall Student Performance Category Score and Rating	
	Minimum	Maximum
H	18	20
E	15	17
D	13	14
I	0	12

Teacher Observation/Principal School Visit Scoring Ranges:

	Overall Observation/School Visit Category Score and Rating	
	Min	Max
H	3.50 to 3.75	4.0
E	2.50 to 2.75	3.49 to 3.74
D	1.50 to 1.75	2.49 to 2.74
I	0 ²⁵	1.49 to 1.74

²⁴ All assessments used for APPR purposes must be capable of generating a growth score from 0-20.

²⁵ In the event that an educator earns a score of 1 on all rated components of the practice rubric across all observations, a score of 0 will be assigned.

- Each set of observations/school visits (by supervisor/other trained administrator, independent, or peer) will be completed using a rubric with rating categories that are aligned to HEDI ratings and 1-4 levels. The 1-4 score for each set of observations/school visits will incorporate all evidence collected and observed over the course of the school year.
- Once all evaluations are complete, the different types of observations/school visits will be combined using a weighted average, producing an overall Observation/School Visit category score between 1-4.
- This overall Observation/School Visit score will be converted into a HEDI rating based on locally determined ratings consistent with the ranges listed above.

What is State-determined:

- Scoring ranges for the Required and Optional subcomponents of the Student Performance Category to determine an educator’s rating category of Highly Effective, Effective, Developing, and Ineffective (HEDI)
- The minimum and maximum scores aligned to each of the HEDI rating categories for the Teacher Observation/Principal School Visit categories.
- Minimum growth targets for SLOs under the Required subcomponent of the Student Performance category representing at least one year of expected student growth and following State guidance.
- The weights for all subcomponents of the Student Performance and Teacher Observation/Principal School Visit categories to assign a final rating category of HEDI.

What is locally-established through negotiations:

- Whether to use the Optional subcomponent of the Student Performance category, and which option will be used.
- Whether to use the Optional subcomponent of the Teacher Observation/Principal School Visit category.
- How to implement the Teacher Observation/Principal School Visit categories, consistent with the corresponding Commissioner’s Regulations, including, but not limited to, the scoring ranges aligned to each HEDI category within the parameters determined by the State.

Additional Notes

- The process by which weights and scoring ranges are assigned to subcomponents and categories must be transparent and available to those being rated before the beginning of each school year.
- Districts and collective bargaining units, where one exists, must certify that the process for assigning ratings will use the scoring bands and weighting processes specified in the regulations.
- Superintendents must certify that all individual growth targets used for SLOs represent, at a minimum, one year of expected growth consistent with State guidance.
- All teachers/principals who receive a State-provided growth score, must also have back-up SLOs set by the Superintendent or his/her designee in case there are not enough students, not enough scores, or other unforeseen data issues that will not allow the Department to generate a growth score.

- Annual Professional Performance Reviews conducted pursuant to a collective bargaining agreement entered into on or before April 1, 2015 and which remain in effect on or after April 1, 2015, shall be conducted pursuant to that agreement until a subsequent agreement is reached.
- Pursuant to Education Law §3012-d(6), the following elements may no longer be used in any evaluation subcomponent:
 - Evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, except for student portfolios measured by a state-approved rubric where permitted by the department;
 - Use of an instrument for parent or student feedback;
 - Use of professional goal-setting as evidence of teacher or principal effectiveness;
 - Any district or regionally-developed assessment that has not been approved by the department; and
 - Any growth or achievement target that does not meet the minimum standards as set forth in Commissioner's regulations.
- The entire Annual Professional Performance Review shall be completed and provided to the teacher or the principal as soon as practicable but in no case later than September 1 of the school year next following the school year for which the teacher or principal's performance is measured. The teacher's and principal's score and rating on the observation/school visit category and in the student performance category, if available, shall be computed and provided to the teacher or principal, in writing, by no later than the last day of the school year for which the teacher or principal is being measured, but in no case later than September 1 of the school year next following the school year for which the teacher or principal's performance is measured.
- During the 2015-16 through 2018-19 school years, educators whose APPRs are based, in whole or in part, on the results of the grades 3-8 ELA or math State assessments and/or State-provided growth scores shall be provided with their APPR transition scores and ratings as soon as practicable but in no case later than September 1st of the school year following the evaluation year. During the 2015-16 through 2018-19 school years, such educators shall also be provided with their original overall rating by September 1st of the school year following the evaluation year or as soon as practicable thereafter.
- Upon rating a teacher or a principal as Developing or Ineffective overall through an Annual Professional Performance Review conducted pursuant to Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents, a district shall formulate and commence implementation of a teacher or principal improvement plan for such teacher or principal by October 1 in the school year following the school year for which such teacher's or principal's performance is being measured or as soon as practicable thereafter. Districts/BOCES shall only develop and implement TIPs and PIPs during the 2016-17 through 2019-20 school years for those educators whose overall *transition* ratings received during the 2015-16 through 2018-19 school years are Developing or Ineffective.

Teacher APPR Flow Chart (3012-d)

STUDENT PERFORMANCE CATEGORY (0-20 POINTS)		TEACHER OBSERVATION CATEGORY (0 or 1-4 POINTS)	
REQUIRED	Optional	REQUIRED	Optional
<p style="text-align: center;">STATE-PROVIDED GROWTH SCORE</p> <ul style="list-style-type: none"> For teachers with $\geq 50\%$ students covered by a State-provided growth score <p style="text-align: center;">Weight = 100% (when optional measures are not selected for use) OR $\geq 50\%$ (when optional measures are selected for use)</p>	<p style="text-align: center;">2ND STATE-PROVIDED GROWTH SCORE (a different measure than what was used in required section)</p> <ul style="list-style-type: none"> Teacher specific State-provided growth score School-wide State-provided growth score District- or BOCES-wide or school- or program-wide, group, team or linked growth results using State-provided growth scores computed locally <p style="text-align: center;">Weight = $\leq 50\%$</p>	<p style="text-align: center;">OBSERVATION BY PRINCIPAL OR OTHER TRAINED ADMINISTRATOR</p> <ul style="list-style-type: none"> Must use rubric from State-approved menu (or State-approved variance to use alternative rubric) May occur live or by live recorded video, as determined locally <p style="text-align: center;">Weight = $\geq 80\%$</p>	<p style="text-align: center;">OBSERVATION BY TRAINED PEER OBSERVER(S)</p> <ul style="list-style-type: none"> Must use rubric from State-approved menu (or State-approved variance to use alternative rubric) May occur live or by live recorded video, as determined locally <p style="text-align: center;">Weight = $\leq 10\%$</p>
And / Or	Or	And	
<p style="text-align: center;">STUDENT LEARNING OBJECTIVES (SLOs)</p> <ul style="list-style-type: none"> For teachers with $< 50\%$ students covered by a State-Provided Growth Score <p style="text-align: center;">Weight = 100% (when optional measures are not selected for use) OR $\geq 50\%$ (when optional measure is selected for use)</p>	<p style="text-align: center;">GROWTH SCORE BASED ON STATE-DESIGNED SUPPLEMENTAL ASSESSMENTS</p> <p style="text-align: center;">Growth scores based on State-designed supplemental assessments, calculated using a State-provided or approved growth model</p> <ul style="list-style-type: none"> Teacher specific State-provided or approved growth model scores District- or BOCES-wide or school-or program-wide, group, team or linked growth results using State-provided or approved growth scores <p style="text-align: center;">Weight = $\leq 50\%$</p>	<p style="text-align: center;">OBSERVATION BY IMPARTIAL INDEPENDENT TRAINED EVALUATOR(S)</p> <ul style="list-style-type: none"> May be employed within the district, but may not be assigned to same school building (as defined by BEDS code) Must use rubric from State-approved menu (or State-approved variance to use alternative rubric) May occur live or by live recorded video, as determined locally <p style="text-align: center;">Weight = $\geq 10\%$</p>	
<p>Please note: All teachers who receive a State-provided growth score for the required subcomponent of the Student Performance Category must also set back-up SLOs in case there are not enough students, not enough scores, or other unforeseen data issues that will not allow the Department to generate a growth score.</p>		<p>Please note: At least one of the mandatory observations must be unannounced. The frequency and duration of observations are determined locally, and nothing shall limit the discretion of management from conducting additional observations for non-evaluative purposes.</p>	

RATING	POINTS	% STUDENTS MEETING TARGET
H	18-20	90-100
E	15-17	75-89
D	13-14	60-74
I	0-12	0-59

RATING	POINTS RANGE MIN	POINT RANGE MAX
H	3.50-3.75	4.0
E	2.50-2.75	3.49-3.74
D	1.50-1.75	2.49-2.74
I	0*	1.49-1.74

**In the event that an educator earns a score of 1 across all observations/school visits, an overall score of 0 should be assigned.*

STUDENT PERFORMANCE	OBSERVATIONS/SCHOOL VISITS				
	RATINGS	H	E	D	I
	H	H	H	E	D
	E	H	E	E	D
	D	E	E	D	I
I	D**	D**	I	I	

***If a teacher is rated Ineffective on the Student Performance Category and a State-designed supplemental assessment was included as an optional subcomponent of the Student Performance Category, the teacher can be rated no higher than Ineffective overall.*

Principal APPR Flow Chart (3012-d)

STUDENT PERFORMANCE CATEGORY (0-20 POINTS)		SCHOOL VISIT CATEGORY (0 or 1-4 POINTS)	
REQUIRED	Optional	REQUIRED	Optional
<p>STATE-PROVIDED GROWTH SCORE</p> <ul style="list-style-type: none"> For principals with $\geq 30\%$ students covered by a State-provided growth score <p>Weight = 100% (when optional measures are not selected for use) OR $\geq 50\%$ (when optional measures are selected for use)</p>	<p>2ND STATE-PROVIDED GROWTH SCORE (a different measure than what was used in required section)</p> <ul style="list-style-type: none"> Principal specific State-provided growth score District- or BOCES-wide or school- or program-wide growth results using State-provided growth scores computed locally <p>Weight = $\leq 50\%$</p>	<p>SCHOOL VISIT BY PRINCIPAL'S SUPERVISOR OR OTHER TRAINED ADMINISTRATOR</p> <ul style="list-style-type: none"> Must use rubric from State-approved menu (or State-approved variance to use alternative rubric) Cannot be conducted by video <p>Weight = $\geq 80\%$</p>	<p>OBSERVATION BY TRAINED PEER OBSERVER(S)</p> <ul style="list-style-type: none"> Must use rubric from State-approved menu (or State-approved variance to use alternative rubric) Cannot be conducted by video <p>Weight = $\leq 10\%$</p>
And / Or	Or	And	
<p>STUDENT LEARNING OBJECTIVES (SLOs)</p> <ul style="list-style-type: none"> For principals with $< 30\%$ students covered by a State-Provided Growth Score <p>Weight = 100% (when optional measures are not selected for use) OR $\geq 50\%$ (when optional measure is selected for use)</p>	<p>GROWTH SCORE BASED ON STATE-DESIGNED SUPPLEMENTAL ASSESSMENTS</p> <p>District- or BOCES-wide or school- or program-wide growth scores based on State-designed supplemental assessments, calculated using a State-provided or approved growth model</p> <p>Weight = $\leq 50\%$</p>	<p>SCHOOL VISIT BY IMPARTIAL INDEPENDENT TRAINED EVALUATOR(S)</p> <ul style="list-style-type: none"> May be employed within the district, but may not be assigned to same school building (as defined by BEDS code) Must use rubric from State-approved menu (or State-approved variance to use alternative rubric) May occur live or by live recorded video, as determined locally <p>Weight = $\geq 10\%$</p>	
<p>Please note: All principals who receive a State-provided growth score for the required subcomponent of the Student Performance Category must also set back-up SLOs in case there are not enough students, not enough scores, or other unforeseen data issues that will not allow the Department to generate a growth score.</p>		<p>Please note: At least one of the mandatory school visits must be unannounced. The frequency and duration of school visits are determined locally, and nothing shall limit the discretion of management from conducting additional school visits for non-evaluative</p>	

RATING	POINTS	% STUDENTS MEETING TARGET
H	18-20	90-100
E	15-17	75-89
D	13-14	60-74
I	0-12	0-59

RATING	POINTS RANGE MIN	POINT RANGE MAX
H	3.50-3.75	4.0
E	2.50-2.75	3.49-3.74
D	1.50-1.75	2.49-2.74
I	0*	1.49-1.74

**In the event that an educator earns a score of 1 across all observations/school visits, an overall score of 0 should be assigned.*

STUDENT PERFORMANCE	OBSERVATIONS/SCHOOL VISITS				
	RATINGS	H	E	D	I
	H	H	H	E	D
	E	H	E	E	D
	D	E	E	D	I
I	D**	D**	I	I	

***If a principal is rated Ineffective on the Student Performance Category and a State-designed supplemental assessment was included as an optional subcomponent of the Student Performance Category, the teacher can be rated no higher than Ineffective overall.*

B. Educators Covered by the Law

B1. Who must be evaluated, when, and how often?

The law requires that all teachers and principals be evaluated annually, based on multiple measures of teacher and principal effectiveness.

B2. What is a “teacher of record” in 2012-13 and subsequent years?

For the 2012-13 school year and subsequent years, teacher of record is defined as those teachers who are primarily and directly responsible for a student’s learning activities that are aligned to the performance measures of a course. Please see Section M for additional information on “teacher of record” determinations.

B3. Which teachers and other school personnel are considered “classroom teachers” under the regulations?

The regulations require that all classroom teachers be evaluated. The regulations define classroom teacher as a teacher in the classroom teaching service as defined in §80-1.1 of the Commissioner’s regulations, who is a teacher of record as defined in section 30-3.2 of the Rules of the Board of Regents, except evening school teachers of adults enrolled in nonacademic, vocational subjects and supplemental school personnel as defined in section 80-5.6 of the Commissioner’s regulations.

Pre-kindergarten Teachers

Pre-kindergarten teachers are not subject to the new evaluation system.

Pupil Personnel Services, Supplemental School Personnel, Instructional Support Services

Section 80-1.1 of the Commissioner’s regulations specifically excludes **pupil personnel services** from the definition of classroom teaching services. Therefore, school psychologists and school social workers who are pupil personnel service providers are not covered by the law.

Section 30-3.2(c) of the Commissioner’s regulations also excludes supplemental school personnel (e.g., teacher aides and teaching assistants) and the definitions in sections 30-3.2 and 80-1.1 also serve to exclude **teachers of adult, community, and continuing education** from the definition of classroom teaching service. This has the effect of further excluding **teachers of GED courses**, regardless of the age of the students taking the course.

A teacher performing **instructional support services** for more than 40% of his/her time will also not be included in the definition of classroom teacher for purposes of compliance with Education Law §3012-d unless he/she is also serving as a teacher in the

classroom teaching service for 40% or more of his/her time and is a teacher of record.

School librarians and Career and Technical Teachers

School librarians and **career and technical teachers** are teachers in the classroom teaching service and are, therefore, subject to the law if they are teachers of record.

Speech Teachers

Speech teachers, who are teachers of record, and are certified under §80-3.9 of the Commissioner's regulations or as a teacher of the speech and hearing handicapped or a teacher of speech and language disabilities and who provide instructional services are certified teachers within the classroom teaching service as defined in §80-1.1 of the Commissioner's regulations. Therefore, they are considered classroom teachers pursuant to Education Law §3012-d and the implementing regulations.

A licensed speech language pathologist under Title VIII of the Education Law that is not a certified teacher under the Commissioner's regulations and does not provide instructional services is not considered a classroom teacher.

Itinerant Teachers

Itinerant teachers who are considered teachers of record at the BOCES for students in multiple schools must be evaluated pursuant to Education Law §3012-d.

Substitute Teachers

Substitutes, long-term or otherwise, are not covered by §3012-d unless they are also a teacher in the classroom teaching service and are serving as the teacher of record.

Part-Time Teachers

Part-time teachers, who are teachers in the classroom teaching service for 40% or more of a full-time position (4/10 position), and who are teachers of record, are subject to the evaluation system. This does not require that the teacher be a full-time employee with the district.

B4. What types of administrators are included in the definition of a “principal”?

The regulations define principal as a building principal or an administrator in charge of an instructional program of a school district/BOCES. This includes any BOCES administrator that meets this definition, including a co-principal.

A co-principal means a certified administrator under Part 80 of the Commissioner's regulations, designated by the school's controlling authority to have executive authority, management, and instructional leadership responsibility for all or a portion of a school or

BOCES-operated program, in a situation in which more than one such administrator is so designated. The term co-principal implies equal line authority, with each administrator so designated reporting to a district-level or comparable BOCES-level supervisor.

Teachers who also perform administrative functions for less than 50% of their time are not included in the definition of building principal.

B5. How will other administrators such as superintendents, assistant principals, associate principals, and subject-area directors be evaluated? How will superintendents and school boards be held accountable for implementation of the new law?

Assistant principals, associate principals and subject area directors are not required to be evaluated under the law unless they are also serving as classroom teachers or building principals. These administrators must be evaluated according to the evaluation procedures prescribed by the district, in accordance with any applicable collective bargaining agreement with the district.

Superintendents of schools and members of the board of education or other governing board of a school district/BOCES are required to comply with the requirements of Education Law §3012-d, §100.2(o) of the Commissioner's regulations, and Subpart 30-3 of the Regents Rules, and thus will be held accountable for implementation of the new evaluation system.

Superintendents are required to be evaluated annually under §100.2(o) of the Commissioner's regulations by the governing body of the school district/BOCES. When evaluating a superintendent's performance under §100.2(o), the governing body should take into consideration the effectiveness of the superintendent in implementing the evaluation system for teachers and principals.

In addition, pursuant to Education Law §306, the Department has the authority to remove school officers, including superintendents and board members, for willful failure to obey the Education Law or rules or regulations of the Commissioner or the Regents. The Commissioner also has the power to withhold from any district or city its share of the public money of the State for willfully disobeying any provision of law or regulation (see, Education Law §306[2]).

B6. Must districts comply with the new APPR for the 2015-16 school year and beyond?

All districts must have APPR plans approved by the Commissioner consistent with the requirements of Education Law §3012-d by November 15, 2015 unless the district has applied for and been granted a Hardship Waiver. Until such time as the Commissioner approves a new APPR plan for your district/BOCES consistent with the requirements of Education Law §3012-d, your district/BOCES must continue to implement its currently approved APPR plan under Education Law §3012-c. Please also note that, per Education Law §3012-d(12), your district/BOCES may not make material changes to its currently

approved APPR plan under Education Law §3012-c, as any collective bargaining agreements entered into and/or APPR plans submitted to the Department for approval on or after April 1, 2015 are required to be compliant with the new Education Law §3012-d.

If your district/BOCES obtains approval by the Commissioner of an APPR plan compliant with Education Law §3012-d on or before March 1, 2016, that APPR plan under Education Law §3012-d must then be implemented for the 2015-16 school year. If your district/BOCES obtains approval of an APPR plan compliant with Education Law §3012-d after March 1, 2016, then your district's/BOCES' currently Commissioner-approved APPR plan under Education Law §3012-c must be implemented for the entirety of the 2015-16 school year and your new APPR plan compliant with Education Law §3012-d will not take effect until the 2016-17 school year. All districts must have an APPR plan approved pursuant to Education Law §3012-d by the Commissioner by September 1, 2016 in order to maintain their eligibility to receive their State aid increase.

Further, for those districts that are unable to fulfill the requirement that educator receive observations/school visits from impartial independent evaluators, the Department has provided for an annual Independent Evaluator Hardship Waiver. If a district is unable to obtain independent evaluators in a timeframe and manner prescribed by the Commissioner due to the size and limited resources of the school district within a reasonable proximity without an undue burden to the school district, this waiver can be utilized annually. Such a hardship waiver will only be granted for a rural school district or a school district with only one registered school pursuant to section 100.18 of the Commissioner's regulations. For more information, please see the [Independent Evaluator Hardship Waiver resource page](#).

B7. Will special education teachers who co-teach be subject to evaluation?

Yes. Special education teachers in team-teaching classrooms are subject to the evaluation requirements. Co-teachers will receive the same evaluation score and rating, based on all of the students in the classroom, for the required subcomponent of the Student Performance Category whether it is a State-provided growth measure or a Student Learning Objective (SLO). The district/BOCES must then evaluate both teachers pursuant to the requirements of the law and implementing regulations for the optional subcomponent of the Student Performance Category, if applicable, and the Teacher Observation Category. The district/BOCES must determine locally whether both co-teachers will receive the same scores and ratings for the optional subcomponent of the Student Performance Category, if applicable, and the Teacher Observation Category, or if the co-teachers will receive individual scores and ratings.

B8. Are “push-in” and “pull-out” teachers subject to evaluation?

“Push-in” and “pull-out” teachers who are not the sole teacher primarily responsible for the learning of a group of students, including Academic Intervention Services (AIS)

specialists, are subject to the evaluation system in 2012-13 and each school year thereafter (even if they teach ELA or math to students in grades 4-8).

NYSED and districts have developed the capability in their data systems to track multiple teachers of record for students and to associate a share of instructional time or “dosage” to the push-in or pull-out teachers. NYSED will work with our provider to determine when and how these data can be incorporated into evaluations for teachers and principals. Until then, AIS teachers will have SLOs for the required subcomponent of the Student Performance Category (see Section D for further information on the use of SLOs).

B9. Are Article 81 schools, Special Act districts, State-supported or State-operated schools included in Education Law §3012-d? Do these schools and districts need to report teacher-student data linkage information?

Special Act districts, which provide services under Article 81 of the Education Law, are union free school districts and have boards of education, so they are included in Education Law §3012-d, and teacher-student data linkage information must be provided to NYSED.

An approved private school for students with disabilities that provides services under Article 81 of the Education Law is a non-public school provider of services and is not a school district, so Education Law §3012-d does not apply and teacher-student linkage data is not required.

State-supported schools for instruction of the deaf and the blind (“4201 schools”) also are not school districts, so Education Law §3012-d does not apply and teacher-student linkage data is not required.

State-operated schools (State agencies, such as the schools for the blind or deaf in Batavia and Rome) are not school districts, so Education Law §3012-d does not apply and teacher-student linkage data is not required.

B10. If a speech teacher (i.e., certified teacher of the speech and hearing handicapped or certified teacher of the speech and language disabilities) is just providing related services, is he/she required to be evaluated under Education Law §3012-d?

No. If a certified speech and language therapist is providing related services only, as defined in Education Law §4401 and section 200.1(qq) of the Commissioner's regulations, he/she would not be considered a classroom teacher and would therefore not be required to be evaluated under Education Law §3012-d.

B11. If I am certified as a teacher of the speech and hearing handicapped and provide instructional services, am I required to be evaluated under Education Law §3012-d?

If a teacher who is certified as a teacher of the speech and hearing handicapped is assigned to provide instructional services and he/she is a teacher of record, then he/she is

considered a classroom teacher and therefore must be evaluated under Education Law §3012-d.

B12. When must school librarians be evaluated under Education Law §3012-d?

"Classroom teacher" is defined as a teacher in the classroom teaching service who is a teacher of record. Librarians who are certified as a library media specialist or school media specialist (library) are teachers in the classroom teaching service.

Therefore, if a certified library media specialist or school media specialist (library) is a teacher of record, he/she would be considered a "classroom teacher" and therefore must be evaluated under Education Law §3012-d.

However, a certified librarian who is not a teacher of record is not a "classroom teacher" and therefore would not need to be evaluated under Education Law §3012-d.

B13. What is a “principal of record”?

A “principal of record” is defined as an individual who meets the definition of a “building principal” (please see Question B4) and is a principal or co-principal in a school or instructional program.

B14. Do teachers who are teachers of record or their building principals who plan to retire during the school year need to be evaluated for APPR?

Yes, teachers and principals who plan on retiring during the school year need to be evaluated for the purposes of APPR.

C. Annual Professional Performance Review (APPR) Plan and Approval Process

Plan Approval Process

C1. What is the timeline of the approval process for APPR plans under Education Law §3012-d?

Education Law §3012-d(12) provides that districts must negotiate new evaluation plans with their teachers and principals and requires that those agreements to be approved by the Education Department by November 15, 2015 in order for districts to receive their scheduled 2015-16 State aid increase.

The SED Monitoring APPR portal opened on April 4, 2016 for the submission of APPR plans pursuant to Education Law §3012-d. The [SED Monitoring APPR portal](#) provides for easier input of plan information. For questions related to SED Monitoring APPR

portal access, or to request an account for a new user, please contact educatoreval@nysed.gov.

A [Task-by-Task SED Monitoring APPR Portal Guidance document](#) was created to be used as a guide for the field, and is specifically tailored and organized for completing an APPR plan in the SED Monitoring portal under Education Law §3012-d.

APPR plans will be reviewed on a rolling basis starting in July 2015. Districts must submit their APPR plan no later than October 1, 2015 in order for the plan to be reviewed and approved by the Department by the November 15, 2015 deadline for State aid increases. Only when all terms have been resolved consistent with Article 14 of the Civil Service Law may the plan be submitted. The Department will not accept incomplete plans.²⁶ (Please note that a district/BOCES must obtain signatures for their APPR submission in order to ensure that it represents a complete and fully negotiated plan.) Please note that if an APPR plan is submitted after October 1, 2015 there is no guarantee that the plan will be approved by the November 15, 2015 approval deadline.

Districts that are facing hardships and are therefore unable to have an APPR plan consistent with §3012-d approved by the Department by the November 15, 2015 deadline must submit a Hardship Waiver application in order to maintain their eligibility for a State aid increase. The Hardship Waiver application is available for review prior to the beginning of the submission window on October 1 through [NYSESED's Application Business Portal](#). Districts can submit the form through the portal from October 1 through October 30.

Please note that approval of a Hardship Waiver does not constitute a waiver from completing annual professional performance reviews. All districts granted a Hardship Waiver by the Commissioner must continue to implement their previously approved APPR plans, consistent with the provisions of Education Law §3012-c, until such time as the district receives approval of an APPR plan consistent with the provisions of Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents. Additionally, during the time period when a district is seeking a Hardship Waiver and/or operating under a Hardship Waiver, the district must demonstrate that it continues to engage in efforts to collectively bargain in good faith and to train 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.

Please also note that submission of the following items, as described in the timeline table below, are first required for a district to close out APPR for the 2014-15 school year and

²⁶ Please note that as of May 2016, the SED Monitoring APPR Portal has been updated to allow for the submission of the teacher-specific (i.e., Tasks 1-6 and 12), and principal-specific (i.e., Tasks 1 and 7-12) sections of an APPR plan separately. The Department does not consider such submissions, on their own, to be an official submission of a complete APPR plan. Accordingly, the Department will not formally review such submissions, and will only formally review and approved a district's/BOCES' APPR plan once the content of all sections of the plan has been collectively bargained and submitted to the Department.

to be eligible for the approval of a Hardship Waiver for the implementation of Education Law §3012-d:

- (1) 2014-15 APPR Implementation Certification form;
- (2) 2014-15 Staff Evaluation Rating data; and
- (3) Statement of Confirmation of 2014-15 Staff Evaluation Rating Verification Report(s)

Date	Implication
October 1, 2015 – October 30, 2015	Submission period for Hardship Waiver #1
November 15, 2015	Approval deadline for Hardship Waiver #1
November 15, 2015 – March 15, 2016	Effective dates for Hardship Waiver #1
March 1, 2016	<ul style="list-style-type: none"> • APPR plans consistent with Education Law §3012-d approved on or before this date must be implemented for the 2015-16 school year.²⁷ • APPR plans consistent with Education Law §3012-d approved after this date must be implemented for the 2016-17 school year. Districts/BOCES must implement their previously approved plans consistent with §3012-c during the 2015-16 school year.²⁸
February 1, 2016 – March 1, 2016	Submission period for Hardship Waiver #2
March 15, 2016	Approval deadline for Hardship Waiver #2
March 15, 2016 – July 15, 2016	Effective dates for Hardship Waiver #2
June 1, 2016 – July 1, 2016	Submission period for Hardship Waiver #3
July 15, 2016	Approval deadline for Hardship Waiver #3
July 15, 2016 – August 31, 2016	Effective dates for Hardship Waiver #3
September 1, 2016	All districts/BOCES must have an APPR plan consistent with the requirements of Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents approved by the Commissioner by September 1, 2016. For districts this is a requirement in order to be eligible for their increase in State aid.

²⁷ Districts with APPR plans approved pursuant to Education Law §3012-d by the Commissioner on or before March 1, 2016 must submit documentation to the Department by September 1, 2016 that they have implemented such plan during the 2015-16 school year in order to be eligible to receive their increase in State aid.

²⁸ Districts/BOCES with APPR plans approved pursuant to Education Law §3012-d by the Commissioner after March 1, 2016 must implement their previously approved APPR plans consistent with Education Law §3012-c in the 2015-16 school year. These districts must have an APPR plan approved pursuant to Education Law §3012-d by the Commissioner by September 1, 2016 in order to be eligible to receive their increase in State aid. Further, all districts must submit documentation to the Department by August 26, 2016 that they have implemented their approved APPR plans during the 2015-16 school year in order to be eligible to receive their increase in State aid.

Based on feedback received from stakeholders across the State, the Department issued guidance on January 15, 2016 indicating that districts would no longer be required to apply for additional Hardship Waivers. Any district that does not have a State-approved APPR plan pursuant to Education Law §3012-d by March 1, 2016 and has an approved Hardship Waiver valid through March 1, 2016, will have such Waiver automatically renewed and extended through August 31, 2016 without any further applications or documentation of hardship.

C2. What if our district is applying for and/or has been awarded a grant that has specific APPR requirements or deadlines?

Under Education Law §3012-c(2)(l), which has been incorporated by Education Law §3012-d(15), any district/BOCES that “does not have an annual professional performance review plan approved by the Commissioner for the applicable school year as of September first of that year,” will have its most recently approved APPR plan remain in effect. While certain grant programs may require your district/BOCES to have an APPR plan approved that is in compliance with Education Law §3012-d, it is important to note that all districts must have an APPR plan under Education Law §3012-d or a Hardship Waiver approved by November 15, 2015. For districts, this is a requirement in order to be eligible for their increase in State aid. Further, regardless of whether a district has an approved Hardship Waiver, all districts must have an APPR plan consistent with Education Law §3012-d approved by September 1, 2016 in order to maintain their eligibility for a State aid increase for the 2016-2017 school year.

C3. How will we be notified about NYSED’s decision on our APPR plan?

The Department will review each school district’s/BOCES’ APPR plan to determine if it rigorously complies with Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents. The individual who submits the online plan will be notified by email of the Commissioner’s decision according to the timelines described in Question C1. If the plan is not approved, the email will describe any deficiencies and direct the district/BOCES to resolve the deficiencies and resubmit the plan.

C4. Where can we get help for content questions that arise while we are filling out the application?

- By consulting the Guidance on New York State’s APPR for Teacher and Principals Law and Regulations (Education Law §3012-d).
- By consulting the NYS Education Department’s documents posted on [EngageNY](#).
- By consulting your BOCES or professional organization for technical assistance.
- By consulting your school district attorney.
- By submitting a policy question (not a district-specific question) to educatoreval@nysed.gov.

C5. Who will be reviewing our application?

The review of APPR applications will be done by thoroughly trained personnel. The Commissioner or his/her designee (a senior NYSED staff person) will make all final decisions.

C6. What is the process for application review?

The content of the APPR plan requires careful review using a standardized process to ensure rigorous compliance with the requirements of the law and regulations. NYSED will utilize a multi-tiered review process to ensure the accuracy of its decisions regarding approval or rejection of the plan.

C7. Will NYSED post the APPR plans on its website? When is each district/BOCES required to post its APPR plan on the internet?

NYSED will post the approved plans on its website. In addition, after an APPR plan is approved, the district/BOCES is required to post the APPR plan online by September 10 of each school year or within 10 days of the approval, whichever is later.

C8. What if changes are made to a district's/BOCES' APPR plan?

If any material changes are made to an approved APPR plan, the school district/BOCES must submit the material changes on a form prescribed by the Commissioner, to the Commissioner for approval. Again, the Commissioner has the authority to reject the plan if any of the changes do not rigorously adhere to the law and regulations. Examples of material changes include, but are not limited to, the following: change of rubric; change of number of observations; change in assessment options; allocation of points in Observation Category.

For each school year, a district/BOCES wishing to make a material change to their approved APPR plan must submit the proposed material change to the Commissioner by **March 1**, unless consent of the Commissioner is obtained upon a finding that the material change is required to achieve full implementation of a plan that rigorously adheres to the provisions of applicable laws and regulations because of circumstances beyond the control of the school district/BOCES and the collective bargaining representatives of classroom teachers and building principals that prevent implementation of the plan as approved by the Commissioner.

C9. If my district/BOCES wants to make a material change to our APPR plan solely to eliminate the use of unnecessary assessments being used for APPR purposes, is there a way to expedite the review of our APPR plan?

For any district/BOCES that wishes to submit a material change to their approved APPR plan that solely relates to the elimination of unnecessary assessments that are used with students for APPR purposes (for any grade/subject) may request an expedited review of

the material change using the Expedited Material Change Form. The Department will only review those sections of the plan that relate to the eliminated assessments to ensure compliance with Education Law §3012-d and Subpart 30-3.

The Commissioner shall complete the review of material changes that are properly and completely submitted within 10 business days of the submission. In order to be considered properly and completely submitted, the submission must:

- use the form prescribed by the Commissioner;
- meet the requirements of Education Law §3012-d and Subpart 30-3; and
- contain all required information including all appropriate signatures with appropriate dates.

If a plan is reviewed and rejected by the Commissioner because it was not properly and completely submitted, the 10-business day requirement for an expedited review does not apply until a new, properly and completely submitted material change is submitted to the Commissioner for approval.

For a copy of the Form as well as additional information, please see the [Expedited Material Change resource page](#). This form must be completed and submitted to EducatorEval (educatoreval@mail.gov) no later than March 1 of every school year. Please note that the Department will not accept late submissions of this form. Please type “Expedited Assessment Material Change” in the subject line of your email to ensure an expedited review of your material change request.

The Department recommends that districts/BOCES consult with their local counsel before submitting this certification form and any changes to their currently approved plan in the APPR portal.

C10. What will happen if any of the items required to be included in the APPR plan are not finalized by November 15 for the 2015-16 school year or September 1 of any subsequent year, as a result of pending collective bargaining negotiations?

Districts that are facing hardships and are therefore unable to have an APPR plan consistent with §3012-d approved by the Department by the November 15, 2015 deadline, must submit a Hardship Waiver application in order to maintain their eligibility for a State aid increase. The Hardship Waiver application is available for review prior to the beginning of the submission window on October 1 through [NYSED’s Application Business Portal](#). Districts can submit the form through the portal from October 1 through October 30.

Based on feedback received from stakeholders across the State, the Department issued guidance on January 15, 2016 indicating that districts would no longer be required to apply for additional Hardship Waivers. Any district that does not have a State-approved APPR plan pursuant to Education Law §3012-d by March 1, 2016 and has an approved Hardship Waiver valid through March 1, 2016, will have such Waiver automatically

renewed and extended through August 31, 2016 without any further applications or documentation of hardship.

Please see Question C1 for more information about Hardship Waivers.

C11. Is my school district required to have an APPR in place for the 2015-16 school year by November 15, 2015 in order to maintain eligibility for State aid increases?

Pursuant to Education Law §3012-d(11) as added by Chapter 56 of the Laws of 2015, districts will be not eligible for an increase in State aid in the 2015-16 school year, and any year thereafter, unless the district has submitted documentation that has been approved by the Commissioner by November 15, 2015, or by September 1 of each subsequent year, demonstrating that it has fully implemented the requirements of Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents.

To maintain eligibility for State aid increases, districts must either:

- (1) have an APPR plan for the 2015-16 school year approved by the Commissioner by November 15, 2015; or
- (2) for the 2015-16 school year only, have a Hardship Waiver(s) approved by the Commissioner during the period of time that a district does not have an APPR plan approved pursuant to Education Law §3012-d (see Question C1 for more information on the Hardship Waiver)

In order to demonstrate that each district has fully implemented their approved APPR plan on an annual basis, the Department requires that an additional certification form be completed by the superintendent of schools and Board President. The certification form, directions, and deadline for completing this form are available through the NYSED Business Portal. Please see Questions C1, C27, C29, and M46 for additional information on the Implementation Certification form.

C12. What will happen if a district wishes to use an assessment in the Student Performance Category, but the assessment has not been approved through the Assessment RFQ process and is not a State/Regents assessment at the time of submission of their APPR plan? What will happen if a district does submit their APPR plan listing an approved assessment and later decides they wish to change their assessment option?

Districts/BOCES who wish to use an assessment in the Student Performance Category that is not a State/Regents assessment and that has not been approved through the Assessment RFQ process at the time of submission of their APPR plan must select a different option. This may mean using a different assessment from the approved list, or it may mean using district- or BOCES-wide or school- or program-wide, group, team, or linked results based on State/Regents assessments, or State-approved assessments, where applicable and appropriate.

If the district/BOCES submits an APPR plan that lists an approved assessment and then later decides that they wish to change their assessment option, then this constitutes a material change to the APPR plan. The district/BOCES must then submit the material changes on a form prescribed by the Commissioner, to the Commissioner for approval. Again, the Commissioner has the authority to reject the plan if any of the changes do not rigorously adhere to the law and regulations.

C13. If we want to use a different third-party assessment than those currently listed on the *Approved List of Assessments to be used with SLOs* or the *Approved List of State-designed Supplemental Assessments to be used with Growth Models*, do we have to wait to submit our APPR plan until the next round of the Assessment RFQ is completed?

Under Education Law §3012-d, all student assessments used for APPR purposes must be developed or approved by the Department. Assessments will be approved by the Department through an RFQ process – this includes third-party assessments as well as district, regional, or BOCES-developed assessments.

Therefore, if districts/BOCES wish to use assessments that are not currently approved by the Department, they must wait to submit their APPR plan. However, districts/BOCES do not need to wait for the results of the next round of the Assessment RFQ before submitting their APPR plans if they only wish to use State assessments or assessments approved by the Department pursuant to the RFQ under Education Law §3012-d. To complete submission in the SED Monitoring APPR portal, the district/BOCES must decide what measure they will use if their preferred third-party assessment is NOT approved for inclusion on the *Approved List of Assessments to be used with SLOs* or the *Approved List of State-designed Supplemental Assessments to be used with Growth Models* and choose that option from the dropdown menu. If or when the desired assessment is approved by the Department, the district/BOCES can submit a material change request to utilize the now-approved assessment. Please note that only approved assessments will be listed in the SED Monitoring APPR portal; therefore, if you do not see the name of the assessment in the portal, then it has not yet been approved for use in evaluation plans under Education Law §3012-d.

Please remember that all material changes to approved APPR plans under Education Law §3012-d must be submitted to the Department by March 1 of each school year.

Please note that third-party assessments that were on the approved list for use under Education Law §3012-c may be re-submitted by their providers, with a district/BOCES sponsor, for review in an expedited manner, to be considered for use under Education Law §3012-d in the Student Performance Category.

C14. What should a district enter in the SED Monitoring APPR portal if some of its principals of K-5 buildings have $\geq 30\%$ of students covered by State-provided growth measures and some do not?

Districts should enter into the SED Monitoring APPR Portal the assessments they will use for those principals who do not have $\geq 30\%$ of students covered by State-provided growth measures (please see Questions D1, D43, D44, and D67 for more information).

Keep in mind that if SLOs are required, the principals of K-5 buildings will start with SLOs that use the State-provided growth measures for grades 4 and 5 ELA/math, as applicable.²⁹ Additional SLOs will then be set based on the grade 3 ELA and math State assessment results.³⁰ If 30% or more of students are then covered by the principal's SLOs, no additional SLOs are necessary. If, however, fewer than 30% of students are covered by these SLOs, then additional SLOs must be set beginning with the grade(s)/course(s) that have the largest number of students, using school-wide student results from State-approved assessments.

The SED Monitoring APPR portal has been updated to require all principals, including those with $\geq 30\%$ of students covered by State-provided growth measures, to include back-up SLOs, set by the superintendent or another trained administrator serving as his or her designee, in case there are not enough students, not enough scores, or other unforeseen data issues that will not allow the Department to generate a growth score.³¹ Please see Question D93 for more information.

C15. Do we have to submit any additional forms in order for our APPR plan to be reviewed?

In addition to completing each of the tasks online, you will need to upload certain documents, where required, in the format found in the [SED Monitoring APPR portal](#). For example, various tasks in the SED Monitoring APPR portal will prompt you to upload your signed and scanned APPR District Certification Form, your district's or BOCES' Teacher and Principal Improvement Plan forms, and any extra pages needed to list additional grades/subjects within the tasks.

Please note that any plan submitted to the Commissioner on or after March 2, 2014 for use in the 2014-15 school year and thereafter shall also include, as part of the District Certification Form, an attestation that (1) the amount of time devoted to traditional standardized assessments that are not specifically required by state or federal law for each classroom or program within a grade level does not exceed, in the aggregate, one percent

²⁹ During the 2015-16 through 2018-19 school years, such scores and ratings shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

³⁰ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

³¹ Except for principals of buildings that include all of grades 9-12, back-up SLOs are required in the 2015-16 school year and beginning again in the 2019-20 school year. Principals of buildings that include all of grades 9-12 must have back-up SLOs in all school years.

of the minimum in required annual instructional hours for the grade; and (2) the amount of time devoted to test preparation using traditional standardized assessments under standardized testing conditions for each classroom or program within a grade level does not exceed, in the aggregate, two percent of the minimum required annual instructional hours for the grade. Time devoted to teacher administered classroom quizzes or exams, portfolio reviews, performance assessments, formative assessments, and diagnostic assessments are not included in this calculation. Additionally, these calculations do not supersede the requirements of a section of the 504 plan of a qualified student with a disability, federal law relating to English language learners, or the individualized education program (IEP) of a student with a disability. Please see Questions C30-C37 for further information on certifying instructional time.

The materials you submit—once they are approved—will constitute the district's/BOCES' complete APPR plan for the school year. Therefore, any information that is part of your APPR plan must be included and submitted to NYSED, whether in one of the online forms or as a supporting attachment. Any other documents that you wish to include with your APPR plan for informational purposes must be uploaded in the "Additional Documents" section in the SED Monitoring APPR portal.

As you fill in the online forms and upload supporting attachments, please keep in mind that these are the same materials that will be posted on the NYSED website and the district/BOCES website and referred to by the teachers and principals who are being evaluated.

C16. Is the department going to review each TIP and PIP template that is submitted as part of the APPR form?

Yes, the Department is going to review each blank TIP and/or PIP form that is uploaded as an attachment to the APPR plan. The Department will be ensuring there is a place on the form where districts can enter each of the required elements of a TIP and/or PIP (needed areas of improvement, a timeline for achieving improvement, the manner in which the improvement will be assessed, and differentiated activities to support a teacher/principal's improvement in those areas).

C17. What if we are unable to submit our APPR plan electronically?

All information requested in the APPR plan must be submitted using the online forms in the SED Monitoring APPR portal, with rare exceptions, as follows: If a district has adopted an APPR plan pursuant to law and the Commissioner's regulations, it may submit its APPR plan through a non-electronic filing in accordance with subdivision 1 of section 101-b of the Education Law.

C18. Our district does not have a website; how do we comply with the requirement to post our APPR plan on the Internet?

If a district/BOCES does not have a website, it must make the plan publicly available at the district/BOCES office by September 10 or within 10 days of the approval, whichever is later.

C19. When we post our approved APPR plan on our website, can we post copyrighted documents that are included in our APPR plan?

You must obtain any necessary permission for copyrighted or proprietary APPR-related documents prior to posting on your website. *If you do not have the necessary permissions to post a document, do not upload that document with your APPR plan.*

C20. When we post our approved APPR plan on our website, do we need to post the attachments to our APPR plan too?

Yes. Both NYSED and the district/BOCES must post the approved APPR plans, including all uploaded attachments, on their respective websites.

APPR Data Submission and Certification

C21. Is my school district's eligibility for an increase in State aid in 2015-16 and thereafter dependent on my district's full implementation of its APPR?

Yes, pursuant to Education Law §3012-d(11) as added by Chapter 56 of the Laws of 2015, districts will be not eligible for an increase in State aid in the 2015-16 school year, and any year thereafter, unless the district has submitted documentation that has been approved by the Commissioner by November 15, 2015, or by September 1 of each subsequent year, demonstrating that it has fully implemented the requirements of Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents.

LEAs must report annual evaluation scores and ratings to the New York State Education Department's Student Information Repository System (SIRS). All final and complete data, including the individual subcomponent scores and rating categories for all applicable teachers and principals must be submitted to the Department by October of each school year. During the 2015-16 school year, districts/BOCES must calculate two sets of scores and ratings (original and transition) for educators whose original APPR results are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. "Original" scores and ratings use all of the measures specified in the approved APPR plan, including the results of the grades 3-8 ELA and math State assessments and State-provided growth scores. Transition scores and ratings exclude the results of the grades 3-8 ELA and math State assessments and any State-provided growth scores. In addition, the "Statement of Confirmation of Staff Evaluation Rating Verification Report" is required to be signed by the LEAs certifying official who verifies

the data submitted to the Department by October of each school year. By signing the Implementation Certification form that is due to the Department, LEAs assure that all data will be submitted to the Commissioner starting in August, to the extent practicable, and that all data submitted to the Commissioner by the October deadline will be a complete and accurate representation of the information requested and includes the Student Performance Category, the Observation/School Visit Category, and the Overall rating category, for all teachers and principals employed by the district/BOCES. Please see [the Data Submission and Certification Deadlines FAQ](#).

C22. What documentation of full implementation is my district required to submit by August 28, 2015?

It is expected that all districts will have taken the steps necessary to carry out the evaluations of all classroom teachers and building principals in accordance with the approved APPR and, to the extent possible, will submit documentation of the ratings assigned to classroom teachers and building principals for the current school year, though all final ratings may not be available until after September 1.³² Therefore, the Commissioner will require the following documentation of full implementation:

1. Evidence that the Commissioner has approved an APPR plan that applies to the subsequent school year.
2. Proof of submission of preliminary data on **subcomponent scores and overall ratings** of classroom teachers and building principals for the current school year, and a certification by the superintendent of schools that final, complete data on such **subcomponent scores and overall ratings** will be submitted; and
3. A certification by the superintendent of schools and board president that the approved APPR plan is the sole evaluation plan for the district that will be fully implemented and there are no collective bargaining agreements, memoranda of understanding or other agreements in any form that prevent, conflict with or interfere with full implementation of the approved APPR plan, including its use for employment decisions as appropriate.

³² During the 2015-16 through 2018-19 school years, educators whose APPRs are based, in whole or in part, on the results of the grades 3-8 ELA or math State assessments and/or State-provided growth scores shall be provided with their APPR transition scores and ratings as soon as practicable but in no case later than September 1st of the school year following the evaluation year. During the 2015-16 through 2018-19 school years, such educators shall also be provided with their original overall rating by September 1st of the school year following the evaluation year or as soon as practicable thereafter.

C23. On September 1, 2014 and each September 1 thereafter, must my district submit documentation that it has fully implemented its APPR Plan?

Yes. Education Law §3012-d(11), as added by Chapter 56 of the Laws of 2015, requires Commissioner's approval of documentation of full implementation to be submitted by November 15, 2015 or by September 1 of each subsequent year.

C24. If September 1 or November 15, 2015 falls on a weekend or holiday, i.e., Labor Day, when must Commissioner's approval of documentation of full implementation be obtained?

Applying General Construction Law §25-a, if the September 1 or November 15, 2015 deadlines fall on a weekend or holiday, the actual deadline for obtaining Commissioner's approval of documentation of full implementation is the next business day.

C25. What certifications will be required of all districts with APPR plans approved under Education Law §3012-d?

NYSED will require the superintendent of schools and the president of the board of education of each school district, or the chancellor in the case of the New York City School District, to submit a newly signed certification page acknowledging that the aforementioned plan is the sole plan for the APPR of all classroom teachers and principals in the district. The certification must be submitted when the district seeks approval of provisions of an APPR that are collectively bargained for the 2013-14 school year and thereafter. The Department considers void any other previously signed agreements between and among those parties and does not recognize any such agreements as part of the approved APPR plan. It should be noted that the Disclaimer appearing in Section 1 of the APPR plan form that was completed and signed by the representatives of a district prior to the plan being approved by the Commissioner states as follows: "If the Department reasonably believes through investigation or otherwise that statements made in this APPR plan are not true or accurate, it reserves the right to reject this plan at any time and/or to request additional information to determine the truth and/or accuracy of such statements." Additionally, as part of the new certification, a district must certify that any data submitted to NYSED is a complete and accurate representation of the information requested.

C26. I submitted my APPR Certification Form and I have an approved APPR plan for the upcoming school year. What further information is required to be submitted to the Department in order for my district to demonstrate full implementation of its APPR and be eligible for an increase in State Aid for the upcoming school year?

LEA's must report prior school year evaluation overall ratings and subcomponent scores to the NYSED's Student Information Repository System (SIRS). All final and complete data must be submitted to the Department.

In addition, the "Statement of Confirmation of Staff Evaluation Rating Certification

Report” is required to be signed by the LEA’s certifying official who verifies the data submitted to the Department. By signing the Implementation Certification form due to the Department, LEA’s assure that all data submitted to the Department starting in August, to the extent practicable, will be a complete and accurate representation of the information requested for all teachers and principals employed by the district or BOCES, for the prior school year. During the 2015-16 school year, districts/BOCES must calculate two sets of scores and ratings (original and transition) for educators whose original APPR results are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. “Original” scores and ratings use all of the measures specified in the approved APPR plan, including the results of the grades 3-8 ELA and math State assessments and State-provided growth scores. Transition scores and ratings exclude the results of the grades 3-8 ELA and math State assessments and any State-provided growth scores.

However, please be advised that pursuant to §30-3.13 of the Rules of the Board of Regents, the Department reserves the right to monitor and take appropriate action with districts, including potential loss of State Aid, if a district is in not fully implementing their approved APPR plan in accordance with the law and regulations.

C27. When is the evaluation data on classroom teachers and building principals due to the Department?

If your school district had an APPR plan approved by the Commissioner in the prior school year, it is expected that the district will have taken the steps necessary to carry out the evaluations of classroom teachers and building principals in accordance with your approved APPR plan. Therefore, the Commissioner required proof of submission of preliminary data of classroom teachers and building principals for the prior school year by August to the extent practicable, and a certification by the superintendent of schools that final, complete data will be submitted by October. During the 2015-16 school year, districts/BOCES must calculate two sets of scores and ratings (original and transition) for educators whose original APPR results are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. “Original” scores and ratings use all of the measures specified in the approved APPR plan, including the results of the grades 3-8 ELA and math State assessments and State-provided growth scores. Transition scores and ratings exclude the results of the grades 3-8 ELA and math State assessments and any State-provided growth scores. Please note: Local level 1 data centers will require earlier due dates to allow sufficient time for processing.

In addition, the Statement of Confirmation of Staff Evaluation Rating Certification Report form will be required to be signed by the LEA’s certifying official. Please see the [“Field Guidance on APPR Closeout and Updates on Education Law 3012-d” memorandum](#) for additional information.

C28. Why do we need to submit evaluation data on classroom teachers and building principals? What happens if we do not submit this data?

For the 2015-16 school year and thereafter, pursuant to Education Law §3012-d(11) as added by Chapter 56 of the Laws of 2015, districts will not be eligible for an increase in State aid in the 2015-16 school year, and any year thereafter, unless the district has submitted documentation that has been approved by the Commissioner by November 15, 2015, or by September 1 of each subsequent year, demonstrating that it has fully implemented the requirements of Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents.

By signing the Implementation Certification form, districts/BOCES provide assurance that all data will be submitted to the Commissioner by August to the extent practicable and no later than October, and that all data submitted to the Commissioner by October will be a complete and accurate representation of the information requested for all teachers and principals employed by the district or BOCES, for the prior school year. During the 2015-16 school year, districts/BOCES must calculate two sets of scores and ratings (original and transition) for educators whose original APPR results are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. “Original” scores and ratings use all of the measures specified in the approved APPR plan, including the results of the grades 3-8 ELA and math State assessments and State-provided growth scores. Transition scores and ratings exclude the results of the grades 3-8 ELA and math State assessments and any State-provided growth scores.

Therefore, if a district has signed the Implementation Certification form and does not submit their full and complete data by October the district may not be eligible to receive an increase in State Aid for the upcoming school year. Additionally, districts, BOCES, or charter schools who do not submit this data and who receive, or are applying for, certain grants that require demonstration of full implementation of APPR will be unable to meet the requirements of their grants and risk loss of funding.

Certifying Instruction Time

C29. My district/BOCES does not use any State-approved traditional standardized assessments in our APPR plan. Do we need to calculate total instruction time for each grade level in order to complete this certification? Do we still need to complete this certification in our APPR plan?

Districts/BOCES who are **not** using any **State-approved traditional standardized assessments** in their APPR plans do not need to calculate the minimum required annual instruction time for each grade for purposes of this certification. However, the superintendent, district superintendent, or chancellor must still complete this certification.

C30. What is considered time devoted to State-approved traditional standardized assessments that are not specifically required by state or federal law for each classroom or program within a grade level of the district or BOCES?

For purposes of this certification, NYSED calculates assessment time as the estimated time on task scheduled by the district/BOCES for students to complete any traditional standardized assessments for APPR purposes. Districts/BOCES should use the estimated time on task allowed for completion of the assessment for those students without mandated time extension accommodations³³ as the indicator of “time devoted to traditional standardized assessments that are not required by state or federal law³⁴.”

Please note, the regulation **does not** apply to assessments used for formative or diagnostic purposes.

C31. What is considered “time devoted to test preparation under standardized testing conditions for each grade”?

For the purposes of this certification, NYSED defines “test preparation under standardized testing conditions” as referring solely to any traditional standardized assessment or historical version of a State or Regents assessment that students are required to take for the purposes of preparing for end of the course assessments and are administered under the same or similar standardized testing conditions required when taking a State or Regents examination.

C32. What is considered “one percent of the minimum required annual instructional hours for such grade”? How should districts/BOCES calculate the time spent on State-approved traditional standardized assessments for the purposes of this certification?

To determine “one percent of the minimum in required annual instructional hours for such grade”, the district/BOCES should first calculate the minimum amount of annual instructional time by multiplying the number of school days by the minimum number of hours per day as required under §175.5 of the Commissioner’s Regulations, i.e., 5 hours per day for students in grades K-6 and 5.5 hours per day for students in grades 7-12.

For example, students in District A’s grades K-6 school building attend school for 5 hours a day, equating to 300 instructional minutes daily. Annually, these students attend school for 180 days multiplied by the 300 instructional minutes each day which translates

³³ For the purposes of calculating time spent taking State-approved traditional standardized assessments that are not specifically required by state or federal law, districts/BOCES with students who require testing accommodations that allow for extended test time should calculate the estimated time on task that would be allowed for students without any mandated time extension accommodations on the end of course traditional standardized assessment and use this for calculation purposes. Where applicable, students should still receive the mandated time extensions as appropriate; however, these time accommodations should not be used for determining the calculation of the one percent of instruction time for purposes of this certification.

³⁴ Please see the [New York State Assessment Update](#) for additional information concerning state and federal testing requirements, particularly slide 5 which outlines the testing required under state and federal law.

to 54,000 minutes of minimum annual instructional time. If a single classroom or program within a grade relies on a traditional standardized assessment, the superintendent must certify that no more than 540 minutes (or 9 hours) of the time in such classroom or program in a grade are spent annually taking traditional standardized assessments for APPR purposes. Please again note, this **does not** apply to assessments used for formative or diagnostic purposes and this only applies to traditional standardized assessments used for APPR purposes.

As another example, District A’s APPR plan includes State-approved traditional standardized ELA assessments that will be utilized for students in grade six (common branch) classrooms in the optional subcomponent of the Student Performance Category. Based on information provided by the vendor, District A estimates it will take grade six students 50 minutes to complete the ELA test. To calculate the percent of the minimum annual instructional time this represents, divide the 50 minutes of estimated time on task by the minimum annual instructional time, in this instance 54,000 minutes. For District A, 0.09% of instructional time for students in grade six will be spent on traditional standardized assessments for APPR purposes (see table below).

District A: State-approved Traditional Standardized ELA and Math Assessments in Grade 6	Estimated Times
Estimated Time on Task for Assessment Completion	50 minutes for ELA
Annual Instructional Time	54,000 minutes (minimum)
% of Annual Instructional Time Spent on Traditional Standardized Assessments for APPR Purposes	50 minutes /54,000 minutes= 0.09%

C33. What is considered “two percent of the minimum in required annual instructional hours for such grade”? How should districts/BOCES calculate the “time devoted to test preparation under standardized testing conditions”?

To determine “two percent of the minimum in required annual instructional hours for such classroom or program within a grade,” the district/BOCES should first calculate the minimum amount of annual instructional time by multiplying the number of school days by the minimum number of hours per day as required under § 175.5 of the Commissioner’s Regulations, i.e., 5 hours per day for students in grades K-6 and 5.5 hours per day for students in grades 7-12.

For example, students in District A’s grades 7-12 school building attend school for 5.5 hours a day, equating to 330 instructional minutes daily. Annually, these students attend school for 180 days multiplied by the 330 instructional minutes each day which translates to 59,400 minutes of minimum annual instructional time. Therefore, the superintendent must certify that no more than 1,188 minutes (19.8 hours) of time in a classroom or program in a grade are spent annually on test preparation under standardized testing conditions. Please again note, this only applies to test preparation under standardized testing conditions, which means traditional standardized assessments or historical versions of a State or Regents assessment that students are required to take for the purposes of preparing for end of the course assessments and are administered under the same or similar standardized testing conditions required when taking a State or Regents

assessment.

As another example, in preparation for the NYS Living Environment Regents assessment, District A requires all living environment students to take a prior year's version of the assessment under similar testing conditions to those of the actual Regents. District A estimates that it will take students three hours to complete the assessment; therefore, students in a living environment class will annually spend 180 minutes on test preparation under standardized testing conditions. To calculate the percent of annual instructional time this represents, divide the 180 minutes of estimated time on task by the minimum annual instructional time, in this instance 59,400 minutes. For District A, 0.30% of annual instructional time for living environment students will be spent on test preparation under standardized testing conditions (see table below), which is acceptable under the regulations because it is less than 2 percent of the minimum in required annual instructional hours for the grade.

District A: Living Environment Test Preparation Under Standardized Testing Conditions	Estimated Times
Estimated Time on Task for Assessment Completion	180 minutes
Annual Instructional Time	59,400 minutes (minimum)
% of Annual Instructional Time Spent on Test Preparation Under Standardized Testing Conditions	180 minutes / 59,400 minutes = 0.30%

C34. Must the district limit all assessments district-wide to below the 1 percent of annual minimum required instructional time?

No. The 1 percent rule only applies to State-approved traditional standardized assessments not specifically required by state or federal law. In addition, assessments such as classroom quizzes or exams, portfolio reviews, performance-based assessments, formative assessments, and assessments used for diagnostic purposes are not subject to the limits set forth in the regulation. Additionally, these calculations do not supersede the requirements of a section of the 504 plan of a qualified student with a disability, federal law relating to English language learners, or the individualized education program (IEP) of a student with a disability.

For the purposes of this regulation the following definitions are applied.

Formative assessment is a process used by teachers and students during instruction that provides feedback to adjust ongoing teaching and learning to improve students' achievement of intended instructional outcomes.³⁵

Diagnostic assessments are evidence-gathering procedures that provide a sufficiently clear indication regarding which targeted subskills or bodies of enabling knowledge a student possesses or does not possess — thereby supplying the information needed by

³⁵ Definition adopted by the CCSSO Formative Assessment for Students and Teachers State Collaborative on Assessment and Student Standards (FAST SCASS), October 2006.

teachers when they decide how to most appropriately design or modify instructional activities.³⁶ Diagnostic assessments include also include assessments used for diagnostic screening required by Education Law §3208(5).

Traditional standardized assessments are defined by NYSED in §30-3.2(aa) of the Rules of the Board of Regents as a systematic method of gathering information from objectively scored items that allow the test taker to select one or more of the given options or choices as their response. Examples include multiple-choice, true-false, and matching items. NYSED defines this term to focus specifically on those assessments that require the student (and not the examiner/assessor) to directly use a "bubble" answer sheet.

As a reminder, under Education Law §3012-d, all assessments for use in APPR must be approved by the Department through an RFQ process; this includes third-party assessments and locally-developed tests.

C35. When are districts/BOCES required to make these certifications regarding caps on instructional time for testing and test preparation?

Effective May 10, 2014, any APPR plan submitted to the Commissioner for approval for use in the 2014-15 school year and thereafter must include the signed certification by the superintendent, district superintendent, or chancellor attesting that the amount of time devoted to traditional standardized assessments that are not specifically required by state or federal law for each classroom or program within a grade level does not exceed, in the aggregate, one percent of the minimum in required annual instructional hours for such grade; and that the amount of time devoted to test preparation under traditional standardized testing conditions for each classroom or program within a grade does not exceed, in the aggregate, two percent of the minimum required annual instructional hours for such grade.

C36. Will standardized assessments for use in kindergarten through grade two be included on the list of State-approved assessments for use in APPR? How will we know whether the third-party assessment we want to use is allowable?

Effective March 2, 2014, the Department removed traditional standardized assessments for use in kindergarten through grade two from the list of State-approved assessments for use in APPR plans for the 2014-15 school year and thereafter.

Under Education Law §3012-d, all assessments for use in APPR (that are not State assessments or Regents) must be approved by the Department through an RFQ process. Therefore, those districts/BOCES who determine that for APPR purposes they will use a non-traditional standardized assessment for students in kindergarten, first, or second grade must select from the State-approved list of assessments for use in conjunction with Education Law §3012-d.

³⁶ Distinguishing Formative Assessment from Other Educational Assessment Labels. The Council of Chief State School Officers, May 2012.

D. Student Performance Category

D1. What is the Student Performance Category?

Under Education Law §3012-d, there are two categories on which a teacher's or principal's evaluation rating is comprised of: 1) the Student Performance Category and 2) the Teacher Observation/School Visit Category. The Student Performance Category consists of two subcomponents – one required and one optional. Please note that all student performance measures under Education Law §3012-d must measure student growth and must be consistent with the requirements of Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents.

Required

For the Required subcomponent, districts/BOCES must utilize a State-provided growth score where one exists. In instances where State-provided growth scores cover at least 50% of a teacher's students or at least 30% of a principal's students, such growth score will be used as the sole measure for the Required subcomponent of the Student Performance Category.³⁷ Please note that State-provided growth scores continue to be calculated in the same manner as under Education Law §3012-c. In instances where a teacher or principal receives a State-provided growth score, but that growth score does not cover at least 50% of a teacher's students or 30% of a principal's students, that teacher or principal must have SLOs developed and approved by the superintendent or another trained administrator serving as his or her designee.³⁸

For all other teachers and principals, an SLO must be developed and approved by the superintendent or another trained administrator serving as his or her designee. SLOs must use State-provided growth scores on State assessments for ELA/ math (if available).³⁹ Additional SLOs must then be set beginning with the grade(s)/course(s) that have the largest number of students until at least 50% of students on a teacher's course roster or 30% of students in the principal's school or program are covered. Where a State assessment exists, it must be used as the underlying evidence for the SLO. Where there is not a State assessment, districts and BOCES must choose from the following options: State-approved district, regional, or BOCES-developed assessments; State-approved third-party assessments; or district- or BOCES-wide or school- or program-wide group,

³⁷ During the 2015-16 through 2018-19 school years, such scores and ratings shall only be used for purposes of calculating original scores and ratings.

³⁸ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

³⁹ During the 2015-16 through 2018-19 school years, such scores and ratings shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

team, or linked results based on State assessments or other assessments approved by the State⁴⁰.

Optional

Districts/BOCES must locally negotiate as to whether to utilize the optional subcomponent of the Student Performance Category and which of the allowable options will be utilized. The same locally selected measure(s) must be applied in a consistent manner across all classrooms in the same grade/subject in the district/BOCES to the extent practicable. See Section E for more information about the Optional subcomponent of the Student Performance Category.

For the entire Student Performance Category, under Education Law §3012-d, all assessments for use in APPR (that are not State assessments, Regents, or in the future other State-developed assessments) must be approved by the Department through an RFQ process. See Questions F2-F6 for more information on the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*.

State-Provided Growth Measures

D2. What is the State providing for the teacher or principal growth scores⁴¹?

For teachers with grades 4-8 ELA/math and their principals:

The State will provide teacher and principal growth scores for all teachers and principals in grades 4-8 ELA and/or math. Briefly, the growth scores for teachers and principals in grades 4-8 ELA and/or math, are calculated as follows:

- For each student in grades 4-8, a student growth percentile (SGP) will be calculated based on his or her ELA and math State assessment results in the current year compared to similar students (e.g., students with similar past test scores and other student characteristics). The calculated SGP will compare the change in State assessment results between two points in time to the change for students with similar test history. Student test history includes up to three years (prior year and two additional years if available) of assessment data, with adjustments made to account for test measurement error.

⁴⁰ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

⁴¹ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

- Before determining teacher or principal growth scores and ratings based on the SGPs, the results will be adjusted based on the following characteristics: prior academic history, disability status, poverty status and status as an English language learner.
- At their June 2013 meeting, the Board of Regents approved an enhanced list of characteristics used to define “similar students” in the 2012-13 model and beyond from what was used in 2011-12. See the chart below for the currently approved full list of characteristics used in the growth model for teachers in grades 4-8 ELA/math and their principals.

Included in the 2011-12 Growth Measures Model	Additional Factors for the Enhanced Growth Model beginning in the 2012-13 School Year that are Refinements in the Definition of the Current Growth Model (past academic history, ELL, poverty, and SWD)
Academic History: <ul style="list-style-type: none"> • Up to 3 years student State exam scores, same subject 	<ul style="list-style-type: none"> • Prior year test score, different subject • Retained in grade • New to school in year other than entry year • Average prior achievement and range around average prior score in student’s class/course (same subject)
Student with Disability (SWD) <ul style="list-style-type: none"> • Yes/No 	<ul style="list-style-type: none"> • SWD spends less than 40% of time in general education setting • Percent SWD in student’s class/course
English Language Learner (ELL) <ul style="list-style-type: none"> • Yes/No 	<ul style="list-style-type: none"> • NYSESLAT scores • Percent ELL in student’s class/course
Poverty <ul style="list-style-type: none"> • Yes/No 	<ul style="list-style-type: none"> • Percent poverty in a student’s class/course

- Students will be assigned to teachers and schools based on linkage information provided by districts. (See the [Updated Guidance on Reporting and Verifying Teacher-Student and Principal Linkage Information memorandum](#), the [2014 Guidance on Reporting and Verifying Teacher-Student and Principal Linkage Information memorandum](#), and the [2015 Guidance on Reporting and Verifying Teacher-Student and Principal Linkage Information memorandum](#) for detailed guidance on teacher-student data linkage.)
 - For 2012-13 and beyond, students must be linked to teachers for a minimum time period to be included in the teacher’s State-provided growth score. This is defined as a minimum enrollment time of 60% of the duration of the course.

- To be included in the growth score for principals in a school with grades 4-8, students must be enrolled on BEDS day and assessment day and the principal must have a staff assignment record submitted for any of grades 4-8. Each principal in these grades and subjects will receive a mean growth percentile (MGP) for each grade and subject they are responsible for. This is the simple average (or mean) of all the SGPs from students meeting the minimum enrollment rules for principals in each grade and subject. The SGPs are then combined and averaged to determine an overall MGP that includes all grades for which the principal has a staff assignment record. A principal must have a minimum of 16 SGPs to receive an MGP.
- For teachers, the MGP for each grade or subject is calculated using the SGP of each student meeting the minimum enrollment of 60% of the course duration and weighting each SGP by the proportion of course time the student was enrolled with the educator and the proportion of time the student was in attendance, as reported on the staff student course record. For example, a student who was enrolled with the teacher for 80% of a course and attended 90% of the time he/she was enrolled would be weighted 0.8×0.9 or 0.72.
- Subject to meeting the minimum number of 16 student scores, teachers will receive an MGP for each grade or subject they are responsible for. If there is more than one MGP, the SGPs will be averaged across all grades and subjects into an overall MGP.
- The overall MGP for the teacher or principal will then be used along with the confidence ranges for the overall MGP to classify the teacher or principal into one of four rating categories (Highly Effective, Effective, Developing, or Ineffective). A score from 0-20 points will be assigned to each educator and it will be possible for an educator to earn each point, including 0 for the Student Performance Category.

For grades 9-12 principals:

Since the 2012-13 school year, two measures are used to calculate the State-provided growth score for high school principals of all of grades 9-12.

One of the measures is the calculation of an MGP for a principal based on student growth on the Algebra I and ELA Regents exams compared to similar students. This is an SGP measure for high school principals, similar to that which was used for 2011-12 evaluations for principals of elementary/middle schools (with grades 4-8 ELA/math). The high school SGP measure will compare the performance of students between grade 7 and 8 State assessments and the Algebra I and ELA Regents exams to the performance of similarly achieving students statewide. For each of the two Regents exams, schools must have at least 16 SGP scores for the MGP to be calculated for that subject.

In addition, NYSED has developed a measure of student growth based on the number of Regents exams passed annually starting in the year of student entry into grade 9, compared to similar students statewide. Up to eight Regents exams are counted in this

measure and at least 16 students must be enrolled in the school for the measure to be calculated.

The State-provided growth score for high school principals is calculated only in schools that provide instruction to students in all of grades 9-12 and for principals who have a staff assignment record submitted for all of grades 9-12. A high school principal's State-provided Growth subcomponent score would be based on the combination of these two high school measures, weighted by the number of students included in each measure. For principals in schools that include all of grades 9-12 as well as some or all of grades 4-8, the high school State-provided growth score and the 4-8 State-provided growth score will be weighted based on the number of students included in each measure.

D3. When will the State-provided growth scores for teachers and principals be provided to districts, schools, and teachers⁴²?

The State-provided growth scores will be available prior to September 1 of each school year, or as soon as practicable thereafter.⁴³

The State will also provide the information needed for districts who have selected through collective bargaining to use different locally selected measures based on State tests at the time the State provides the State-provided growth scores to districts.

Reporting of State-provided growth measures that will be accessible to teachers, principals, and other district staff, will be available in the fall of each school year. State-provided growth scores from previous years will continue to be accessible to authorized users within the online Growth Reporting System. The online reports will include detailed information about the calculation of the growth scores for each teacher and principal. In addition, a user guide will be available for educators to reference additional information about how the scores are calculated.

D4. Which subjects besides ELA/math in grades 4-8 will have State-provided growth scores and when? Will there be any new State tests because of this?

The only educators with State-provided growth scores are teachers with grades 4-8 ELA/math, their principals and principals of schools with grades 9-12 (all).⁴⁴

⁴² During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁴³ During the 2015-16 through 2018-19 school years, educators whose APPRs are based, in whole or in part, on the results of the grades 3-8 ELA or math State assessments and/or State-provided growth scores shall be provided with their APPR transition scores and ratings as soon as practicable but in no case later than September 1st of the school year following the evaluation year. During the 2015-16 through 2018-19 school years, such educators shall also be provided with their original overall rating by September 1st of the school year following the evaluation year or as soon as practicable thereafter.

⁴⁴ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

NYSED, along with its growth score vendor, intends to explore the feasibility of constructing State-provided growth measures for additional groups of teachers using existing State assessments (Regents exams, NYSESLAT, etc.).

If resources become available, the Department may propose adding new State test sequences in grades 6-8 science and social studies and ELA in grades 9 and 10 to allow for a 3-year sequence in ELA. These new tests could be the basis of future State-provided growth measures for teachers and principals but there is no approved timeline for doing so.

D5. What research does NYSED have that growth and Value-Added measures should be part of evaluation?

There are many articles and studies that discuss the use of “Value-Added” or “growth” measures to assess teacher and principal impact on student achievement based on State assessments. [Research supporting all components of teacher/principal evaluation](#) is available on EngageNY.

D6. How can we be sure that educators with a high number of students at the highest or lowest ends of the achievement spectrum receive fair results?

NYSED has instructed its vendor for the State-provided growth measures that every precaution must be taken to avoid false extreme results for educators (either negative or positive). We have required use of confidence intervals and inclusion of measures of test measurement error. We have also explicitly required that the vendor ensure that the highest and lowest scores for student growth go to teachers and principals whose students demonstrated meaningful differences in learning, not small changes that somehow become statistical outliers.

D7. What data are required for a student in grades 4-8 ELA and/or math to have a State-provided growth score?

A student must have a current-year test score and the immediate prior grade test score, meaning at least two (2) consecutive years of State assessment data in that subject.

D8. Is there a minimum number of students with growth scores required in order for NYSED to calculate a growth score for a teacher/principal?

Yes. for teachers of grades 4-8 ELA or math and their principals, the minimum number of SGP scores required for a growth score to be generated by the State for an educator is 16 scores.⁴⁵ This could be, for instance, 16 SGPs in one subject, or 8 students who have SGPs in both ELA and math.

⁴⁵ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

For principals of grades 9-12, in order for the MGP of ELA and Algebra Regents measure to be calculated, the principal must have a minimum of 16 SGP scores (in both subjects combined). For these same principals, in order for the Comparative Growth in Regents Exams Passed measure to be calculated by the State, the principal must have 16 students attributed to her or him.

The specific number was determined by NYSED in consultation with the vendor of the growth model based on empirical analysis and policy considerations. NYSED recognizes this is of particular importance to school districts with very small elementary grade classes and to self-contained special education classrooms composed of several grade levels of students.

Please note that all educators, including those who receive a State-provided growth score, must have SLOs developed and approved by the superintendent or another trained administrator serving as his or her designee consistent with the requirements of Subpart 30-3 of the Rules of the Board of Regents.⁴⁶

D9. If one co-teacher does not receive a State-provided growth score because of data errors or other administrative errors on the part of the district; however, his or her co-teacher did receive a State-provided growth score because there were not similar errors, can the district give the co-teacher who did not receive a score from the State the same score as the one who did?

It would depend on the facts and circumstances; however, if a co-teacher in the same grade/subject shares primary responsibility for the same students' learning, then yes, a district should use the same State-provided growth score for both teachers.⁴⁷

D10. In the case of English language learners, the teacher providing instruction is the "common branch" classroom teacher to whom these students are assigned for instruction for all subjects, with the exception of the time that they are "pulled-out" for ESL/ELA instruction by the ESL teacher. Will the common branch teacher receive a State-provided growth score, and if so, will the NYSESLAT be used to generate the score? Will the ESL teacher have SLOs only for the NYSESLAT or will they have a mix of SLOs and State-provided growth measures?

The common branch teacher will have a State-provided growth score if enough students take the ELA/math State assessments; if not the teacher will have SLOs for ELA and/or

⁴⁶ Except for principals of buildings that include all of grades 9-12, the requirement that back-up SLOs be developed for educators who receive a State-provided growth score is only effective during the 2015-16 school year and beginning again in the 2019-20 school year. Also, during the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

⁴⁷ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

math.⁴⁸ At this time, the NYSESLAT will not be used to generate a specific State-provided growth score.

However, the prior year's NYSESLAT score is used as one of the factors that may be used to compare an English language learner's growth on the State ELA/ math assessment (and their performance on the measures used for principals of grades 9-12) to that of similar students.

The ESL teacher may have a State-provided growth score if enough students take the ELA State assessment.⁴⁹ If there are not enough students who take the State assessments, then the ESL teacher will have SLOs for ELA, and if more than 10 students take the NYSESLAT, then one SLO will also use the NYSESLAT as evidence of student learning. Or, the district/BOCES may wish to consider having the ESL push-in/pull-out teacher use a school- or BOCES-wide, group, or team results based on State assessments if that is more applicable and/or to collaboratively set goals with those classroom teachers whose students they work with during the school year.

Please note that at this time, there is no State-provided or approved growth model available for use with the NYSESLAT. Accordingly, districts/BOCES may not use the NYSESLAT in the optional subcomponent of the Student Performance Category until such time as there is a State-provided or approved growth model for the assessment.

D11. What is the role of NYSAA in determining student growth? What happens in a classroom where some students take the NYSAA, but others take the State ELA and math assessments?

The State will not be able to generate a State-provided growth score for students who take the current NYSAA test and do not take a State assessment that is used to calculate a State-provided growth score. If enough students in a teacher's class take State assessments to generate a State-provided growth score for the teacher (or principal), then the educator will have a State-provided growth score.⁵⁰ However, if there are not enough students to generate this score, then the teacher is required to set SLOs and the teacher will need to set his/her SLOs using the ELA and math NYSAA performance assessment as evidence. Additional SLOs are also set based on the subject area taught.

⁴⁸ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

⁴⁹ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁵⁰ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

D12. What if itinerant teachers, who are employed by a BOCES, receive more than one State-provided growth score?

State-provided growth scores are calculated for educators based on the data that districts provide to the State. If a teacher is teacher of record in multiple schools, then the State-provided growth scores were calculated for the teacher at each school. Each school shall be responsible for providing the State-provided growth scores to the BOCES. The BOCES will then need to calculate the score and rating for the required subcomponent of the Student Performance Category by taking a weighted average of the State-provided growth scores for the teacher based on the number of student scores associated with each growth score using the State-provided growth data.

D13. How is NYSED calculating whether a student meets the 60% minimum enrollment requirement, and where are you getting the attendance “duration” information?

NYSED receives teacher-student-course linkage information (aka, staff student course records) annually from every district in the State that will be used to determine the length of time in minutes that a student was both enrolled in and attended a course with a teacher. This information will be used to determine if a student meets the minimum enrollment duration rule of 60%, as well as in the weighting of each student’s SGP in the calculation of his/her teacher’s MGP for teachers of grades 4-8 ELA or math, using State course codes that map to the appropriate State assessments.

In the event that districts only provided the State with partial linkage information, the State will calculate enrollment and attendance duration based on what is available, beginning with the use of the “minutes” data provided. If there is no “minutes” information submitted by the district, the student will not be weighted by attendance duration.

If a district fails to provide the State with viable teacher-student-course linkage information, all the students without viable links to a teacher will be linked to a school and/or principal (as applicable) based on the school listed on the student’s district-submitted assessment records.

State-Provided Growth Measures: Principals⁵¹

D14. What about the principal’s practice is the State trying to measure with growth?

In developing these measures, NYSED considered one of the primary responsibilities of a high school principal to be graduating his or her students’ ready for college and career. In order to get there, principals must ensure that students are taking a sufficient number of

⁵¹ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings. During the 2015-16 through 2018-19 school years, the results of the grades 3-8 ELA and Math State assessments and/or State-provided growth scores shall only be used for purposes of calculating original scores and ratings, used for advisory purposes only.

Regents courses and exams and passing at high levels to ensure they are able to enroll in college without remediation. Both of these measures work toward that goal by comparing students' annual rate of progress toward passing Regents exams to that of similar students. Because research also shows that higher than passing scores for ELA and Algebra I Regents correlate with college and career readiness, NYSED also measures the scale score result on these two exams, compared to similar students. NYSED is NOT trying to separate the effect the principal has on student learning from the effect the teachers have. As the instructional leader in a school, the principal is responsible for developing the staff capacity to support student learning.

D15. Which students are included in the calculation of a grades 4-8 principal's MGP⁵²?

All students who are attributed to the school using NYSED's rule for inclusion in institutional accountability (please see the [SIRS Manual](#) for details) and who have an SGP score calculated in either ELA or math are included in this calculation.

In 2013-14 and beyond, the principal must have a staff assignment record submitted for any of grades 4-8, and the appropriate grade-level students will be attributed to him or her. Each principal in these grades and subjects will receive an MGP for each grade and subject for which they are responsible. This is the simple average (or mean) of all the SGPs from students meeting the minimum enrollment rules for principals in each grade and subject. The SGPs are then combined and averaged to determine an overall MGP that includes all grades for which the principal has a staff assignment record. A principal must have a minimum of 16 SGPs to receive an MGP.

D16. What are the measures that are used to calculate a State-provided growth score and rating for a high school principal⁵³?

Two measures will be used to calculate the State-provided growth score for high school principals of all of grades 9-12. One of the measures is the calculation of an MGP for a principal based on student growth on the Algebra I and ELA Regents exams compared to similar students. The second measure calculates for each principal the growth in the number of Regents exams passed annually, starting in the year of student entry into grade 9, by the principal's students as compared to similar students. These measures will then be combined by the State into one growth score and rating to be used as the score and rating for the required subcomponent of the Student Performance Category for a principal's evaluation.

⁵² During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁵³ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

D17. Which high school principals will receive a State-provided growth score and rating⁵⁴?

A principal will only receive a State-provided growth score using these measures if the principal is responsible for all of grades 9-12, has a staff assignment record submitted for all of grades 9-12, and has a sufficient number of student scores attributed to her or him to calculate these measures.

D18. Which students are included in a high school principal's State-provided growth score?

A student must have a grade 7 or 8 NYS ELA or math test score and be enrolled in a school with all of grades 9-12. Note that students who transfer into NYS schools in grade 9 from other states or countries will not be included if the baseline test scores from NYS assessments are not available. If a student is in his/her 5th through 8th year after entering high school, the student will be included in the principal's State-provided growth score calculation.

D19. How are the SGPs calculated for the MGP in ELA and Algebra I measure?

An SGP measures student growth between two points in time—in this case between a student's grade 7 or 8 math or ELA test and his or her Regents exam in Algebra I or ELA. This student's growth is then compared to the growth of similar students, and each student is assigned an SGP from 1-99. For example, a student who scores 640 on his grade 8 State math assessment is compared to other students who score 640 on their grade 8 math State assessments, and each of those students are then assigned an SGP based on how well the student scored on the Algebra I Regents exam relative to each other. The SGPs also take into account all the other factors used to define "similar students" including additional years of academic history and data about poverty, students with disabilities, and English language learners. The SGPs of all of the students attributed to the principal are then averaged to determine the principal's MGP, which also can range from 1-99.

D20. How is a State-provided growth score generated based on the number of Regents exams passed annually?

The Comparative Growth in Regents Exams Passed measure calculates how much student growth a principal's students are making annually starting in the year of student entry into grade 9, compared to similar students statewide. Up to eight Regents exams per student are counted in this measure and at least 16 students must be enrolled in the school for the measure to be calculated.

⁵⁴ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

A principal's score is based on how many more or fewer Regents exams his/her students pass on average, compared to similar students in the same grade. In order to calculate this measure, NYSED first determines how many Regents exams each student in the school passed in the current school year and then subtracts from that the number of Regents exams passed in the current school year by similar students statewide in the same cohort. The model calculates the difference for every student in the school, which is then summed. That result is divided by the number of students that are included in the measure. The results are reported *not* as an SGP/MGP in this case, but as a number ranging from about -0.3 to about +0.3. It is important to remember that a 0 means the schools' students are passing an *average* amount of Regents exams compared to similar students. When converted to a State-provided growth score, 0 on this measure will be in the Effective range.

D21. How is a high school principal's State-provided growth score and rating determined?

State-provided growth scores and ratings will be calculated for each of the two high school measures separately. A high school principal's overall State-provided growth rating and score is then calculated based on a weighted average of the two measures based on the number of student results included in each.⁵⁵ The result will be a score from 0-20 and a corresponding growth rating category (HEDI).

D22. What is the definition of similar students that is used when calculating high school principal State-provided growth measures?

For the purposes of calculating high school principal State-provided growth measures, *similar students* is defined as students who have similar academic histories and demographic background characteristics.

The characteristics that make up **academic history** include grade 7 and/or 8 State assessment scores in either ELA or math, as well as the number of Regents exams passed to date, whether or not the student is new to a school in a year other than grade 9, and the cohort year for the student. Also included are the average grade 8 achievement scores for the entire school.

There are three groups of demographic variables included in the calculation of a high school principal's State-provided growth scores:

- **Special education:** Whether or not a student has a disability is included when comparing similar students, in addition to whether the student spends less than 40% of time in a general education setting, and the percent of students in the school that are classified as receiving special education services.

⁵⁵ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

- **English language learners (ELL):** Whether or not a student is an English language learner, his or her score on the State’s language proficiency test (NYSESLAT), and the percent of students in the school that are ELL are also included.
- **Poverty:** Whether or not a student lives in poverty, as well as the percent of students in the school that are living in poverty are included.

D23. Which Regents exams count for the MGP in ELA and Algebra I student growth measure?

Students enrolled in grades 9-12 who take the ELA Regents exam or the Algebra I Regents exam during the current school year, or in the August prior to the current school year, are included in the calculation of a high school principal’s growth score for this measure. The only exception to this rule is grade 9 students who may take Regents in August prior to the current year, who would not count toward a high school principal’s MGP.

D24. Which students are included in the calculation of a principal’s MGP in ELA and Algebra I student growth measure?

All students who are enrolled in the school on BEDS day and the 1st day of the Regents exam administration window, and who take the ELA Regents exam or the Algebra I Regents exam during the current school year, or in the August prior to the current school year (except for grade 9 students), are included in this calculation. Students who take the ELA Regents exam or the Algebra I Regents exam prior to high school (in August prior to entry in to high school, for example) are not included in the MGP in ELA and Algebra I student growth measure for a high school principal. Students are included in this measure up to 8 years after first entering grade 9.

Note that students who transfer into NYS schools in grade 9 from other states or countries will not be included if the baseline test scores from NYS assessments are not available. If a student is in his/her 5th through 8th year after entering high school, the student will be included in the principal’s State-provided growth score calculation.

D25. Which Regents exams count for the Comparative Growth in Regents Exams Passed measure?

The five required Regents exams (ELA, U.S. History and Government, Global History and Geography, 1 math, 1 science) count along with a maximum of three additional Regents exams. If a student passes more than eight Regents exams those additional exams will not count in this measure.

D26. Which students are included in the calculation of a high school principal’s growth in the Comparative Growth in Regents Exams Passed measure?

All students are attributed to the school using an approximation of NYSED’s rule for inclusion in institutional accountability (a student is enrolled on BEDS day and the 1st day of the Regents exam administration window). This is very similar to the rules used to attribute students to principals of grades 4-8.

If a student does not take a Regents exam in a particular school year they are still included in this measure and are recorded as passing zero Regents exams. Students are included in this measure for up to 8 years after first entering grade 9. Note that students who transfer into NYS schools in grade 9 from other states or countries will not be counted since the baseline test scores are not available. If student is in his/her 5th through 8th year after entering high school, the student will be included in the principal’s State-provided growth score calculation. Note that this rule adds to the incentive for schools to keep their students for more than four years to complete graduation requirements.

D27. Which Regents exam administrations (January/June/August) count in calculating the State-provided principal growth measures? What happens if a student takes the same Regents exam twice?

Regents exams that are taken by students in August of the prior school year and January and June of the current school year are taken into consideration for the State-provided high school principal growth measures, except for grade 9 students who took a Regents exam in August before entering grade 9. Within these three administrations of the Regents exams, if a student takes the same exam twice within the same year, the higher score is counted for use in the principal growth measures. Once a student passes a Regents exam any other instances of passing the same Regents exam will not count for principal growth measures.

D28. Does having a significant number of students with one or two Regents exams already passed when they show up in my building affect my State-provided growth score?

The State’s growth vendor, AIR, analyzed the impact of this and found that having more students who take a Regents exam before showing up at your school doesn’t impact your overall growth score. While it may reduce the number of students included in the MGP measure, schools with high concentrations of students taking Regents exams prior to entering grade 9 tend to do just as well on this measure as schools with low concentrations on the MGP measure.

D29. My school is a grades 6-12 school. If my grade 8 students take the Algebra I Regents exam, are they included in my Algebra I MGP measure?

No. Students who take the grade 8 math State assessment would have only the scores from the grade 8 math State assessment count for the required subcomponent of the

Student Performance Category for a principal. These students' Algebra I Regents exam scores will not count in any principal's growth score calculations if the student is not enrolled in at least grade 9. When a student takes both their appropriate grade level math assessment and a math Regents exam, the grade level math assessment will be used for the State-determined student growth score for principal evaluations if the principal has a staff assignment record submitted for that particular grade level. If these students are not "double tested" and take only the Algebra I Regents exam, their Algebra SGP will count in their principal's grades 4-8 MGP.

D30. How do you account for students on alternative pathways, like in their 5th year of high school? Or a student who passes a Regents exam before they show up at a high school?

The State-provided growth measures for high school principals include all students in grades 9-12, and students in their 5th through 8th year after entering high school, who take ELA, Algebra I (for the MGP measure), or other Regents exams (for the Comparative Growth in Regents Exams Passed measure).⁵⁶ In all cases, the students are compared to similar students. So, if the student was an English language learner, a student with disabilities, or a student who had passed some Regents exams before grade 9, the student results would be compared to students with these same characteristics.

D31. Are dropouts included in a high school principal's Comparative Growth in Regents Exams Passed measure?

Beginning in the 2013-14 school year, a student who is considered a dropout (See "Enrollment (Beginning and Ending) Codes and Descriptions" in the [SIRS Manual](#) for a definition of dropout) is included in this measure and attributed to the school in each year until what would have been the student's 4th year since entering grade 9.

D32. Is student attendance considered in calculating a State-provided principal growth score?

No, student attendance is not taken into account when calculating a principal's State-provided growth score.

D33. What if a principal is responsible for more than just grades 9-12, for example grades 7-12? How is that principal's State-provided growth score calculated?

If a principal is responsible for more than just grades 9-12, like grades K-12 or grades 6-12, the principal will receive both a State-provided growth score covering grades 9-12, in addition to a State-provided growth score covering grades 4-8. NYSED will provide both growth scores and ratings and will also provide a weight-averaged composite growth

⁵⁶ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

score and rating that is weighted by the number of student results included in each measure and will be used as the principal's score and rating for the required subcomponent of the Student Performance Category.⁵⁷

D34. Can a principal of a grades 9-12 school have a Comparative Growth in Regents Exams Passed measure but not an MGP measure, or vice versa?

Yes. If a principal has an insufficient number of scores attributed to her or him in either the MGP in ELA and/or Algebra I measure or the Comparative Growth in Regents Exams Passed measure, the principal can still receive a score in the other measure, provided the minimum n size is met. In this case, the principal's score and rating for the required subcomponent of the Student Performance Category will be based on the single measure that can be calculated for her or him.⁵⁸

D35. How do high school principals get a State-provided growth score?

High school principals will receive State-provided growth scores⁵⁹ if:

- The school includes at least all of grades 9-12.
- There are a sufficient number of SGP scores attributed to the principal, based on the principal linkage rule that requires students to be enrolled in the school on BEDS day and on the first day of Regents test administration.
- The principal has a staff assignment record submitted for all of grades 9-12.

Note that in order for the State to calculate a SGP score, a student must have a valid grade 7 or 8 ELA/math assessment score from New York State and a current year Regents exam score in ELA/math.

D36. Does NYSED account for the Regents exam safety net for our special needs students?

Alternate proficiency cuts on certain Regents exams are taken into account for students with disabilities in the high school principal Comparative Growth in Regents Exams Passed measure. In addition, three indicators for special education characteristics are included in the calculation of each of the State-provided growth measures, meaning that a special education student's performance is compared to similar special education students' performance.

⁵⁷ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁵⁸ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁵⁹ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

Student Learning Objectives (SLOs)

D37. What is the Student Learning Objective (SLO) process?

NYSED worked with representatives of the Regents Task Force and other states and districts with experience using student-growth goal-setting processes to prescribe standards and best practices for districts/BOCES to implement the SLO process. Districts and BOCES are encouraged to use the Draft Multi-State SLO Rubric to measure the quality of the information provided by educators on the NYS SLO Template. Please see the [Student Learning Objectives resource page](#) for further information including guidance, webinars, and training resources related to SLOs.

D38. What are the required elements of an SLO?

New York State SLOs must include the following Basic Elements:

- **Student Population:** which students are being addressed? Each SLO will address all students in the teacher’s course (or across multiple course sections) who take the same final assessment.
- **Learning Content:** what is being taught? CCSS/national/State standards? Will specific standards be focused on in this goal or all standards applicable to the course?
- **Interval of Instructional Time:** what is the instructional period covered (if not a year, rationale for semester/quarter/etc.)?
- **Evidence:** which State-developed or approved assessment(s) will be used to measure this goal?
- **Baseline:** what is the starting level of learning for students in the class?
- **Target:** what is the expected outcome (target) by the end of the instructional period? (All targets must include a minimum of one year of expected academic growth and all targets must be approved by the superintendent or another trained administrator serving as his or her designee.)
- **State-Determined HEDI Criteria:** districts and BOCES must use the State-determined scoring ranges to determine final scores and HEDI ratings
- **Rationale:** why choose this learning content, evidence and target?

D39. What does the “SLO process consistent with a goal setting process determined or developed by the commissioner” mean?

The SLO process determined by the Commissioner shall include a minimum growth target of one year of expected growth, as determined by the superintendent or another trained administrator serving as his or her designee. Please note that where the target is not approved by the superintendent, the target must be approved by an individual that is serving in a supervisory role to the educator whose targets are being approved.

All State-provided or approved growth model scores control for poverty, students with disabilities, English language learners status, and prior academic history, as applicable.

For SLOs, these characteristics may be taken into account through the use of targets based on one year of “expected growth,” as determined by the superintendent or another trained administrator serving as his or her designee. Students begin a course with varying levels of preparedness so educators must determine what a year’s worth of expected growth will look like for students who enter significantly below or significantly above grade-level expectations. Students who begin a course significantly below grade level expectations will need to make more than a year’s worth of expected growth, in order to “catch up” to their peers. Targets should be set that encourage accelerated gains and close achievement gaps.

Each measure in the Student Performance Category must result in a score between 0 and 20. Districts shall calculate scores and ratings for SLOs in accordance with the following table:

SLOs	Scoring Range
Percent of Students Meeting Target	
0-4%	0
5-8%	1
9-12%	2
13-16%	3
17-20%	4
21-24%	5
25-28%	6
29-33%	7
34-38%	8
39-43%	9
44-48%	10
49-54%	11
55-59%	12
60-66%	13
67-74%	14
75-79%	15
80-84%	16
85-89%	17
90-92%	18
93-96%	19

97-100%	20
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D40. Are SLOs subject to collective bargaining?

SLOs are developed and approved by the superintendent or another trained administrator serving as his or her designee and are not subject to collective bargaining. Superintendents must certify that all individual growth targets used for SLOs represent, at a minimum, one year of expected growth consistent with State guidance.

D41. What happens if principals and teachers cannot agree to the terms of the SLO? Does the principal overrule the teacher? Can district leaders dictate that all teachers of the same grade/subject use a common SLO, or a common assessment with differing targets?

District/BOCES leaders must determine district-wide/BOCES-wide processes for setting, reviewing, and assessing SLOs, and for determining teacher ratings for the required subcomponent of the Student Performance Category based on SLOs.

Please remember that, ultimately, SLOs are developed and approved by the superintendent or another trained administrator serving as his or her designee and are not subject to collective bargaining. Superintendents must certify that all individual growth targets used for SLOs represent, at a minimum, one year of expected growth consistent with State guidance.

D42. Which principals must have SLOs for the required subcomponent of the Student Performance Category of their evaluations, and how will SLOs be set? Are they set based on every student in the school⁶⁰?

There are two categories of principals in New York’s evaluation system. Principals with 30 – 100% of students covered by State-provided growth scores and principals with 0 – 29% of students covered by State-provided growth scores.

Principals with 30 – 100% of students covered by State-provided growth scores will receive a State-provided growth score for the required subcomponent of the Student Performance Category of their evaluation. Generally, principals with grades 4-8 will have a State-provided growth score based on the grades 4-8 NYS ELA and math assessments and high school principals with all of grades 9-12 will also receive a State-provided growth score.⁶¹

Principals with 0 – 29% of students covered by State-provided growth scores must use SLOs for the required subcomponent of the Student Performance Category. Principals

⁶⁰ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

⁶¹ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

who typically will have SLOs are principals of schools with grade configurations of K-3, PK-3, 9-10, 10-12, or similar configurations, as well as principals of certain specialized programs and settings such as CTE or students with severe disabilities.

The principal's SLOs for growth will be built around school-wide student results, using the assessments described below, until at least 30% of students are covered. Generally, very few principals will have SLOs. Principals of elementary and middle schools will have State-provided growth scores based on State assessments in grades 4-8 ELA/math.

SLOs for principals, except principals in grades 9-12, must use the school-wide student growth results on State assessments for ELA/math (if available). If the State assessments do not cover at least 30% of students, then additional SLOs must be set beginning with the grade(s)/course(s) that have the largest number of students until at least 30% of students in the principal's school or program are covered. Pre-K populations do not count when calculating a principal's 30%. SLOs for these grade(s)/course(s) without State assessments must use school- or program-wide student results from one of the assessments approved by the State for use in SLOs, or district- or BOCES-wide results from State-created or administered tests or other student assessments approved by the State.

All principals who receive a State-provided growth score must also have a back-up SLO set by the superintendent or another trained administrator serving as his or her designee in case NYSED is unable to calculate a State-provided growth score because there are not enough students, not enough scores, or unforeseen issues with the data submitted to generate a State-provided growth score.⁶² Please see Question D93 for more information⁶³.

D43. What will happen if a principal is in a K-4 building, but fewer than 30% of students receive a State-provided growth score?⁶⁴

These principals will have SLOs built around school-wide student results until at least 30% of students are covered. The SLOs will begin first with the grade 4 results from the State-provided growth scores for ELA/ math. Additional SLOs will then be set based on the grade 3 ELA/math State assessment results. If 30% or more of students are now covered by SLOs, then no additional SLOs are necessary. If, however, less than 30% of students are covered by SLOs, then additional SLOs will be set beginning with the grade(s)/course(s) that have the largest number of students using school-wide student

⁶² During the 2015-16 school year and beginning again in the 2019-20 school year, principals of buildings that include grades 4-8 are required to have back-up SLOs in case the Department is unable to calculate a State-provided growth score because there are not enough students, not enough scores, or unforeseen issues with the data submitted to generate a State-provided growth score. Please note that principals of buildings that include all of grades 9-12 are required to have back-up SLOs in all school years.

⁶³ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

⁶⁴ See above.

results from one of the assessments approved by the State for use in SLOs, or district- or BOCES-wide results from State-created or administered tests or other student assessments approved by the State.

D44. Which teachers will have State-provided growth measures and which teachers must have SLOs?⁶⁵

There are two categories of teachers in New York’s evaluation system. Teachers with 50 – 100% of students covered by State-provided growth scores and teachers with 0 – 49% of students covered by State-provided growth scores. Teachers with 50 – 100% of students covered by State-provided growth scores will receive a growth score from the State for the required subcomponent of the Student Performance Category of their evaluation. Teachers with 0 – 49% of students covered by State-provided growth scores must have SLOs for the required subcomponent of the Student Performance Category of their evaluation.

For teachers who have SLOs, if any course/section has State-provided growth measures, at least one SLO must use it (for example, a teacher with one section of grade 7 math and 4 sections of grade 7 science must have an SLO associated with the State-provided growth measure for math). SLOs must cover the courses taught with the largest number of students, combining sections with common assessments, until a majority of students are covered. If any of the largest courses has a State assessment but does not have a State-provided growth score, the State assessment must be used as evidence in the SLO.

During the 2015-16 school year and beginning again in the 2019-20 school year, **all** teachers who receive a State-provided growth score must also have a back-up SLO set by the superintendent or another trained administrator serving as his or her designee in case NYSED is unable to calculate a State-provided growth score because there are not enough students, not enough scores, or unforeseen issues with the data submitted to generate a State-provided growth score. Please see Question D93 for more information.

D45. Is my district/BOCES required to set back-up SLOs?⁶⁶

Yes. Education Law §3012-d continues to require all teachers and principals in a district/BOCES who are subject to APPR to have a complete evaluation each school year. Further, State aid increases are linked to the Commissioner’s approval of documentation that a school district has fully implemented the standards and procedures for conducting APPRs in accordance with Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents by November 15, 2015 (or September 1 of each subsequent year).

⁶⁵ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

⁶⁶ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

All teachers/principals who receive a State-provided growth score are also required to have back-up SLOs set by the superintendent or another trained administrator serving as his or her designee in case there are not enough students, not enough scores, or other unforeseen data issues that will not allow the Department to generate a growth score. Please see Questions D91 and D93 for more information.

Except for principals of buildings that include all of grades 9-12, back-up SLOs are only required for educators who are expected to receive a State-provided growth score during the 2015-16 school year and beginning again in the 2019-20 school year. Principals of buildings that include all of grades 9-12 must have back-up SLOs in all school years.

Elements of an SLO

Student Population

D46. Within the student population of an SLO, what is the minimum “n” size needed in order to properly validate an SLO score?

There is no minimum “n” size for SLOs.

D47. What is the date when the 50% rule is set for SLOs? That is, do we count students based on who is there on the first day of school or BEDS day?

The student population for SLOs is set on BEDS day.

D48. Does an SLO have to look at the growth of each individual student or can SLOs just look at the growth of a group of students?

SLOs must look at the growth of individual students. At the end of the instructional period, it is the aggregate growth of all of the individual students in the course section(s) that is used to determine whether or not the target of the SLO was met.

Please remember, SLOs must include a minimum growth target of one year of expected growth for all students, as determined by the superintendent or another trained administrator serving as his or her designee.

D49. What happens if the enrollment in the course that has a majority of the students at the beginning of the year fluctuates in the middle of the year such that this course no longer comprises a majority of the students? Would the SLO be abandoned and a new SLO be set that reflects the actual enrollment? What if there was an influx of new students to the class?

No, the original SLO would not be abandoned: the teacher would still have the original SLO even if the number of students has changed. If the teacher does not have State-provided growth measures, new arrivals should be included in a new SLO if the previous

SLO(s) no longer cover a majority ($\geq 50\%$) of the students across the course section(s) taught.

Baseline and Evidence

D50. The SLO documents state that SLOs “must be specific and measurable, based on available prior student learning data” – what is meant by prior?

Teachers are encouraged to use a variety of student historical academic data, if available. This historical academic data might include prior course results, or it might only include the current baseline data from the course taken at the beginning of the interval of instruction. Please see the “[SLO 103 Webinar](#)” for more information about the use of historical data and past performance trends.

D51. What should teachers use as a pre-assessment for establishing a baseline when students enter a sequence for the very first time and have little to no background information of a subject?

SLOs must include a minimum growth target of one year of expected growth for all students, as determined by the superintendent or another trained administrator serving as his or her designee. When thinking about setting an SLO for a course where students come in with no knowledge (or little) of the learning content, (for example, the first year of global studies or Spanish 1), it will be important for teachers to see what other courses they can draw on to provide other historical data. Any information about what entering students understand from other subject areas based on academic history in other courses, can give a teacher a wealth of information as to where the students may struggle or thrive. The teacher may also want to collect other baseline information (e.g., collect a writing sample) in order to more broadly assess the student's skills that may impact instruction for the year.

Assessments approved pursuant to the Department’s *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations* must include a description of how the student-level scores produced by the assessment are used in conjunction with New York State’s SLO framework. This should include an explanation of the baseline data that will be used as the starting point for measuring one year’s expected growth at the student level. For additional information about the RFQ, please see Questions F2-F6.

D52. Do teachers of accelerated grade 8 science have to use the New York State grade 8 Intermediate-Level Science test in SLOs?

The State’s rules require all grade 8 science teachers to use the grade 8 State science assessment as evidence of student learning within the SLO for growth.

However, principals have the discretion to either require or waive the grade 8 Intermediate-Level Science Test for those accelerated grade 8 students who did not take this exam during the previous school year but who will be taking a Regents Exam in science at the end of the school year in which they complete grade 8. For those accelerated students for whom the school waives the grade 8 Intermediate-Level Science Test, the student's growth in science will be measured by the student's performance on the Regents Exam in science.

D53. Can district created SLOs include qualitative data, like transitioning from one activity to the next, or only quantitative data?

SLOs must be specific and measurable academic goals for students. Qualitative data, while important, is not included within an SLO. Qualitative data, such as transitioning from one activity to the next, can and should be measured by a rubric within observation of teacher practice.

Interval of Instruction

D54. Does the interval of instruction have to be a year (or even a semester/quarter) for an SLO? Can it be shorter, such as 6 or 10 weeks, if the unit we work on is actually the “major learning of the year” for the course?

An SLO must be set for the entire length of the course, which is typically an entire academic year. An SLO is set at the start of the interval of instruction, and the summative assessment that is used at the end of the interval must measure all of the most important learning content of the course. Please note that, pursuant to Education Law §3012-d, all assessments used as the evidence for SLOs must be approved by the Department pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*.

Learning Content

D55. Must SLOs focus on all of the standards of a course, or can they focus on a few of the more important standards?

Most SLOs will cover the entire learning content of the course, as measured by the relevant end-of-course assessment (either State-developed or State-approved pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*). The key is to ensure that all students are thoroughly prepared for the next level when they leave a course of study.

Target Setting

D56. What is considered an appropriate growth target? What is meant by “an expected years’ worth of growth”?

SLOs must include a minimum growth target of one year of expected growth for all students, as determined by the superintendent or another trained administrator serving as his or her designee.

Such targets, as determined by the superintendent or another trained administrator serving as his or her designee, may take the following characteristics into account: poverty, students with disabilities, English language learners status, and prior academic history.

D57. Will growth targets need to be approved by the Department?

No, the Department will not approve SLO growth targets. Pursuant to Education Law §3012-d(4)(a), the Commissioner determines the SLO process and the Commissioner has determined that superintendents must certify that all individual growth targets used for SLOs represent, at a minimum, one year of expected growth. Additionally, the Department must affirmatively approve and shall have the authority to reject or require modifications of district’s/BOCES’ APPR plans that do not set appropriate growth targets, including after initial approval.

Pursuant to Education Law §3012-d(15) and Section 30-3.13 of the Rules of the Board of Regents, the Department will annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify districts and/or schools where evidence suggests that a more rigorous evaluation system is needed to improve educator effectiveness and student learning outcomes. Specifically, the Department will analyze data to identify:

- 1) schools or districts with unacceptably low correlation results between student growth on the Student Performance Category and the Teacher Observation/Principal School Visit Category; and/or
- 2) schools or districts whose teacher and principal overall ratings and subcomponent scores and/or ratings show little differentiation across educators and/or the lack of differentiation is not justified by equivalently consistent student achievement results; and/or schools or districts that show a pattern of anomalous results in the student performance and observation/school visits categories.

The Department may highlight schools or districts in public reports and/or the Commissioner may order a corrective action plan, which may include, but not be limited to, a timeframe for the district to address any deficiencies or the plan will be rejected by the Commissioner, changes to the district’s target setting process, a requirement that the district arrange for additional professional development, that the district provide additional in-service training and/or utilize independent trained evaluators to review the efficacy of the evaluation system. Corrective action plans may require changes to a

collective bargaining agreement, subject to collective bargaining under Article 14 of the Civil Service Law.

D58. If a teacher has an SLO in a course that is taken pass/fail, what might this look like?

For the purposes of an SLO that uses a pass/fail course, like any other SLO, a superintendent or another trained administrator serving as his or her designee will review relevant student data and set appropriate student growth targets for a teacher's students. For example, a superintendent may review and set targets using raw score data from a State/Regents assessment or other State-approved summative assessment as applicable. Another possibility for this SLO would be for the district to set a minimum rigor expectation for one year of expected growth for the percentage of students to pass using the State-determined scoring bands.

SLO Rules for Specific Educators: What Assessments Must be Used as Evidence?

D59. If we choose an SLO with a district- or BOCES-wide or school- or program-wide measure for the required subcomponent of the Student Performance Category, how might it work in practice for our teachers? Does it have to be based on State assessments or can a group, team, linked, or school- or program-wide, or district- or BOCES-wide measure be based on something else?

An SLO using district- or BOCES-wide, or school- or program-wide, group, team, or linked results may be based on State/Regents assessments⁶⁷ or other student assessments approved by the State. For example, district/BOCES leaders may decide that all kindergarten teachers will have a school-wide measure based on grades 4-8 math and ELA State assessment results, while all health teachers will have a team measure based on student performance on a State-approved third-party assessment.

D60. What is a BOCES-wide measure? Does this mean all schools/districts in a BOCES region use the same measure?

No, BOCES-wide measures do not cover all schools and/or districts in a BOCES region. The term refers to measures that are used for groups of teachers in BOCES programs.

D61. Do SLOs require use of a pre-assessment as the baseline data point?

No. While pre-assessment data is one source that could be used as a baseline data point, many methods of gathering baseline data may be used. For example, prior academic history of students can be used to set targets and to inform instructional decisions. Teachers may also examine trend data from previous years' test administrations to

⁶⁷ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

establish patterns of growth that can be used in setting targets and to inform instructional decisions. SLOs could also use the previous year's scores on a related exam to project growth for the current year.

Please remember that any assessment approved for use with SLOs pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations* must be able to measure one year's expected growth, and all measures must result in a 0-20 HEDI point score following the State's scoring ranges. Districts/BOCES must use the assessment in the manner designated by the provider. For State/Regents assessments, the superintendent or another trained administrator serving as the superintendent's designee must determine what constitutes a minimum of one year's expected growth and the resulting 0-20 HEDI point scores following the State's scoring ranges.

D62. How can teachers with courses that do not end in State assessments or Regents avoid additional testing for their APPR?

For districts/BOCES that want to avoid additional testing in their APPR plans, for grades/subjects where no State assessment or Regents exam currently exists, SLOs can be based on a district- or BOCES-wide, or school- or BOCES-wide, group, team, or linked results based on any State assessments⁶⁸ or Regents exams, or any other student assessments approved by the State.

As a reminder, the regulations require that the minimum growth targets for SLOs must represent at least one year of expected student growth as determined and approved by the superintendent or another trained administrator serving as the superintendent's designee.

D63. What assessments can my district/BOCES utilize for SLOs that are not State-created or designed?

All assessments used for APPRs conducted pursuant to Education Law §3012-d must be approved by the Department through a Request for Qualifications (RFQ) process--this applies to any grade or subject using third-party assessments as well as any district, regional, or BOCES-developed assessments.

Education Law §3012-d has different assessment requirements than previously required under Education Law §3012-c. Therefore, the Department cannot predetermine which assessments that were previously approved by the Department, or which locally developed assessments, will be approved under the new RFQ.

⁶⁸ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

Please also keep in mind that any assessment submitted for use with SLOs under the new RFQ must be able to measure one year's expected growth and all assessments submitted for use under the optional subcomponent must have a growth model approved by the state. Finally, we will have an expedited path for third-party assessments that are currently approved for use under Education Law §3012-c so that they may be re-submitted and reviewed in an expedited manner.

Elementary School and Common Branch Teachers

D64. Do all common branch teachers who have State-provided growth scores for ELA and math⁶⁹ need to also develop SLOs for social studies and science?

If a common branch teacher receives a State-provided growth score and that score covers at least 50% of the students on his/her course roster, then it will be used for his or her the entirety of his/her required subcomponent of the Student Performance Category. However, please note that pursuant to §30-3.4 of the Rules of the Board of Regents, back-up SLOs must still be developed for these teachers in case there are not enough students, not enough scores, or unforeseen data issues that prevent the State from generating a growth score.⁷⁰ If less than 50% of a teacher's students are covered under the State-provided growth score, please see Questions D91, D93, and D100 for more information.

D65. Can teachers in a K-2 building use SLOs with the grade 3 ELA assessment from another school in the district for the required subcomponent of the Student Performance Category?

Yes, for purposes of a district- or BOCES-wide measure, teachers can be linked to other student results from a different school building on a State or Regents assessment, or other student assessment approved by the State.

D66. For principals in K-3 buildings, must SLOs focus on ELA and math, similar to teachers, or is this a district decision?

SLOs must focus on both ELA and math, using school-wide results and following the State rules. SLOs will first be set based on the grade 3 State ELA and math assessment results.⁷¹ If 30% or more of students are now covered by SLOs, then no additional SLOs are necessary. If, however, fewer than 30% of students are covered by the SLOs on the ELA and math State assessments, then additional SLOs must be set, beginning with the grade(s)/course(s) that have the largest number of students, using school- or program-

⁶⁹ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁷⁰ Back-up SLOs for common branch teachers are only required to be developed during the 2015-16 school year and beginning again in the 2019-20 school year.

⁷¹ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

wide student results from a State-approved assessment, or district- or BOCES-wide results from a State or Regents assessment or other student assessment approved by the State.

High School and Teachers of Regents Subjects

D67. How can we construct SLOs for Regents courses? What do we use for the baseline, and how do we compare the baseline to final results given the general characteristics of Regents scale scores, and how do we handle the fact that not all kids in a class take the Regents exam?

SLOs for Regents courses need to use the Regents exam results as the evidence of learning for students during the interval of instruction. There are a variety of ways to do this. The first step is to establish a baseline for all students. This can be done using a prior year Regents exam, or a district, regional, or BOCES developed “pre-test,” ideally one that has been shown to predict whether a student is likely to not pass, pass the Regents with a 65+, or pass at the mastery level. Another way to set a baseline is to utilize student results from earlier State assessments and Regents exams since they too are generally predictive of whether a student will not pass, pass or excel. Note that it is not necessary to measure results on a scale score basis for Regents exams. Please note that the Superintendent or another trained administrator serving as his or her designee must develop growth targets of at least one year’s expected growth.

It is the understanding of the Department that districts/BOCES who, at local discretion, are having students take both the old (2005 standards) Regents Exam in addition to the new (Common Core) Regents exam(s), will use the higher of the two scores for APPR purposes, unless otherwise specified in the Department approved APPR plan signed by all parties.

D68. Can an SLO use a portion of a Regents exam as evidence of student learning? What if there are teachers where a school-wide goal is set using the Regents exam: can just the essay portion be used in the SLO for the group?

For courses that end in a Regents exam, the SLO must use the Regents exam, in its entirety, as evidence of student learning within the SLO. The entire Regents exam must be used whether it is in an individual SLO or a district- or BOCES-wide or school- or program-wide, group, team, or linked result based on a Regents exam. Please remember that district- or BOCES-wide or school- or program-wide, group, team, or linked results are only allowable options for courses that do not end in a State or Regents assessment.

D69. For a subject that is associated with a Regents exam, but the district does not teach it as a Regents course (no Regents credit), must the district give the Regents exam associated with it? For example, we have a district that teaches non-Regents physics. Is there any expectation that because of SLOs, the district has to start giving the Physics Regents exam?

If it is a non-Regents course, then the SLO does not have to use the Regents exam. Please remember that any assessment used with SLOs must be approved pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*.

D70. Does a grade 9 global studies teacher need an SLO? What assessment will be used as evidence if the Regents exam is not actually taken until grade 10?

Since the grade 9 global studies course does not lead to a State assessment, the following are the options that may be used as evidence of student learning within the SLO: a State-approved third-party assessment; a State-approved district, regional, or BOCES-developed assessment; or district- or BOCES-wide or school- or program-wide, group, team, or linked results based on State assessments or other assessments approved by the State.⁷²

Please remember that any assessment used with SLOs must be approved pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*.

D71. Do grade 9 and 10 ELA teachers need SLOs? What assessment must be used as evidence if the Regents exam is taken in grade 11?

If there is no Regents exam at the end of grade 9 or grade 10 ELA courses, these courses may use the following as evidence of student learning within the SLO: a State-approved third-party assessment; a State-approved district-, regional-, or BOCES-developed assessment; or district- or BOCES-wide or school- or program-wide, group, team, or linked results based on State assessments or other assessments approved by the State. Please remember that any assessment used with SLOs must be approved pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*.

⁷² During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

D72. In the case of a high school science course with a separate lab associated with it, does the teacher have an SLO for the lab and/or the science section?

If the students in the course are the same ones as those in the lab (and the lab is associated with the course) then the teacher will have one SLO to cover the students in the course and the lab.

Please remember that any assessment used with SLOs must be approved pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*.

D73. What should we do if we have some students in a course who take the Regents exam, while others do not (e.g., students who are retaking the course but have already passed the associated Regents exam)?

At the start of the course, teachers should set another SLO that uses an allowable assessment option (please see the “[Blue Memo](#)” for all available options) in order to cover those students who do not take the Regents. Districts/BOCES may also utilize district- or BOCES-wide or school- or program-wide, group, team, or linked results based on State assessments or other assessments approved by the State⁷³ for these SLOs.

Please remember that any assessment use with SLOs must be approved pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*.

D74. How should the score of a student who has not met the minimum lab hours requirement and therefore cannot take the Regents exam be treated when calculating SLOs?

Science teachers are required - consistent with long-standing Department regulations - to make every effort to ensure their students meet lab requirements prior to taking science Regents exams. In some cases, that means an individual teacher who teaches both the course and the lab. In other cases, that means the teacher team (lecture and lab) responsible for the students' science learning.

However, if, due to extenuating circumstances beyond a teacher's control (for example, long-term illness), a student is ineligible or unable to sit for a science Regents exam, the student's performance would not count toward the educator's evaluation. The Department cannot contemplate every possible circumstance, so the determinations regarding (1) the

⁷³ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

extenuating circumstances; and (2) the apportionment of responsibility within teacher teams rest with the local school district. This approach protects teachers and eliminates any incentive to game the evaluation system.

Longstanding Department policy is that no score is to be recorded for students who for any reason do not earn a valid Regents exam score. This includes students who are ineligible due to insufficient labs and students who are absent from the exam for any reason. It is a local school district choice whether or not to count a No Score in a student's grade.

If the local school district determines the extenuating circumstances were beyond the teacher's control, the student's lack of score on the science Regents exam will have no impact on the required subcomponent of the Student Performance Category of the teacher's APPR. If such determination is not made, the impact on a teacher's score will be dictated by the terms and conditions of the school districts' local APPR plan (which was negotiated by the district and its local bargaining unit).

Absent a school district determination that extenuating circumstances beyond the teacher's control (e.g., extended medical leave) exist, a student who does not complete the minimum number of lab minutes to qualify for a science Regents exam would count in a teacher's SLO. For example, a teacher's SLO, as determined by the superintendent, may require that students in his or her class achieve a score of 65 or greater on the science Regents exam. In this case, the student who did not complete the lab requirement did not score a 65 or greater on the Regents exam. When calculating the percentage of students scoring at 65 or greater for this teacher's SLO, the student would count in the denominator of the percentage (the number of students included in SLO) but would not be included in the numerator of the percentage (the number of students scoring 65 or better).

Non-Grade Specific Teachers

D75. May SLOs for teachers of students in Career and Technical Education programs use assessments previously approved by NYSED as elements of the approved CTE educational program?

No. Only the assessments that are included on the State-approved list may be used for APPR purposes.

At this time, SLOs for teachers of students in CTE programs may only use one of the following options as evidence of student learning within the SLO:

- State-approved third-party assessments;
- State-approved district, regional, or BOCES-developed assessments;
- district- or BOCES-wide or school- or program-wide, group, team, or linked results based on State assessments⁷⁴ or other assessments approved by the State.

⁷⁴ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

NYSED encourages district/BOCES leaders to ask vendors they work with to co-submit their assessments to the Assessment RFQ for potential inclusion on the State-approved list. Third-party assessments that are currently approved for use under Education Law §3012-c may be re-submitted, with a district/BOCES co-sponsor, for review in an expedited manner to be considered for use with SLOs; however, all assessments must meet the requirements in the new RFQ and districts/BOCES are cautioned that there is no guarantee that a previously approved assessment will be re-approved.

D76. How are SLOs for Library/Media Specialists established if these teachers do not have regular classes scheduled and only schedule classes on an on-demand/teacher-requested basis for specific topics and projects?

Superintendents will need to determine their specific rules around which courses must have SLOs when contact time varies following the State's rules and the general principle of including the courses with the most students first and making practical judgments about how to consider different course meeting schedules like those cited in the question.

D77. How do we determine the courses requiring an SLO when contact time with students varies greatly among a given teacher's assignments? For example, a music teacher may have a schedule that looks like the following: Band, 125 students, every other day; Music Theory, 75 students, every day; General Music, 180 students but each section only meets one day in a six-day cycle.

Superintendents will need to determine their specific rules and requirements around which courses must have SLOs when contact time varies following the State's rules and the general principle of including the courses with the most students first and making practical judgments about how to consider different course meeting schedules like those in this example. We suggest that teachers have SLOs based on courses that meet most often and are the longest in length. Districts/BOCES can then create a proportion and this will show which courses need to have SLOs. In the scenario above, for example, if the class periods are 40 minutes, then seeing 75 students for 200 minutes each week is much more time than seeing 125 students for 120 minutes each week. The general music that only meets one day in a six-day cycle would not have an SLO.

Regardless of the contact times, only assessments approved by the Department through the Assessment RFQ process may be used for teachers of courses that do not end in a State/Regents assessment. Therefore, if there are no assessments approved for the specific grade/course (e.g., music), the district/BOCES must use a district- or BOCES-wide or school- or program-wide, group, team, or linked result based on a State/Regents assessment(s) or other student assessment(s) approved by the State for the SLO under the required subcomponent of the Student Performance Category.⁷⁵

⁷⁵ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

D78. What pre-assessment should be used for those teachers creating an SLO based on the NYSESLAT?

Districts have a number of options to choose from for the pre-assessment for SLOs for the required subcomponent of the Student Performance Category. For example, superintendents may decide in setting SLOs that teachers may use the NYSESLAT scores from the previous year's test administration as students' baseline data, along with other evidence of student achievement and language learning, in order to more broadly assess the students' skills that may impact instruction for the year.

For those students who do not have a previous year's NYSESLAT score (e.g., newly identified students who have not yet taken the NYSESLAT), superintendents may decide to have teachers consider the results from the New York State Identification Test for English Language Learners (NYSITELL), along with other evidence of student achievement and language learning. Please see the [New Identification Test for English Language Learners to Begin in 2013–14 School Year memorandum](#).

D79. What assessment can be used in SLOs for teachers of Native Language Arts (NLA) classes?

All assessments used for APPR purposes must be approved by the Department through the Assessment RFQ process. All assessments that are submitted for use with SLOs must be able to measure one year's worth of expected growth.

Districts/BOCES should visit the State's approved assessment list as it becomes available to see if assessments for NLA classes have been approved. Please note that as assessments are approved pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*, they will be added to the SED Monitoring APPR portal as an available option for the approved grade(s) and subject(s).

Special Education Teachers

D80. Do co-teachers have to have the same SLO for the required subcomponent of the Student Performance Category? Can they have similar SLOs that focus on the students they spend the most time with each day?

Co-teachers must have the same growth measure for the required subcomponent of the Student Performance Category. The measure, for both teachers, will cover all of the students in the course section(s) covered by the SLO.

D81. How would a special educator define his or her classroom population for the SLO in a resource room or consultant model? If a resource room teacher does not focus on any particular subject area, what should he or she use as an SLO? What about AIS teachers, who often see many different populations of students based on need?

All students that are assigned to the teacher as teacher of record are the students that a resource room teacher or consultant teacher will include in his or her SLO. An AIS teacher who is the teacher of record for courses that lead to a State assessment in grades 4-8 ELA/math, and who have the required number of SGPs attributed to him/her using the staff student course records will receive a State-provided growth score.⁷⁶ Other AIS teachers will have SLOs. Regardless, please note that pursuant to §30-3.4 of the Rules of the Board of Regents, back-up SLOs must still be developed for these teachers in case there are not enough students, not enough scores, or unforeseen data issues that prevent the State from generating a growth score.⁷⁷ If AIS teachers see many different students throughout the school year with varied consistency, it may be more appropriate for these teachers to have a district- or BOCES-wide, or school- or program-wide, group, team, or linked measure based on State/Regents assessments or other State-approved assessments, and/or to collaboratively set goals with those classroom teachers whose students they work with during the school year.⁷⁸ Superintendents will need to determine the option that is most appropriate for these teachers. Please see Questions D91 and D93 for more information.

Similarly, if there is no specific subject area focus for a resource room teacher, district/BOCES leaders may wish to consider using a SLO based on district- or BOCES-wide, or school- or program-wide, group, team, or linked measure based on State/Regents assessments or other State-approved assessments and/or to collaboratively set goals with those classroom teachers whose students they work with during the school year. If, however, the resource room teacher focuses on literacy skills and/or other content-area-specific skills, then SLOs should be set for the relevant subject area.

D82. Can SLOs for students with disabilities have a different target for growth?

Teachers who have SLOs must follow the rules set forth in the State's Guidance. District/BOCES leaders may determine that in certain circumstances academic goals in an IEP may be used to inform differentiated targets within an SLO based on baseline (starting point of learning) and historical academic data.

The SLO must be specific and measurable and compare learning data at the start and end of the course. SLOs must also be aligned to learning standards (Common Core Standards,

⁷⁶ During the 2015-16 through 2018-19 school years, such scores and ratings will only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁷⁷ Back-up SLOs are only required for teachers who are expected to receive a State-provided growth score during the 2015-16 school year and beginning again in the 2019-20 school year.

⁷⁸ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

NYS Learning Standards, or National Standards) which means that only academic goals contained in approved IEPs could ever become the basis of SLOs. For example, an IEP goal for literacy could be used; an IEP goal relating to occupational therapy could not be used.

It is important to keep in mind that targets for all students, regardless of any special education classification, should be differentiated based on baseline data and not because of any particular classification.

Also, superintendents must certify that all individual growth targets used for SLOs represent, at a minimum, one year of expected growth. Such targets may take into account characteristics such as poverty, students with disabilities, English language learners status, and prior academic history so that all students receive the support necessary in order to make the required minimum one year's worth of expected growth and to ensure targets are set in a way that can help close achievements gaps.

D83. Some of our special education teachers in our BOCES have students that are bussed in each day from numerous districts. How will teachers set their SLO in this situation?

SLOs are course- and teacher-specific. The “sending” district of the students is not relevant for this purpose. Each BOCES teacher will set SLOs for his or her largest courses until at least 50% of students are covered, regardless of where the students come from. Other SLO rules may be established by the BOCES for their teachers.

Scoring and Weights

D84. How are the Required and Optional Subcomponents of the Student Performance Category scored?

Education Law §3012-d states that the Commissioner shall determine the scoring ranges for the Required and Optional subcomponents of the Student Performance Category that result in a combined category rating. The process by which weights and scoring ranges are assigned to subcomponents and categories must be transparent and available to those being rated before the beginning of each school year. The process must ensure that it is possible for a teacher or principal to obtain any number of points in the applicable scoring ranges, including zero, in each subcomponent.

Districts and collective bargaining units, where one exists, must certify they will utilize the scoring ranges and the process for assigning weights specified in the regulations.

Each measure in the Student Performance Category (State-provided growth scores, SLOs, State-designed supplemental assessments) must result in a score between 0 and 20.

- The State will generate scores of 0-20 for measures using a State-provided growth score.
- Districts shall calculate scores for SLOs in accordance with the table below:

SLOs	
Percent of Students Meeting Target	Scoring Range
0-4%	0
5-8%	1
9-12%	2
13-16%	3
17-20%	4
21-24%	5
25-28%	6
29-33%	7
34-38%	8
39-43%	9
44-48%	10
49-54%	11
55-59%	12
60-66%	13
67-74%	14
75-79%	15
80-84%	16
85-89%	17
90-92%	18
93-96%	19
97-100%	20

- For all other measures that are not State-provided growth measures, scores of 0-20 must be computed in accordance with the State-provided or approved growth model used. Please note that HEDI scores must be assigned as described in the regulation and/or the application submitted to and approved by the Department pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*.

State-Provided Growth Scores

D85. How will State-provided growth scores be calculated?

For the 2015-16 school year, State-provided growth scores will be calculated using the existing growth model.⁷⁹ Factors may be updated in future school years depending on decisions by the Board of Regents. The Department will consult with stakeholders and technical experts on recommendations for future school years.

D86. When will the State-provided growth scores for teachers and principals be provided to districts, schools, and teachers?⁸⁰

The State-provided growth scores will be provided to districts for incorporation into educator evaluations prior to September 1 of each school year or as soon as practicable thereafter.⁸¹

At this time, the State will also provide the data files needed for districts to be able to compute the optional subcomponent of the Student Performance Category, for those that have selected through collective bargaining to use different locally selected measures based on State assessments.

Reporting of State-provided growth measures will be accessible to teachers, principals, and other district staff and will be available in the fall of each school year.

D87. Has the State determined a minimum number (“n”) of student scores required in order for NYSED to calculate a growth score for a teacher/principal?⁸²

Yes. For 2012-13 and beyond, for teachers of grades 4-8 ELA/math and their principals, the minimum number of SGP scores required for a growth score to be generated by the State for an educator is 16 scores. This could be, for instance, 16 SGPs in one subject, or 8 students who have SGPs in both ELA/math.

For principals of grades 9-12, in order for the MGP of ELA and Algebra I Regents measure to be calculated, the principal must have a minimum of 16 SGP scores (in both subjects combined). For these same principals, in order for the Comparative Growth in

⁷⁹ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁸⁰ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁸¹ During the 2015-16 through 2018-19 school years, educators whose APPRs are based, in whole or in part, on the results of the grades 3-8 ELA or math State assessments and/or State-provided growth scores shall be provided with their APPR transition scores and ratings as soon as practicable but in no case later than September 1st of the school year following the evaluation year. During the 2015-16 through 2018-19 school years, such educators shall also be provided with their original overall rating by September 1st of the school year following the evaluation year or as soon as practicable thereafter.

⁸² During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

Regents Exams Passed measure to be calculated by the State, the principal must have 16 students attributed to her or him.

D88. What do we do about teachers who have a class of students that is close to the minimum “n” size needed for NYSED to calculate a State-provided growth score and who may lose enough students over the course of the school year to require that they use SLOs?

Section 30-3.4 of the Commissioner’s regulations require that all teachers must have back-up SLOs set by the superintendent or another trained administrator serving as his or her designee for the required subcomponent of the Student Performance Category, in case there are not enough students, not enough scores, or unforeseen issues with the data to generate a State-provided growth score.⁸³ The Department recommends that districts/BOCES consult with their local counsel regarding the implementation of back-up SLOs for APPR purposes. Please see Questions D91 and D93 for more information.

D89. Will teachers get State-provided growth scores for ELA and math for each grade level they teach? Will principals get State-provided growth scores for ELA and math for each grade level in their building?⁸⁴

As appropriate for each teacher, in addition to an overall MGP that is made up of SGPs for all students assigned to the teacher who meet the minimum enrollment requirements, an MGP will be calculated for ELA and math at each applicable grade level taught if the teacher has at least the minimum “n” number of 16 SGP scores in that grade/subject. As appropriate for each principal, in addition to an overall MGP that includes SGPs for all students enrolled in the school, an MGP will also be calculated for ELA and math at each applicable grade level in his or her school if there are at least the minimum “n” of 16 SGPs in that grade/subject.

D90. Which students are included in the calculation of a grades 4-8 ELA or math teacher’s MGP?

Students who meet the proper enrollment requirements, who are on a teacher’s roster, and for whom the district has submitted student-teacher linkage relationship data are included in the calculation of a teacher’s MGP. Specifically, a student must be enrolled in a course that is mapped to a State assessment in grades 4-8 ELA/math, with a teacher for at least 60% of the course duration in order to be included in a teacher’s MGP calculation. Any student who is not enrolled in a course for at least 60% of the course will NOT count in the calculation of the teacher’s MGP. A student who has met this 60% enrollment requirement will then have her or his SGP score weighted in the teacher’s MGP

⁸³ Except for principals of buildings that include all of grades 9-12, the requirement that back-up SLOs be developed for educators anticipated to receive a State-provided growth score is only applicable during the 2015-16 school year and beginning again in the 2019-20 school year.

⁸⁴ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

proportional to the student’s enrollment and attendance in the course. For example, a student who is enrolled for 75% of the course duration with 100% attendance is weighted 0.75; a student who is enrolled for 90% of the course duration with 90% of attendance is weighted 0.81.

D91. Is NYSED providing individual grade-level scores for both ELA and math, or just a combined score to schools?

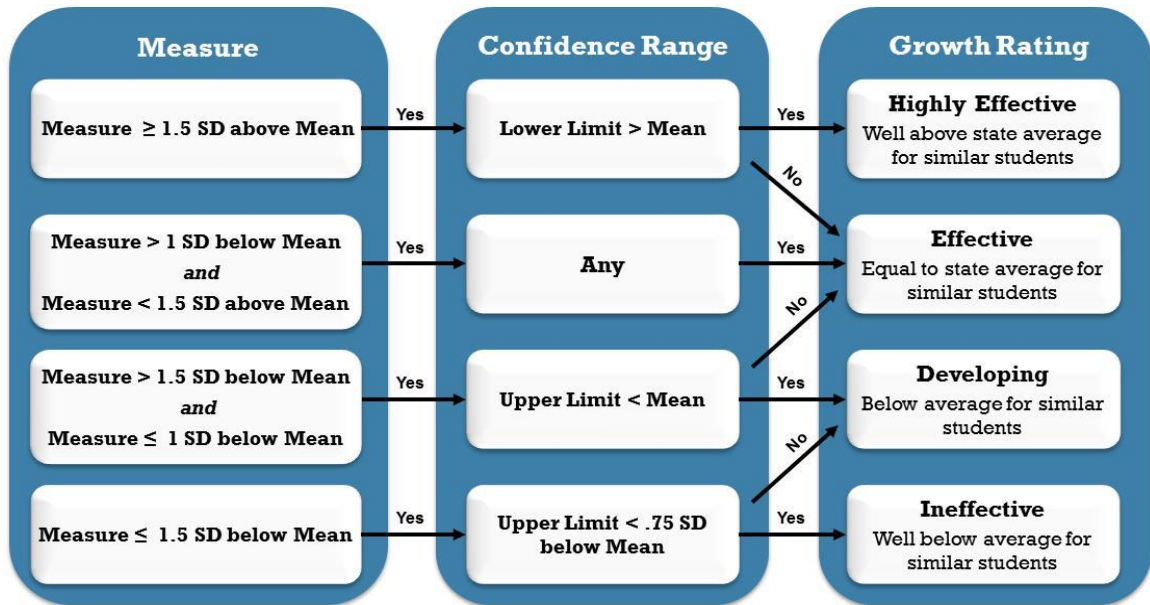
NYSED will provide a school-wide growth score—including HEDI ratings and points—combining all grades/subjects for a school in which the State-provided growth scores apply.

NYSED will also provide disaggregated growth results for State assessments in any grade or subject in a school for which there is an approved State-provided growth measure (e.g., grade 4 ELA, grade 5 ELA, grade 4 math, grade 5 math). These disaggregated results will NOT be classified into HEDI ratings and scores, but NYSED’s school-wide classification rules can be used as guidelines to reach HEDI ratings and points.

D92. How are educator State-provided growth measures translated into the required subcomponent of the Student Performance Category ratings?

State-provided growth scores are calculated for teachers and principals with students in grades 4-8 ELA and/or math and high school principals with students in all of grades 9-12. For each educator, a measure and a confidence range are reported, representing the upper and lower limits on the measure within a 95% statistical confidence. To determine an educator’s growth rating (i.e., HEDI rating), the educator’s measure value is compared to the mean value of the measure (i.e., a teacher’s measure is compared to the mean value for all other teachers) and the educator’s confidence range is used to confirm the rating category in which the educator should be placed. For example, educators who have a measure value that is less than 1.5 standard deviations above the mean and greater than 1 standard deviation below the mean receive a growth rating of Effective, and educators who have a measure value that is greater or equal to 1.5 standard deviations above the mean, and whose lower limit value is greater than the mean value receive a growth rating of Highly Effective.

The figure below provides a crosswalk for how educators’ growth ratings are determined; note that “SD” = standard deviation, and “Measure” refers to an educator’s MGP or GRE (growth in Regents Exams passed) State-provided measure.



D93. Due to unforeseen circumstances, our district/BOCES has a number of teachers who will not receive a State-provided growth score as expected. What should we do?

Education Law §3012-d requires all teachers and principals in a district/BOCES who are subject to APPR to have a complete evaluation each school year. State aid increases are linked to the Commissioner’s approval of documentation that a school district has fully implemented the standards and procedures for conducting APPRs in accordance with Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents by September 1. Many educators set short-term SLOs for a variety of reasons – maternity leave, high levels of mobility, low threshold of student scores on State assessments, etc. All teachers and principals who receive a State-provided growth score must also have a back-up SLO set by the superintendent or another trained administrator serving as his or her designee for their required subcomponent of the Required Student Performance Category, in case there are not enough students, not enough scores or are unforeseen issues with the data to generate a State-provided growth score.⁸⁵ Please see questions D91 for additional information.

⁸⁵ Except for principals of buildings that include all of grades 9-12, the requirement that back-up SLOs be developed for educators anticipated to receive a State-provided growth score is only applicable during the 2015-16 school year and beginning again in the 2019-20 school year. During the 2016-17 through 2018-19 school years, in instances where there are no remaining student performance measures across both the required and optional subcomponents of the Student Performance Category for purposes of calculating transition scores and ratings, districts/BOCES must develop alternate SLOs for affected educators based on assessments that are not the grades 3-8 ELA and math State assessments or any State-provided growth scores.

Student Learning Objectives

D94. How are scores generated for SLOs?

Districts/BOCES shall calculate the percent of students meeting target within each SLO and then determine the SLO score in accordance with the table below. Please note that Districts/BOCES shall locally determine if they will calculate scores for teachers with courses with small “n” sizes using the methodology prescribed by the Commissioner set forth in D95.

SLOs	Scoring Range
Percent of Students Meeting Target	
0-4%	0
5-8%	1
9-12%	2
13-16%	3
17-20%	4
21-24%	5
25-28%	6
29-33%	7
34-38%	8
39-43%	9
44-48%	10
49-54%	11
55-59%	12
60-66%	13
67-74%	14
75-79%	15
80-84%	16
85-89%	17
90-92%	18
93-96%	19
97-100%	20

D95. How are scores generated for SLOs used in courses with small “n” sizes?

For courses with small ‘n’ sizes, the Department continues to recommend that districts use alternative target setting models. (Please see the “[Alternative Target Setting Models within Student Learning Objectives](#)” webinar.) Please keep in mind that when using this approach with State-approved assessments, districts/BOCES will need to consult with the provider to ensure they are setting targets appropriately and consistently with the approved assessment.

Points from 0-3 are assigned based on each student’s movement from a baseline performance level from 1-4 to a summative performance level from 1-4 aligned with the following qualitative descriptors:

- Level 1** = performance is well-below average/expectations
- Level 2** = performance is below average/approaching expectations
- Level 3** = performance is average/meeting expectations (also aligned with concept of proficiency)
- Level 4** = performance is well-above average/exceeding expectations (also aligned with concept of mastery)

A sum of the points earned based on each student’s performance is calculated and then averaged for all students on a teacher’s course roster. The following required ranges are used to determine the final points earned for the SLO.

Rating	Highly Effective	Effective	Developing	Ineffective
Average Points	2.7 – 3.0	2.3 – 2.6	1.9 – 2.2	0-1.8

Average Points Earned on SLO	Scoring Ranges
0-.13	0
.14-.27	1
.28-.41	2
.42-.55	3
.56-.69	4
.70-.83	5
.84-.97	6
.98-1.11	7
1.12-1.25	8
1.26-1.39	9
1.40-1.53	10
1.54-1.67	11
1.68-1.89	12

1.90-2.09	13
2.10-2.29	14
2.30-2.49	15
2.50-2.59	16
2.60-2.69	17
2.70-2.89	18
2.90-2.99	19
3.0	20

D96. Are additional adjustments, controls, or points still permissible under Education Law §3012-d?

Under Education Law §3012-d, no adjustments or additional points may be used or added to an educator’s score in the Student Performance Category.

Teacher or principal State-provided growth scores will take into consideration the following factors, as applicable: poverty, students with disabilities and English language learners. Additional factors may be added by the Commissioner, subject to approval by the Board of Regents.

The SLO process includes a minimum growth target of one year of expected growth, as determined by the superintendent or another trained administrator serving as his or her designee. SLO targets, as determined by the superintendent or another trained administrator serving as his or her designee, may take the following characteristics into account, as applicable: poverty, students with disabilities, English language learners status, and prior academic history. It is important for district/BOCES leaders to ensure that targets for such populations are ambitious and rigorous to ensure all students are able to make appropriate yearly growth and close achievement gaps.

D97. How will a teacher’s score on the required subcomponent of the Student Performance Category be calculated for teachers who teach some “tested” and some “non-tested” subjects?

If less than 50% of a teacher’s total students are covered by a State-provided growth score, the teacher will have SLOs. Each SLO is weighted proportionately based on the number of students in each SLO, regardless of whether the SLO is based on a State-provided growth measure or not. The State will provide a score for the SLO that uses the State-provided growth score; however, this score must still be weighted proportionately with the other SLO(s).⁸⁶ Additional SLOs must be set beginning with the grade(s)/course(s) that have the largest number of students until at least 50% of students on teacher’s course roster are covered.⁸⁷

⁸⁶ During the 2015-16 through 2018-19 school years, such scores and ratings will only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁸⁷ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

D98. How should districts handle SLOs where there is high mobility of students and the majority of the class will change from the beginning to the end of the year?

Districts/BOCES have a number of options they may wish to consider for classrooms where there is high mobility of students throughout the school year. District/BOCES leaders may want teachers to have shorter-term SLOs (half-year or quarter-year) in order to more accurately capture the students in the classroom over the course of the instructional period. A teacher's score at the end of the year would then incorporate the students who are present for a pre- and a post-assessment. Another way that district/BOCES leaders may wish to address this is to have teachers administer a pre-assessment to new students quarterly and weight those students who have both a pre- and post- assessment according to the number of days the students were enrolled (100%, 75%, 50%, 25%). In cases where the changeover is so significant that it is impossible to set even shorter-term SLOs, districts may wish to consider having all applicable teachers use district- or BOCES-wide, or school- or program-wide, group, team, or linked measure based on State/Regents assessments or other State-approved assessments.⁸⁸

D99. How much weight does the required subcomponent of the Student Performance Category have? What if a district/BOCES selects to use the Optional subcomponent of the Student Performance Category?

The weighting of the required and optional subcomponents of the Student Performance Category should be established locally within the following constraints:

- The required subcomponent of the Student Performance Category will be weighted 100%.
- If the optional subcomponent of the Student Performance Category is selected, the weightings for each of the subcomponent should be established locally, provided that the required subcomponent shall be weighted at a minimum of 50% and the optional subcomponent shall be weighted no more than 50%.

⁸⁸ See above.

D100. How is the overall Student Performance Category rating determined?

Multiple student performance measures must be combined using a weighted average to produce an overall Student Performance Category score of 0 to 20. Using this score, an overall Student Performance Category rating shall be derived from the table below:

	Overall Student Performance Category Score and Rating	
	<i>Minimum</i>	<i>Maximum</i>
H	18	20
E	15	17
D	13	14
I	0	12

E. Optional Student Performance Category

E1. If our district/BOCES chooses to use the optional subcomponent of the Student Performance Category, what must be decided upon?

Teachers

Districts/BOCES may locally select a second measure of student performance. This measure may be comprised of one or more of the following options, as determined locally:

- A second State-provided growth score on a State-created or administered test⁸⁹, provided that the State-provided growth measure is different than that used in the required subcomponent of the Student Performance Category. This may include one or more of the following measures:
 - A teacher-specific growth score computed by the State based on the percentage of students who achieve a State-determined level of growth (e.g., percentage of students whose growth is above the median for similar students);
 - School-wide growth results based on a State-provided school-wide growth score for all students attributable to the school who took the State English language arts or math assessment in grades 4-8; or

⁸⁹ During the 2015-16 through 2018-19 school years, such scores and ratings shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

- District- or BOCES-wide or school- or program-wide, group, team or linked growth results using available State-provided growth scores that are computed in a manner determined locally.
- A growth score based on a State -designed supplemental assessment, calculated using a State-provided or approved growth model.
 - Such growth score may include teacher-specific growth scores or a district- or BOCES-wide or school- or program-wide, group, team, or linked results where a State-provided or growth model is capable of generating such a score.

The same locally selected measures of student growth across all classrooms in the same grade/subject in the district/BOCES must be used in a consistent manner to the extent practicable.

Principals

Districts/BOCES may locally select one or more measures for the optional subcomponent of the Student Performance Category for principals. This measure may be comprised of:

- A second State-provided growth score⁹⁰, provided that the State-provided growth measure is different than that used in the required subcomponent of the Student Performance Category. This may include one or more of the following measures:
 - A principal-specific growth score computed by the State based on percentage of students who achieve a State-determined level of growth (e.g., percentage of students whose growth is above the median for similar students); or
 - District- or BOCES-wide or school- or program-wide results using available State-provided growth scores computed in a manner determined locally.
- A growth score based on a State-designed supplemental assessment, calculated using a State-provided or approved growth model. Such growth score may include district- or BOCES-wide or school or program-wide group, team or linked measures where the State-approved growth model is capable of generating such a score.

The district/BOCES shall measure student growth using the same measure(s) of student growth for all building principals within the same building configuration or program.

⁹⁰ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

E2. What are the ways in which State assessments may be used for purposes of the optional subcomponent of the Student Performance Category? When will the information be available from the State to use these measures?

Districts/BOCES may locally select to use the optional subcomponent of the Student Performance Category for teachers and/or principals. This measure may be a second State-provided growth score on a State-created or administered test, provided that the State-provided growth measure is different than that used in the required subcomponent of the Student Performance Category.⁹¹

This may include one or more of the following measures for teachers:

- Option A1: A teacher-specific growth score computed by the State based on percentage of students who achieve a State-determined level of growth (e.g., percentage of students whose growth is above the median for similar students);
- Option A2: School-wide growth results based on a State-provided school-wide growth score for all students attributable to the school who took the State English language arts or math assessment in grades 4-8; or
- Option A3: School-wide, group, team or linked growth results using available State-provided growth scores that are computed in a manner determined locally.
- Option A4: District- or BOCES-wide growth results using available State-provided growth scores that are computed in a manner determined locally.

This may include one or more of the following measures for principals:

- Option A1: A principal-specific growth score computed by the State based on percentage of students who achieve a State-determined level of growth (e.g., percentage of students whose growth is above the median for similar students); or
- Option A2: School-wide results using available State-provided growth scores computed in a manner determined locally.
- Option A3: District- or BOCES-wide growth results using available State-provided growth scores that are computed in a manner determined locally.

The State-provided growth scores will be provided to districts/BOCES for incorporation into educator evaluations prior to September 1 of each school year, or as soon as practicable thereafter.

For districts that locally determine to utilize Options A3 and A4 for teachers and Options A2 and A3 for principals, i.e., use State-provided growth scores computed in a manner determined locally, the State will provide the data files to districts/BOCES at the same time as when other growth score results are delivered in September.⁹²

⁹¹ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

⁹² During the 2015-16 through 2018-19 school years, educators whose APPRs are based, in whole or in part, on the results of the grades 3-8 ELA or math State assessments and/or State-provided growth scores shall be provided with their APPR transition scores and ratings as soon as practicable but in no case later than September 1st of the school year following the evaluation year. During the 2015-16 through 2018-19 school years, such educators shall also be

E3. Can an educator’s scores from the required subcomponent of the Student Performance Category be used for the optional subcomponent of the Student Performance Category as well?

No, measures used for the optional subcomponent must be different from the growth measures used in the required subcomponent of the Student Performance Category.

However, the optional subcomponent may be based on the same State assessment, State-approved third-party assessment, or State-approved district, regional, or BOCES-developed assessment as long as the measure used for the required subcomponent is a different measure of growth than that used for the optional subcomponent.⁹³ In addition, for any State-approved third-party and State-approved district, regional, or BOCES-developed assessments, such assessment must be approved by the State.

E4. In our small district, we only have one teacher per grade/subject. Are the optional locally selected measures that we collectively bargain considered “used in a consistent manner” if we only have one classroom?

Yes. The use of a measure in the optional subcomponent of the Student Performance Category using an assessment from the State-approved list of assessments would be considered “used in a consistent manner across classrooms” if you only have one classroom in that grade/subject.

E5. Are any adjustments allowed (for example, for student demographic characteristics, attendance, etc.) in setting targets or measuring results as part of the optional subcomponent for any grades and subjects?

Under Education Law §3012-d, no adjustments, controls or additional points may be used or added to an educator’s score in the Student Performance Category.

However, teacher or principal State-provided growth scores take into consideration the following factors: poverty, students with disabilities and English language learners. Additional factors may be added by the Commissioner, subject to approval by the Board of Regents.

The SLO process also includes a minimum growth target of one year of expected growth, as determined by the superintendent or another trained administrator serving as his or her designee. SLO targets, as determined by the superintendent or another trained administrator serving as his or her designee, may take the following characteristics into account, as applicable: poverty, students with disabilities, English language learners status, and prior academic history. It is important for district/BOCES leaders to ensure

provided with their original overall rating by September 1st of the school year following the evaluation year or as soon as practicable thereafter.

⁹³ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

that targets for such populations are ambitious and rigorous to ensure **all** students are able to make appropriate yearly growth and close achievement gaps.

E6. Can a district/BOCES use a measure of student growth based on a student subgroup's performance (e.g., teacher's score would be computed based on students with disabilities' growth on the grade 4 math State assessment)?

Yes. Sections 30-3.4(b)(2)(i)(c) and 30-3.5(b)(2)(i)(b) of the Rules of the Board of Regents authorize a school district/BOCES to use district- or BOCES-wide or school- or program-wide, group, team, or linked (for teachers) or district- or BOCES-wide or school- or program-wide (for principals) growth results using available State-provided scores that are locally computed as an optional measure within the optional subcomponent of the Student Performance Category.⁹⁴ One such local computation could involve the use of State-provided growth scores by student subgroups. However, for teachers, the same locally selected measures of student growth across all classrooms in the same grade/subject in the district/BOCES must be used in a consistent manner to the extent practicable. For principals, the same locally selected measures of student growth across all buildings with the same grade configuration or program in the district/BOCES must be used.

The process for assigning points to a teacher for the optional subcomponent must also be negotiated locally. NYSED will provide average SGPs for various subgroups of students at the classroom and school level but will not provide scores or HEDI ratings for these subgroups.

E7. If students do not take the State-approved summative assessment for any reason (they refuse to take the assessment, they were absent, they moved), do they still count?

If a student moves and is no longer on the classroom roster, then the student does not count towards the final rating for any measure in the Student Performance Category.

Districts must make their own decisions as to whether students who are absent may re-take State-approved summative assessments for courses without a State assessment.

All students who are on the classroom roster for the course/section must, however, be included in the student population. If, however, there is not an option to re-take an assessment (e.g. a student does not take the State-approved summative assessment and there is no opportunity to re-take it) then the student should be flagged in the class roster, and not count in the HEDI results for the teacher. NYSED recommends that districts/BOCES create processes that ensure every attempt possible be made to allow students to re-take the assessments.

⁹⁴ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

F. Assessments for Use in Student Performance Category

F1. What types of assessments can be used in the Student Performance Category?

All assessments, except State assessments, Regents examinations or Department equivalents, for use in the Student Performance Category must be approved by the Department through the Assessment RFQ process.

Required Subcomponent

For subjects associated with a State assessment⁹⁵ or Regents exam (or, in the future, any new State assessment) the State or Regents assessment(s) must be used as the evidence for SLOs where they exist.

For other grades/subjects where no State assessment or Regents exam currently exists, SLOs based on district-determined assessments from the following options must be used:

- State-approved assessment consisting of the following:
 - State-approved third-party assessment
 - State-approved district, regional or BOCES-developed assessment
- District- or BOCES-wide or school- or program-wide, group, team, or linked results based on State/Regents assessments, or other assessments approved by the State.

Optional Subcomponent

For districts/BOCES who locally select to use the optional subcomponent of the Student Performance Category, a second State-provided growth score⁹⁶ on a state-created or administered test or a State-designed supplemental assessment may be selected. State-designed supplemental assessments must be approved, with corresponding growth models, by the Department pursuant to an RFQ process.

F2. What is a State-designed supplemental assessment?

A State-designed supplemental assessment is defined in Education Law §3012-d(2)(d) as State tests or assessments developed or designed by the State Education Department, or that the State Education Department purchased or acquired from (1) another state; (2) an institution of higher education; or (3) a commercial or not-for-profit entity, provided that such entity must be objective and may not have a conflict of interest or appearance of a conflict of interest. This may include tests or assessments that have been previously designed or acquired by local districts, but only if the State Education Department

⁹⁵ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

⁹⁶ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

significantly modifies growth targets or scoring bands for such tests or assessments or otherwise adapts the test or assessment to the State Education Department's requirements.

State-designed supplemental assessments must be approved by the Department, along with their applicable growth models, through the Assessment RFQ process.

Please note that, throughout this Guidance document, any reference to a State-designed supplemental assessment means that it is a State-approved assessment, which includes State-approved third-party or State-approved district, regional, BOCES-developed assessments.

F3. What is the process and timeline for the Department to review and approve third-party developed assessments for use in teacher and principal evaluation?

The Department will issue an RFQ for Student Assessments to be used by New York State districts/BOCES for a portion of teachers' and principals' evaluations during the summer of 2015, soliciting applications for assessments that may be used as measures of student growth for the required and/or optional subcomponents of the Student Performance Category. NYSED will review the submitted assessments for use with SLOs and the supplemental assessments with associated growth models and evaluate them on the degree to which they meet criteria established in the RFQ and the Commissioner's regulations. Applications will be reviewed on a rolling basis in the order in which they are submitted and will continue as needed. Vendors, districts and BOCES should assume a minimum of a two-month review window between submission and approval or denial of an application. Please note, however, that previously approved assessments under Education Law §3012-c will be reviewed in an expedited manner.

Submitted assessments that meet the criteria in the Commissioner's regulations and the RFQ will be added to the State's *Approved Assessment Lists* and the SED Monitoring APPR portal will be updated to reflect any approved assessments. Please note that until such time that an assessment is approved by the Department, districts/BOCES may not use the assessment for APPR purposes.

Before selecting an assessment from the State-approved list, we urge districts/BOCES to contact providers directly before negotiating an assessment from the State-approved list to determine what the exact costs are and any possible restrictions on use.

F4. Are the assessments on the State's approved assessment lists aligned with the New York State learning standards, including the Common Core?

Assessments included on the *Approved Assessment Lists* are required by regulation to be aligned to the New York State Learning Standards or, in instances where there are no such standards that apply to a subject/grade level, evidence of alignment to research-based learning standards. Beginning in the 2012-13 school year, student achievement

expectations in ELA and math for grades 3-8 are now based on the New York State P-12 Common Core Learning Standards for English language arts & literacy and math.

F5. Is there a variance process to use a third-party assessment that is not on the *Approved Assessment List*?

No. All assessments for use in the APPR process must be developed or approved by the Department.

F6. Can previously approved third-party assessments be used in a district's/BOCES' APPR plan? How about district, regional, or BOCES-developed assessments?

No. All assessments, including district, regional or BOCES-developed assessments and those third-party assessments that were previously approved by the Department, must be submitted and approved for use through the Assessment RFQ process as per Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents. Third-party assessments that are currently approved for use under Education Law §3012-c may be re-submitted for review in an expedited manner.

All assessments submitted for use within SLOs must be able to measure one year of expected growth. All assessments submitted for use in the optional subcomponent of the Student Performance Category must have a corresponding growth model that meets the requirements specified in the RFQ. In addition, all assessments used for APPR purposes must be capable of generating a growth score from 0-20. For more information, please see the [Assessment RFQ and related documentation](#).

F7. What assessments will be approved for grades kindergarten through grade two? Will a traditional standardized assessment meet these criteria?

All assessments, except State assessments, Regents examinations, or Department equivalents, used for APPR purposes must be approved by the Department through an RFQ process.

Traditional standardized assessments are defined in §30-3.2(aa) of the Rules of the Board of Regents as a systematic method of gathering information from objectively scored items that allow the test taker to select one or more of the given options or choices as their response. Examples include multiple-choice, true-false, and matching items. Traditional standardized assessments are those that require the student (and not the examiner/assessor) to directly use a "bubble" answer sheet. Traditional standardized assessments do not include performance assessments or assessments in which students perform real-world tasks that demonstrate application of knowledge and skills; assessments that are otherwise required to be administered by federal law; and/or assessments used for diagnostic or formative purposes, including but not limited to assessments used for diagnostic screening required by Education Law §3208(5).

Only non-traditional standardized assessments will be considered for approval through the RFQ process for use in kindergarten through grade two. Traditional standardized assessments in grades kindergarten through grade two are prohibited pursuant to Education Law §305(44).

F8. Can a district/BOCES use a locally-developed performance task with a scoring rubric? Can we use the assessments we have developed for Data-Driven Instruction (DDI) cycles as our district-developed assessments for use with SLOs?

No. Please see Question F2. Locally-developed performance-based or performance task assessments may not be used with a scoring rubric for APPR purposes unless the assessment has been submitted and approved for use by the Department through the RFQ process.

Additionally, assessments developed for, and used for, DDI are intended to provide formative information to teachers and schools for instructional decision-making. Assessments used in SLOs will provide summative information that will be incorporated into teacher and principal evaluations and must be approved for use by the State through an RFQ process. Typically, therefore, the assessments will be different for these purposes and will be administered and scored under different conditions. It should be noted that both forms of assessment can and often do co-exist in any instructional program.

F9. If a State-approved assessment also has interim assessments built into it, can the interim assessment data be used for SLOs?

No. Interim assessments are not the same as the SLO; interim assessments are part of good instructional practice. The SLO must use the State-developed or approved assessment as evidence of student learning during the interval of instruction time for purposes of the SLO.

F10. Can districts/BOCES submit a third-party assessment to be approved through the RFQ?

Yes. LEAs can submit an application for the RFQ on behalf of the Copyright Owner of an assessment and/or an Assessment Representative for an assessment used or planned to be used in their schools, provided that the district/BOCES receives approval from the Copyright Owner/Assessment Representative to submit an application for the assessment for this RFQ, and the Copyright Owner/Assessment Representative is an eligible entity.

F11. Can a district/BOCES use another State-approved district, regional, and/or BOCES' developed assessment(s) for the purposes of APPR?

Yes, in some circumstances. Pursuant to the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*, an assessment submitted by an

LEA, if approved and placed on the applicable Approved Assessment List, will be available for use by any LEA, *pursuant to an agreement* with the Copyright Owner/Assessment Representative and/or Assessment Provider.

G. Scoring and Security of Assessments

G1. What are the security measures for assessments?

The regulations require that the assessment development, security and scoring processes utilized by a school district/BOCES must ensure that any assessments and/or measures used to evaluate teachers and principals are not disseminated to students before administration and that teachers and principals do not have a vested interest in the outcome of the assessments they score. Recognizing that there may be rare instances in which this is not practicable (e.g., when administering the NYSAA), the Department recommends that districts/BOCES make every attempt possible to ensure that teachers and principals do not score assessments where they have a vested interest in the outcome, even in cases where the teacher is the only one in the district with the specific content expertise. Districts/BOCES should consult with their local counsel to determine what measures should be taken to mitigate against security risks (e.g., certification, periodic audits, etc.).

Please note that for all Regents exams, State assessments in grades 3-8 ELA and math, and grades 4 and 8 science, teachers and principals may not score their own students' assessments.

The security rules for the 3-8 State assessments are located on [the Office of State Assessment website](#). security procedures for assessments used for the locally-developed measures should be comparable to the security protocol for the 3-8 State assessments as described in the document at the link above, to the greatest extent practicable.

Prior to finalizing through local decisions any processes around scoring assessments and vested interest procedures, BOCES and district leaders should consult with their local counsel.

G2. Can a teacher score his or her own students' work for the purposes of the Student Performance Category of the teacher's annual evaluation if the teacher is the only one in the district with the content expertise?

Because New York State's teacher and principal evaluation policies are designed to make strong and equitable inferences about the effectiveness of our state's educators, the Commissioner's regulations prohibit teachers and principals from scoring assessments where they have a vested interest in the outcome. However, the Department recognizes that there may be rare instances in which this is not practicable (e.g., when administering the NYSAA). In these instances, the Department recommends that districts/BOCES make every attempt possible to ensure that teachers and principals do not score assessments

where they have a vested interest in the outcome, even in cases where the teacher is the only one in the district with the specific content expertise. Districts/BOCES should consult with their local counsel to determine what measures should be taken to mitigate against security risks (e.g., certification, periodic audits, etc.). Please note that for all Regents exams, State assessments in grades 3-8 ELA and math, and grades 4 and 8 science, teachers and principals may not score their own students' assessments.

Teachers and principals may only view students' assessments after the assessment scores have been finalized. Each district/BOCES must provide an assurance in its APPR plan that its scoring process ensure that teachers and principals do not have a vested interest in the outcomes of the assessments they score.

Prior to finalizing any local decisions involving processes relating to scoring assessments and vested interest procedures, BOCES and district leaders should consult with their local counsel.

G3. Can the district release test items from assessments ahead of time to help prepare students?

The Commissioner's regulations prohibit teachers and principals from distributing any test items to students that will later contribute to the teacher's/principal's annual performance evaluation. As such, a district can release sample items and sample test forms that will help familiarize students with the testing format; however, districts cannot release actual operational test items, including performance tasks and writing prompts to students, ahead of time. Each district/BOCES must describe in its APPR plan its processes for ensuring that any assessments and/or measures used to evaluate teachers and principals are not disseminated to students before administration.

G4. Does the vested interest rule apply to pre-tests given to establish a baseline for a SLO?

To the extent practicable, districts/BOCES should ensure that any assessments or measures that are used to establish a baseline for student growth are not disseminated to students before administration and that teachers and principals do not have a vested interest in the outcome of the assessments they score.

Prior to finalizing any local decisions involving processes relating to scoring assessments and vested interest procedures, BOCES and district leaders should consult with their local counsel.

If it is impracticable to comply with this requirement for pre-tests the district/BOCES must have adequate procedures in place to ensure that the security of such assessments is not compromised (i.e., as with all SLOs the superintendent and/or another trained administrator serving as his/her designee must ensure the rigor and fairness of the targets and set the goals based on the assessment that is used as the baseline and ensure that such goals are adequately met based on summative data).

G5. How far does the vested interest rule go – meaning, does the vested interest rule apply to other teachers within the grade, the department, the building? Could we bring in a group of citizens who are not licensed educators? What about retired educators?

Districts will have to determine how to apply the vested interest provision in arranging for administration and scoring of assessments by other educators within a school or district. Prior to finalizing any local decisions involving processes around scoring assessments, vested interest procedures, and/or whether non-licensed educators with specific, specialized content expertise can score assessments for any APPR purposes, BOCES and district leaders should check with their local counsel. Districts/BOCES should also consult with their local counsel to determine what measures should be taken to mitigate against security risks (e.g., certification, periodic audits, etc.).

G6. How does vested interest work for a district that is using school-wide measures within its Student Performance Category?

When using the school-wide measure in the Student Performance Category, districts may allow other individuals within the school to score the assessments that will be used for evaluation purposes, as long as every attempt possible is made to ensure test integrity.

For the purposes of assessments that are used for group, team, linked, or department-wide measures, teachers may not score their own students' assessments, and a principal may not score the assessments that are part of their own evaluations. Further, those teachers who directly teach the students are prohibited from scoring assessments for their own students as they have a vested interest in the outcome, even in cases where the teacher is the only one in the district with the specific content expertise. Additionally, principals in the school building are also prohibited from scoring assessments for students within the school building as they have a vested interest in the outcome.

Below are 2 examples of situations that may exist in a district/BOCES and the Department's interpretation of the vested interest rule. Please keep in mind that administrators have the responsibility for providing appropriate oversight and to maintain vested interest to the extent practicable.

1. In a K-5 building, where a school-wide measure for K-3 will be based on the grade 3 State assessments, then grade 4 or 5 teachers within this building may score these assessments, since their scores for this subcomponent are not based on that assessment, but K-3 teachers may not score these assessments.
2. If a school-wide measure for all art teachers used the grades 3-8 ELA/math State assessments, for example, then it would be acceptable for social studies, science, or music teachers to score these assessments.

We continue to recommend that districts reach out to their BOCES for procedural recommendations to mitigate against possible issues around vested interest and to ensure fidelity to test integrity rules. In addition, prior to finalizing any local decisions relating to processes involving scoring assessments and vested interest procedures, BOCES and district leaders should also consult with their local counsel. Districts/BOCES should also consult with their local counsel to determine what measures should be taken to mitigate against security risks (e.g., certification, periodic audits, etc.).

G7. In light of the NYSED APPR regulations regarding the scoring of summative assessments by teachers with a vested interest, how can we implement this regulation in an effective, efficient, and equitable manner with regard to the speaking component of the LOTE exams? This is particularly a concern in many districts, where there is only one LOTE teacher per language, or only one LOTE teacher.

The vested interest rule relates to assessments used for APPR purposes as well as the scoring of all State exams, even if the State exam is not being used for APPR purposes.

Since the locally-developed LOTE Checkpoint A and Checkpoint B exams are used to satisfy the requirements for a Regents diploma and a Regents diploma with an advanced designation respectively, NYSED recommends that test administration procedures for such assessments be comparable to the security protocol for the grades 3-8 State assessments to the greatest extent practicable.

Please also note that, although locally-developed LOTE Checkpoint A and Checkpoint B exams are used to satisfy the requirements for a Regents diploma, these are not considered to be State exams since they are not designed or administered by the State. Thus, such assessments must be approved by the Department through the Assessment RFQ process.

G8. How should a district handle issues of cheating with regard to SLOs?

The security procedures used for the Student Performance Category should be comparable to the security protocol for the 3-8 State assessments, to the greatest extent practicable. Additional information regarding the grades 3-8 State assessments is available on [the Office of State Assessment website](#).

The State Education Department's Test Security Unit (TSU) recommends that instances of educator cheating on State-approved assessments be investigated, and misconduct addressed, at a local level. If the district determines that any of the scores should be invalidated as a result of educator cheating, the district should adjust scores/ratings for the educator accordingly, consistent with any collective bargaining agreement.

As a reminder, most SLOs are written for the entire length of a course and should not have the post-assessment until the end of the year, unless, for example, the course is for a shorter interval of time (e.g. semester or quarter length). As appropriate, the teacher may

have another SLO for the second semester. If cheating has occurred during the school year, NYSED recommends that a teacher receive a zero for that semester or quarter SLO, to be weight proportionately with the SLO for the second semester or any additional quarters, as applicable. If cheating has occurred during a year-long course, NYSED recommends that the educator receive a score of zero for his/her SLO and an Ineffective as his/her HEDI rating in the required subcomponent of the Student Performance Category.

G9. If an educator is caught cheating in ways that may have caused higher test scores for his/her students, can a district modify the State-provided growth score for this educator?

No, any instances of suspected cheating by an educator in connection with the administration and/or scoring of a New York State assessment should be reported to the TSU. Reports of educator test fraud should be submitted to the Department using an Incident Report Form found on the [TSU's website](#). The TSU will review the allegations and coordinate any necessary investigation with the district.

H. Teacher Observations and Principal School Visits Category

Observations

H1. What are the required and optional subcomponents of the Teacher Observation Category?

The Observation Category for teachers must be based on at least two types of required observations and may also be based on one optional type of observation.

Required

The two mandatory subcomponents shall be based on:

- At least one observation conducted by a principal or other trained administrator; and
- At least one additional observation conducted by one or more impartial independent trained evaluator(s)⁹⁷ selected and trained by the district/BOCES. (Please note: An independent trained evaluator may be employed within the district but may not be assigned to the same school building, as defined by BEDS code, as the teacher being evaluated.)
- At least one of the above two mandatory observations must be unannounced.

⁹⁷ If a district is granted an annual Independent Evaluator Hardship Waiver by the Department, the second observation(s) shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the observation(s) required to be performed by the principal/supervisor or other trained administrator.

Optional

A third optional subcomponent shall be based on:

- One or more observations conducted by a trained peer teacher rated Effective or Highly Effective on his or her overall rating in the prior school year.

Observations may occur live or by video or both, as determined locally.

Further, under Education Law §3012-d(6), the following elements are precluded from being used as part of a teacher's evaluation:

- Evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, except for student portfolios measured by a State-approved rubric where permitted by the Department;
- Use of an instrument for parent or student feedback;
- Use of professional goal-setting as evidence of teacher or principal effectiveness;
- Any district or regionally-developed assessment that has not been approved by the Department; and
- Any growth or achievement target that does not meet the minimum standards as set forth in regulations of the Commissioner adopted.

Please see Question B6 for information about how a rural school district or a school district with only one registered school may obtain a waiver from the Department from the requirement to use independent evaluators.

H2. What are the required and optional subcomponents of the Principal School Visit Category?

The School Visit Category for principals must be based on at least two required types of school visits and may also be based on one optional type of school visit.

Required

The two required subcomponents shall be based on:

- At least one school visit shall be conducted by the principal's supervisor or other trained administrator; and
- At least one additional school visit conducted by one or more impartial independent trained evaluator(s)⁹⁸ selected and trained by the district/BOCES. (Please note: An independent trained evaluator may be employed within the district but may not be assigned to the same school building, as defined by BEDS code, as the principal being evaluated.)

⁹⁸ If a district is granted an annual Independent Evaluator Hardship Waiver by the Department, the second observation(s) shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the observation(s) required to be performed by the principal/supervisor or other trained administrator.

- At least one of the mandatory school visits must be unannounced.

Optional

A third optional subcomponent shall be based on:

- At least one school visit conducted by a trained peer administrator rated Effective or Highly Effective on his or her overall rating in the prior school year.

School visits may not occur by video.

Further, under Education Law §3012-d(6), the following elements are precluded from being used as part of a principal's evaluation:

- Evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, except for student portfolios measured by a State-approved rubric where permitted by the Department;
- Use of an instrument for parent or student feedback;
- Use of professional goal-setting as evidence of teacher or principal effectiveness;
- Any district or regionally-developed assessment that has not been approved by the Department; and
- Any growth or achievement target that does not meet the minimum standards as set forth in regulations of the Commissioner adopted.

Please see Question B6 for information about how a rural school district or a school district with only one registered school may obtain a waiver from the Department from the requirement to use independent evaluators.

H3. What is an impartial independent trained evaluator and who would be eligible to serve in this role?

Impartial independent trained evaluators are trained and selected by the district/BOCES. These evaluators may be employed within the school district but may not be assigned to the same school building as the teacher or principal being evaluated. This could include other administrators, supervisors, department chairs, or peers (e.g., teacher leaders or principal leaders on career ladder pathways).

Please note that “school building” shall mean a school or program identified by its Basic Educational Data System (BEDS) code, as determined by the Commissioner.

Please see Question B6 for information about how a rural school district or a school district with only one registered school may obtain a waiver from the Department from the requirement to use independent evaluators.

H4. How can I determine who is eligible to serve as an impartial independent trained evaluator if my district is made up of only one school building? How might this be done within a BOCES structure?

Eligible impartial independent trained evaluator(s) can be employed within the school district but must not be assigned to the same school building as the teacher or principal; being evaluated. (Please note that “school building” shall mean a school or program identified by its Basic Educational Data System (BEDS) code, as determined by the Commissioner.)

The evaluator may be a district-wide employee reported to NYSED using the district BEDS code, not the school building BEDS code where the evaluation is taking place. For example, if the staff member is a Director of Special Education in a one-building of a district or BOCES, the District BEDS code or the overarching BOCES could be used to identify this person as an eligible independent trained evaluator.

In addition, if the staff member is a BOCES employee and is reported to NYSED with a different virtual location code than the school or location BEDS code associated with the educator being evaluated, they too could be identified as an eligible independent trained evaluator.

For more information with regard to the proper use of BEDS codes, LEAs are encouraged to work with their Regional Information Centers (RICs).

Please see Question B6 for information about how a rural school district or a school district with only one registered school may obtain a waiver from the Department from the requirement to use independent evaluators.

H5. How many teacher observations must be conducted by a principal or other trained administrator? How many site visits must be conducted by a principal’s supervisor or other trained administrator? How many teacher observations or principal school visits must be conducted by an impartial independent trained evaluator(s)?

Teachers

- At least one observation must be conducted by a principal or other trained administrator.
- At least one observation must be conducted by an impartial independent trained evaluator(s) as selected by the district/BOCES.
- At least one of the mandatory observations must be unannounced.

Principals

- At least one school visit must be conducted by a principal’s supervisor or other trained administrator.
- At least one principal school visit must be conducted by an impartial independent trained evaluator(s) as selected by the district/BOCES.
- At least one of the mandatory school visits must be unannounced.

Districts can locally select to conduct additional observations or school visits above these minimums. Nothing shall limit the discretion of management from conducting additional observations or school site visits for non-evaluative purposes.

H6. If the optional subcomponent is selected, how many observations/school visits must be conducted by a trained peer teacher/principal?

It is local discretion to decide how many observations/school visits are conducted by a trained peer teacher or administrator, as applicable, rated Effective or Highly Effective on his or her overall rating in the prior school year.

H7. How long must each observation or school visit last? How frequently must the observations or school visits occur?

The duration and frequency of each observation and school visit is within local discretion. For example, a district may decide to conduct "walkthroughs" to provide an increased number of opportunities to view classroom practice, as they are best defined as frequent, short, unannounced classroom visits that are purposeful and focused, typically lasting 5-10 minutes rather than more formal, full classroom period length observations. Some districts may determine locally that they will use a combination of both walkthroughs and formal, full classroom period length observations.

H8. Can video be used for observations or school visits?

Teacher observations may be conducted either live or via video, as determined locally. Principal school visits may not be conducted via video.

H9. What happens if a teacher or principal only receives one observation/school visit during the school year?

Regardless of circumstance, an educator needs to have multiple observations/school visits throughout the school year in order to comply with the requirements of Education Law §3012-d. The process for ensuring multiple observations/school visits occur, even for an unexpected leave (e.g. sudden medical issues), will need to be determined locally.

All observations/school visits must be completed in the school year in which the teacher or principal is being evaluated. Please also see Questions C26, D58, and M31 for more information.

Rubrics

H10. Can my district/BOCES use the same teacher and principal practice rubrics under Education Law §3012-d as were used under Education Law §3012-c?

Yes. Rubrics approved for use under Education Law §3012-c will be available for use under §3012-d unless they are discontinued by the Department or withdrawn by the

provider. The [list of approved rubrics for use in evaluations](#) is listed on the Department's website.

Additional rubrics may be approved by the Department through [the Rubric RFQ process](#), which is available on the Department's website.

All teacher observations and principal school visits must be conducted using a practice rubric approved by the Commissioner pursuant to an RFQ process, unless the district has an approved variance from the Commissioner. For more information on the variance process, please see Question H14 as well as the [Teacher and Principal Practice Rubric Variance Process page](#).

A variance may be granted to a district that seeks to use a rubric that is either a close adaptation of a rubric on the approved list, or a rubric that was self-developed or developed by a third-party, upon a finding by the Commissioner that the rubric meets the criteria described in the RFQ and the district has demonstrated that it has made a significant investment in the rubric and has a history of use that would justify continuing the use of that rubric.

A variance may be granted to a district that seeks to use a newly developed rubric, upon a finding by the Commissioner that the rubric meets the criteria described in the RFQ, and the district has demonstrated how it will ensure inter-rater reliability and the rubric's ability to provide differentiated results over time.

All observations for a teacher, across observer types, for the school year must use the same approved rubric. Districts may locally determine whether to use different rubrics for teachers who teach different grades and/or subjects during the school year (e.g., districts/BOCES may locally select to use one rubric for K-6 teachers, a second rubric for 7-12 teachers, and a third rubric for Library/Media Specialists who are teachers of record).

All school visits for a principal for the year must use the same approved rubric. Districts may locally determine whether to use different rubrics for a principal assigned to different grade level configurations or building types.

H11. What is the process and timeline for the Department to review and approve teacher and principal practice rubrics for use in teacher and principal evaluation?

The Department will issue an RFQ for teacher and principal practice rubrics to be used by New York State districts/BOCES for a portion of teachers' and principals' evaluations during the summer of 2015 at a similar time as the Department will issue the RFQ for student assessments for the required and/or optional subcomponents of the Student Performance Category.

The Department considers applications on a continuous and ongoing basis. However, new rubrics will not be added to the *Approved Rubric List* until the next update period.

The Department will update the list of approved rubrics at least annually, with one update occurring each year in early spring.

H12. Under what circumstances may a district apply for a variance to use a teacher or principal practice rubric not on the *Approved Rubric List*, and what is the application process?

Districts that are using a rubric that is not on the *Approved Rubric List* will need to apply for a variance using the [application form and instructions](#) posted on the NYSED website. The circumstances under which variances will be granted are extremely limited. If the rubric is not on the approved list or through the variance process for the district/BOCES, then the rubric may not be used in evaluations.

If applying to use an *existing rubric* (already in use by the LEA) that is self-developed, developed by a third-party, or an adaptation of a rubric on the Department's *Approved Rubric List*, applicants will need to meet all the approval criteria outlined in §30-3.9 of the Rules of the Board of Regents. In addition, applicants will need to demonstrate:

- evidence that the LEA has made a significant investment in the rubric, particularly in training and implementation; and
- evidence that the LEA has a history of use that would justify continued use of that rubric. This includes evidence that:
 1. the LEA's use of the rubric to date has generated differentiated ratings and assessments of educators' skill and proficiency; and
 2. the degree of differentiation in the ratings is justified by student achievement results.

If applying to use a *new, innovative rubric*, applicants must establish that the proposed rubric meets all of the approval criteria outlined in §§ 30-3.4 and 30-3.5 of the Rules of the Board of Regents and the RFQ. In addition, applicants will need to provide:

- a training and implementation plan including, but not limited to, the LEA's plan for ensuring inter-rater reliability; and
- a plan for collecting evidence that demonstrates:
 1. the LEA's use of the rubric generates differentiated ratings and assessments of educator skill and proficiency; and
 2. the degree of differentiation in the ratings is justified by student achievement results.

H13. Is there a cost associated with all of the rubrics on the *Approved Rubric List*? Do we need to use the implementation services being offered by providers?

Some of the providers of practice rubrics on the *Approved Rubric List* have made their rubrics available for free, whereas others charge a fee to license the rubric or to purchase the associated implementation support services. If the provider's services are listed as "required," then you must collaborate with that service provider to successfully implement their evaluation tool. The costs posted on the website are for information only.

Please note: Before selecting a rubric, LEAs should contact rubric providers directly (before negotiating use of such product) to discuss any costs associated with the product for implementation, including potential software costs and any potential copyright issues/legal restrictions on the use of such product.

H14. Can we adopt our own procedures for implementing a rubric on the *Approved Rubric List*, or would a variance be required? For example, can we develop our own evaluation form to support the use of the rubrics that have been made available? Or can we choose to give greater weight to certain components of the rubric while de-emphasizing other components? At what point would choosing to emphasize only a few indicators to observe invalidate the use of an approved rubric and require a variance?

An LEA is NOT required to request a variance for procedural differences in implementation of a rubric on the *Approved Rubric List*. Procedural differences include but are not limited to:

- Providing additional or more detailed guidance on how to implement the rubric that is not available from the original rubric provider;
- Developing (or working with the rubric provider to develop) an evaluation form to support district use of the rubric; or
- Determining to use only certain components instead of the entire rubric; this includes utilizing a select group of elements or performance indicators. (Please note that, for APPR purposes, districts can only assess observable rubric elements or performance indicators, which align with the observable standards/domains of the New York State Teaching Standards and ISLLC 2008 Standards.)

Evaluators may select a limited number of observable rubric subcomponents for focus within a particular observation/school visit, so long as all observable New York State Teaching or ISLLC 2008 Standards/Domains are addressed across the total number of annual observations/school visits. Teaching/Leadership standards and their related functions that are part of the rubric but not observable during the course of the observation/school visit may be observed through other natural conversations between the teacher/principal and the evaluator and incorporated into the observation/school visit score.

H15. Can a teacher or principal earn points based on the submission of artifacts? Are lesson plans considered “observable”?

No, educators can no longer have points in their APPR allocated specifically to the submission of artifacts. Teacher observations and principal school visits may be based only on observable rubric subcomponents.

The evaluator may select a limited number of observable rubric subcomponents for focus within a particular observation so long as all observable Teaching Standards/Domains

(e.g., Domains 2 and 3 of Danielson’s 2013 Framework for Teaching) or observable ISLLC Standards are addressed across the total number of annual observations or school visits.

Points cannot be earned based on any artifacts, unless the artifact is evidence of an otherwise observable rubric subcomponent (e.g., a lesson plan viewed during the course of a teacher observation may constitute evidence of professional planning and therefore be scored on the rubric as part of that classroom observation).

Districts/BOCES have local discretion over what is and is not observable according to their own selected practice rubric. All observable Teaching or Leadership Standards/Domains of the selected practice rubric must be addressed across the total number of observations/school visits according to the regulations, e.g., in Danielson’s 2013 Framework for Teaching this could include “creating an environment of respect and rapport,” as seen in Domain 2.

New York State Teaching Standards/Domains (or ISLLC Standards/Domains) that are part of the rubric but not observable during the classroom observation (or school visit) may be observed during any optional pre-observation conference or post-observation review or other natural conversations between the teacher/principal and his/her evaluator and incorporated into the observation/school visit score. For example, a teacher’s ability to set instructional outcomes, as seen in Domain 1 of the Danielson’s 2013 Framework for Teaching, may be observed during a pre- or post-observation conference where the teacher brings a lesson plan as supporting evidence of an otherwise observable rubric subcomponent.

H16. Can a principal earn points based on professional goal-setting?

Professional goal-setting is a prohibited element under Education Law §3012-d(6). However, organizational goal-setting may be used to the extent it is evidence from the school visit and specifically related to a component of the principal practice rubric.

H17. For both teachers and principals, it states that “evaluators may select a limited number of observable rubric subcomponents for focus within a particular observation so long as all observable domains/standards of the selected practice rubric are addressed across the total number of observations/site visits.” It does not, however, state whether any points need to be assigned. Can you please clarify this?

All observable teaching/leadership standards must be assessed at least once a year. This does not mean that all elements/performance indicators in each standard have to be addressed or even every standard: only those standards which are observable during classroom observations/school visits must be assessed annually.

Beyond the requirements in the regulations, discussed in Question H20, the specific assignment of points based on the rubric is a locally determined decision.

Scoring and Weighting

H18. How are the required and optional subcomponents of the Observation/School Visit Category scored?

Education Law §3012-d states that the Commissioner shall determine the scoring ranges of the Observation Category or Categories that result in a combined Category rating. The process by which weights and scoring ranges are assigned to subcomponents and categories must be transparent and available to those being rated before the beginning of each school year. The process must ensure that it is possible for a teacher or principal to obtain any number of points in the applicable scoring ranges, including zero, in each subcomponent.

Each subcomponent of the observation or school visit category (i.e., principal/supervisor or other trained administrator, independent impartial evaluator, or peer observer) should be evaluated on a 1-4 scale based on a State-approved rubric and an overall score for the observation or school visit category will be generated between 1-4. Such subcomponent scores should incorporate all evidence collected and observed over the course of the school year. Scores for each subcomponent of the observation or school visit category should be combined using a weighted average, producing an overall Observation Category score between 1-4.

In the event that a teacher or principal earns a score of 1 on all rated components of the practice rubric across all observations or site visits, a score of 0 will be assigned.

H19. How much weight does the required subcomponent of the Observation Category have? What about if a district/BOCES selects to use the optional peer observation subcomponent of the Observation Category?

The weighting of the subcomponents within the Teacher Observation or Principal Site Visit Category should be established locally within the following constraints:

Teachers

- Observations conducted by a principal or other trained administrator shall be weighted at a minimum of 80%.
- Observations conducted by independent impartial observers shall be weighted at a minimum of 10%.
- If a district/BOCES selects to use the optional third observation subcomponent, then the weighting assigned to the optional observations conducted by peers shall be established locally within the constraints outlined above.

Principals

- School visits conducted by a superintendent or other trained administrator shall be weighted at a minimum of 80%.

- School visits conducted by independent impartial trained evaluators shall be weighted at a minimum of 10%.
- If a district/BOCES selects to use the optional third school visit subcomponent, then the weighting assigned to the optional school visits conducted by peers shall be established locally within the constraints outlined above.

H20. How is the overall Observation/School Visit Category rating determined?

The overall observation or school visit score shall be converted into an overall rating, using cut scores determined locally for each rating category; provided that such cut scores shall be consistent with the permissible ranges identified below:

	Overall Observation Category Score and Rating	
	<i>Min</i>	<i>Max</i>
H	3.5 to 3.75	4.0
E	2.5 to 2.75	3.49 to 3.74
D	1.5 to 1.75	2.49 to 2.74
I	0	1.49 to 1.74

I. Scoring and Rating of Evaluations

Overall HEDI Ratings

I1. What is “HEDI”?

Each classroom teacher and building principal must receive an overall rating of Highly Effective, Effective, Developing, or Ineffective (HEDI) based on the ratings received by the teacher or principal in each of the two categories (Student Performance and Observations/School Visits).

I2. How are the Student Performance and Observation/School Visit categories combined for an educator’s overall evaluation rating?

Once the overall, weighted Student Performance and Teacher Observation/Principal School Visit Category ratings are determined, the overall rating determination for a teacher or principal shall be determined according to a methodology as follows:

		<u>Observation/School Visit</u>			
		<u>Highly Effective (H)</u>	<u>Effective (E)</u>	<u>Developing (D)</u>	<u>Ineffective (I)</u>
<u>Student Performance</u>	<u>Highly Effective (H)</u>	H	H	E	D
	<u>Effective (E)</u>	H	E	E	D
	<u>Developing (D)</u>	E	E	D	I
	<u>Ineffective (I)</u>	D*	D*	I	I

The asterisks in the matrix above indicate that if a teacher or principal is rated Ineffective on the Student Performance Category and a State-designed supplemental assessment was included as an optional subcomponent of the Student Performance Category, the teacher can be rated no higher than Ineffective overall. For more information about State-designed supplemental assessments, please see Question F2.

The superintendent, district superintendent, or chancellor and the representative of the collective bargaining unit (where one exists) must certify in the district's/BOCES' plan that the evaluation process will use the weights and scoring ranges prescribed by the Commissioner.

I3. Will teachers and principals be rated based on a “curve” (i.e., will the State require a fixed percentage of educators to receive each of the four overall HEDI ratings)?

No. While the State will assign points to an educator who has a State-provided growth measure(s), districts are responsible for assigning points for other parts of a teacher or principal's evaluation consistent with the requirements in the law and regulations. The State is not requiring a district/BOCES to have a fixed percentage of educators in each of the overall HEDI categories.

Timing for Evaluations

I4. What is the timing for completing evaluations and providing them to teachers and principals? When will educator scores based on State tests be available, and how does that relate to evaluation timing?

Each teacher's and principal's score and rating on the Student Performance Category, if available, and Observations/Site Visit Category must be computed and provided to the teacher or principal, in writing, by no later than the last day of the school year for which the teacher or principal is being measured, but in no case later than September 1 of the school year next following the school year for which the teacher or principal's performance is measured.

The entire evaluation must be completed and provided to each teacher and principal as soon as practicable, but in no case later than September 1 of the school year next following the school year for which the classroom teacher or building principal's performance is being measured.

During the 2015-16 through 2018-19 school years, educators whose APPRs are based, in whole or in part on the results of the grades 3-8 ELA or math State assessments and /or State- provided growth scores shall be provided with their APPR transition scores and ratings as soon as practicable but in no case later than September 1st of the school year following the evaluation year. During the 2015-16 through 2018-19 school years, such educators shall also be provided with their original overall rating by September 1st of the school year following the evaluation year or as soon as practicable thereafter.

NYSED will provide the scores for the State-provided growth calculation of each educator's evaluation as soon as possible after the State assessment results are available, but not later than September 1 annually, or as soon as practicable thereafter. All information will be transmitted electronically via secure protocol to the districts. Upon receipt of such scores, districts must then determine the final overall rating for each teacher and/or principal in accordance with the Commissioner's regulations.⁹⁹

Rating Implications

I5. How will the annual professional performance reviews of classroom teachers and building principals be used in employment decisions?

Annual professional performance reviews of classroom teachers and buildings principals should be a significant factor for employment decisions, including but not limited to, promotion, retention, tenure determination, termination, and supplemental compensation, in accordance with Education Law §3012-d(1).¹⁰⁰

Evaluations should also be a significant factor in teacher and principal development, including but limited to coaching, induction support, and differentiated professional development.

For more information on the strategic use of evaluation data please visit the tools and resources found on the [Improving Practice landing page](#).

⁹⁹ During the 2015-16 through 2018-19 school years, measures based entirely (or in part, at district/BOCES discretion) on the grades 3-8 ELA and math State assessments or any State-provided growth scores must be excluded from the calculation of transition scores and ratings.

¹⁰⁰ Pursuant to Section 30-3.17 of the Rules of the Board of Regents, districts/BOCES shall only use the overall transition rating for purposes of making employment related decisions for APPRs completed during the 2015-16 through 2018-19 school years.

I6. Will my district/BOCES be required to terminate a teacher with two consecutive ratings of Ineffective under Education Law §3012-c if he or she receives a rating of Ineffective under Education Law §3012-d at the end of this school year?

Education Law §3020-b addresses the streamlined removal procedures for classroom teachers and building principals that have been rated Ineffective. The statute applies to those educators that have received consecutive ratings of Ineffective under Education Law §3012-c or §3012-d. Thus, under Education Law §3020-b(2), a district or employing board may bring charges for two consecutive Ineffective ratings under Education Law §3012-c and §3012-d, and shall bring charges for three consecutive Ineffective ratings under Education Law §3012-c and §3012-d.¹⁰¹

Teacher and Principal Improvements Plans

I7. When/under what circumstances must a district/BOCES implement a teacher or principal improvement plan?

Upon rating a teacher or principal as Developing or Ineffective through an annual professional performance review, a superintendent or another trained administrator, in the exercise of their pedagogical judgment, must formulate and commence implementation of a teacher or principal improvement plan (TIP and PIP, respectively) for that teacher or principal by October 1 following the school year for which such teacher or principal's performance was measured or as soon as practicable thereafter. Such TIP or PIP shall be subject to collective bargaining to the extent required by Article 14 of the Civil Service Law.¹⁰²

The TIP or PIP shall be developed by the superintendent or another trained administrator in the exercise of their pedagogical judgment, and collectively bargained to the extent required by Article 14 of the Civil Service Law. The TIP or PIP shall include, but need not be limited to, identification of needed areas of improvement, a timeline for achieving improvement, the manner in which the improvement will be assessed, and, where appropriate, differentiated activities to support a teacher's or principal's improvement in those areas.

¹⁰¹ Pursuant to Section 30-3.17 of the Rules of the Board of Regents, districts/BOCES shall only use the overall transition rating for purposes of making employment related decisions for APPRs completed during the 2015-16 through 2018-19 school years.

¹⁰² Pursuant to Section 30-3.17 of the Rules of the Board of Regents, TIP/PIP determinations for APPRs completed during the 2015-16 through 2018-19 school years shall be based on the overall transition rating only.

I8. What are the elements of a Teacher/Principal Improvement Plan under Education Law §3012-d?

The elements for a TIP or PIP under Education Law §3012-d remain the same as those set out in Education Law §3012-c.

An improvement plan defines specific standards-based goals that a teacher or principal must make progress toward attaining within a specific period of time, such as a 12-month period, and shall include the identification of areas that need improvement, a timeline for achieving improvement, the manner in which improvement will be assessed, and, where appropriate, differentiated activities to support improvement in these areas.

The plan should clearly describe the professional learning activities that the educator must complete. These activities should be connected directly to the areas needing improvement. The artifacts that the teacher or principal must produce that can serve as benchmarks of improvement and as evidence for the final stage of the improvement plan should be described and could include items such as lesson plans and supporting materials, including student work.

The supervisor should clearly state in the plan the additional support and assistance that the educator will receive. In the final stage of the improvement plan, the teacher or principal should meet with his or her supervisor to review the plan, alongside any artifacts and evidence from evaluations, in order to determine if adequate improvement has been made in the required areas outlined within the plan for the teacher or principal.

Personal Professional Development Plans (PPDPs) and Improvement Plans (TIPs and PIPs)

I9. Should districts/BOCES still develop TIPs/PIPs for their educators even if their overall APPR rating is not in the Ineffective or Developing categories?

The Department believes that all educators will benefit from the development of Personal Professional Development Plans (PPDPs). We recommend that districts work collaboratively with each of their educators to ensure the development of individualized PPDPs for every teacher and principal in order to support continuous improvements for all educators, regardless of their rating.

A district/BOCES should therefore formulate and commence implementation of a teacher or principal PPDP for each teacher and principal within the school, regardless of the rating the individual receives through an APPR, consistent with Article 14 of the Civil Service Law.

I10. Why does the Department recommend that ALL teachers and principals have a PPD Plan?

We know that New York State has some of the very best teachers and leaders in the nation. Our highest-performing districts and schools combine strong classroom

instruction led by innovative principals with a results-driven school culture. Great educators change lives. Our goal is to ensure that every year, every school has an effective leader and every classroom has an effective teacher so that every child can learn and achieve to his or her full potential. When our educators succeed, our students succeed, too.

The significant changes in curriculum and instructional practices to ensure the highest academic success of our students means that all educators are in need of extended learning opportunities and productive collaborative communities that support improved instruction and professional growth. Research shows that sustained and intensive professional development, connected to practice, specific academic content, and other school initiatives, is not only related to student achievement gains but also builds strong working relationships among faculty as well.¹⁰³

Information gained around a teacher or principal's practice through New York State's APPR should be used to help educators of all skill levels understand how they can improve and inform job-embedded professional development, fostering a collective responsibility for student and educator continual growth.¹⁰⁴ Collectively, our primary goal should be to help all teachers and principals improve their practice through an integrated strategy for advancing teacher and principal growth and development.¹⁰⁵

I11. What are some potential elements of the recommended PPD Plan (PPDP)?

Like a TIP/PIP, a PPDP should define specific standards-based goals that a teacher or principal must make progress toward attaining within a specific period of time, such as a 12-month period, and shall include the identification of areas that can exhibit growth, a timeline for achieving growth, the manner in which growth will be assessed, and, where appropriate, differentiated activities to support growth in these areas. When developing the PPDP, it is important to keep in mind that some educators may improve by simply making adjustments, while there will be other educators who may require more intensive supports and structures.¹⁰⁶

The plan should clearly describe the professional learning activities that the educator must complete. These activities should be directly connected to the areas needing growth. The artifacts that the teacher or principal must produce that can serve as benchmarks of growth and as evidence for the final stage of the development plan should be described, and could include items such as lesson plans and supporting materials, including student work.

The supervisor should clearly state the additional support and assistance that the educator will receive as part of the PPDP. In the final stage of PPDP, the teacher or principal

¹⁰³ [Professional Learning in the Learning Profession: A Status Report on Teacher Development in the United States and Abroad](#)

¹⁰⁴ [Teacher Evaluation 2.0, A Continuous Improvement Model for Teacher Development and Evaluation](#)

¹⁰⁵ [NYSUT Teacher Evaluation and Development](#)

¹⁰⁶ [Evaluating Teaching with Multiple Measures](#)

should meet with his or her supervisor to review the plan, alongside any artifacts and evidence from evaluations, in order to determine if adequate growth has been made in the required areas outlined within the plan for the teacher or principal.

Prohibition Against Students Being Instructed by Two Consecutive Ineffective Teachers

I12. Can students be instructed by educators who are rated Ineffective?¹⁰⁷

Education Law §3012-d states that a student may not be instructed for two consecutive school years by any two teachers of the same subject in the same district, each of whom received an Ineffective rating in the year immediately prior to the year in which the student is placed in the classroom.

Please note that this restriction is based upon APPR ratings received under Education Law §3012-d, and therefore will not impact district/BOCES staffing decisions until the 2016-17 school year at the earliest.

I13. What if my district/BOCES is unable to comply with this restriction?

If a district deems it impracticable to comply with this requirement the district must seek a teacher-specific waiver from the Department on a form and in a timeframe prescribed by the Commissioner.

If a district assigns a student to a teacher rated Ineffective in the same subject for two consecutive years, the district must seek a waiver from this requirement for the specific teacher in question. The Commissioner may grant a waiver from this requirement if:

1. The district cannot make alternative arrangements and/or reassign a teacher to another grade/subject because a hardship exists (for example, too few teachers with higher rating are qualified to teach such subject in that district); and
2. The district has an improvement and/or removal plan in place for the teacher at issue that meets certain guidelines prescribed by the Commissioner.

Please note that this restriction is based upon APPR ratings received under Education Law §3012-d, and therefore will not impact district/BOCES staffing decisions until the 2016-17 school year, at the earliest.

¹⁰⁷ Pursuant to Section 30-3.17 of the Rules of the Board of Regents, districts/BOCES shall only use the overall transition rating for purposes of making employment related decisions for APPRs completed during the 2015-16 through 2018-19 school years.

Terminating Probationary Teachers and/or Principals

I14. Are APPRs the only basis on which a school district/BOCES may terminate probationary teachers and principals? May a school district/BOCES ever terminate a probationary teacher or principal without regard to the APPR?¹⁰⁸

Education Law §3012-d requires that the annual professional performance reviews constitute a “significant factor” in employment decisions, including but not limited to tenure determinations and termination of probationary teachers and principals. However, it does not require that the APPR be the sole or determinative factor in tenure or termination decisions, merely that the APPR be considered in making such determinations.

In addition, Education Law §3012-d(9) emphasizes the unfettered statutory right of a district/BOCES to terminate a probationary (non-tenured) teacher or principal for any statutorily and constitutionally permissible reason.

I15. May a school district/BOCES terminate a probationary teacher or principal during the middle of a school year or before the overall evaluation rating becomes available?

Prior to completion of the APPR in the first year of the probationary term, a probationary teacher or principal may be summarily dismissed for any constitutionally and statutorily permissible reasons. Accordingly, where a board of education has not yet completed an APPR for a probationary teacher or principal, it may terminate the probationary teacher for any statutorily and constitutionally permissible reasons. Those reasons may include the quality of the instruction or services provided by the probationary teacher or principal based on evidence other than the overall APPR rating.

Education Law §3012-d(9) emphasizes the unfettered statutory right of a district/BOCES to terminate a probationary (non-tenured) teacher or principal for any statutorily and constitutionally permissible reason, including the teacher’s or principal’s performance.

I16. May a school district/BOCES terminate a probationary teacher or principal for reasons *based solely upon the overall APPR rating* after the first year of probation during the pendency of an APPR appeal?

No. If the termination determination is based solely upon the overall APPR rating that is the subject of a pending rating appeal, the school district/BOCES must await completion of the appeal process before making that determination.

¹⁰⁸ Pursuant to Section 30-3.17 of the Rules of the Board of Regents, districts/BOCES shall only use the overall transition rating for purposes of making employment related decisions for APPRs completed during the 2015-16 through 2018-19 school years.

Under Education Law §3012-d(9), districts/BOCES continue to have the unfettered statutory right of a district/BOCES to terminate a probationary (non-tenured) teacher or principal for any statutorily and constitutionally permissible reason including the teacher's or principal's performance that is the subject of the appeal.

I17. May a school district/BOCES terminate or deny tenure to a probationary teacher or principal during the pendency of an APPR appeal?

Yes, but it depends on the basis on which the probationary teacher or principal is being terminated or denied tenure. Section 30-3.12 of the Rules of the Board of Regents provides that nothing therein shall be construed to alter or diminish the authority of the governing body of a school district/BOCES to grant or deny tenure to or terminate probationary teachers or principals during the pendency of an appeal for statutorily and constitutionally permissible reasons, including the teacher's or principal's performance that is the subject of the appeal. This language allows a board of education or BOCES to make a tenure determination or termination decision during an APPR appeal, including if it relies upon the performance that is being appealed.

J. Evaluators, Training, and Certification

J1. Who conducts evaluations of teachers and principals? What is the difference between an "evaluator" and a "lead evaluator"?

The "lead evaluator" is the primary person responsible for conducting and completing a teacher's or principal's evaluation. Typically, the lead evaluator is the person who completes and signs the summative APPR. To the extent possible, the principal or a trained administrator serving as his/her designee should be the lead evaluator of a classroom teacher. To the extent possible, the lead evaluator of a principal should be the superintendent or BOCES district superintendent or a trained supervisor serving as his/her designee. Districts are responsible for lead evaluator certification.

An "evaluator" is any individual who conducts an evaluation of a teacher or principal, including any person who conducts an observation or assessment as part of a teacher or principal evaluation. For teachers, an evaluator must be a principal, other trained administrator, trained in-school peer teacher, or other trained independent evaluator. For principals, an evaluator must be the building principal's supervisor, other trained administrator, trained peer principal, or other trained independent evaluator. Please note: An independent trained evaluator may be employed within the district but may not be assigned to the same school building, as defined by BEDS code, as the educator being evaluated.

J2. Are there different training requirements for an evaluator and a lead evaluator? Which evaluators must be certified?

All evaluators, including impartial and independent observers and peer observers, must have appropriate training before conducting a teacher or principal's evaluation, but only lead evaluators must be certified to conduct evaluations.

Districts/BOCES will be required to describe in their APPR plan the duration and nature of the training they provide to evaluators and lead evaluators and their process for certifying lead evaluators. Districts are responsible for lead evaluator certification. The regulation authorizes a certified school administrator to conduct observations or school visits as part of the APPR prior to completion of evaluator training, so long as he or she becomes properly certified to conduct evaluations prior to the completion of the evaluation.

Evaluators who do not hold State certification as a school administrator or superintendent of schools must be fully trained before conducting any part of an evaluation. To qualify for certification as a lead evaluator, an individual must successfully complete a training course that meets certain minimum requirements prescribed in §30-3.10(b) of the Rules of the Board of Regents (please see Question J3 for more information). Lead evaluators must also be periodically recertified to ensure inter-rater reliability.

Districts shall also describe in their annual professional performance review plan their process for ensuring that all evaluators maintain inter-rater reliability over time (such as data analysis to detect disparities on the part of one or more evaluators; periodic comparisons of a lead evaluator's assessment with another evaluator's assessment of the same classroom teacher or building principal; annual calibration sessions across evaluators) and their process for periodically recertifying all evaluators.

Any individual who fails to receive required training or achieve certification or recertification, as applicable, by a district pursuant to the requirements of this section shall not conduct or complete an evaluation.

J3. What are the requirements of the training course for certification as a lead evaluator?

In order to be certified as lead evaluators, administrators must be trained in the following nine elements (see also J2):

- (1) the New York State Teaching Standards and their related elements and performance indicators and the Leadership standards and their related functions, as applicable;
- (2) evidence-based observation techniques that are grounded in research;
- (3) application and use of the student growth percentile model and any other growth model approved by the Department as defined in section 30-3.2 of this Subpart;

- (4) application and use of the State-approved teacher or principal rubric(s) selected by the district for use in evaluations, including training on the effective application of such rubrics to observe a teacher or principal's practice;
- (5) application and use of any assessment tools that the district utilizes to evaluate its classroom teachers or building principals;
- (6) application and use of any locally selected measures of student growth used in the optional subcomponent of the Student Performance Category used by the district to evaluate its teachers or principals;
- (7) use of the statewide instructional reporting system;
- (8) the scoring methodology utilized by the department and/or the district to evaluate a teacher or principal under this Subpart, including the weightings of each subcomponent within a category; how overall scores/ratings are generated for each subcomponent and category and application and use of the evaluation matrix(es) prescribed by the commissioner for the four designated rating categories used for the teacher's or principal's overall rating and their category ratings; and
- (9) specific considerations in evaluating teachers and principals of English language learners and students with disabilities.

J4. What are the training requirements for an impartial independent observers and peer observers?

All evaluators, including impartial and independent observers and peer observers, must have appropriate training before conducting a teacher or principal's evaluation (see also J2). In addition, annual calibration sessions are required across evaluators and districts are required to have a process for periodically recertifying all evaluators.

Impartial independent observers and peer observers must receive training on the following elements:

- (1) the New York State Teaching Standards and their related elements and performance indicators and the Leadership standards and their related functions, as applicable;
- (2) evidence-based observation techniques that are grounded in research; and
- (3) application and use of the State-approved teacher or principal rubric(s) selected by the district for use in evaluations, including training on the effective application of such rubrics to observe a teacher or principal's practice.

J5. If a principal or other administrator is not fully certified as a lead evaluator in time for the current school year, does this mean he/she is unable to conduct classroom observations?

Not necessarily. A lead evaluator who is certified by the State as a school administrator or superintendent of schools may conduct classroom observations or school visits as part

of an APPR prior to completion of the required training provided such training is successfully completed before completion of the evaluation.

Teacher Evaluations Completed by Principals with Developing or Ineffective Ratings

J6. If a building principal receives an overall rating of Developing or Ineffective, how does that impact the teacher evaluations completed by that principal? Will the scores/ratings for that year be invalid?

No. If a building principal was certified by his/her district/BOCES as a lead evaluator (meaning that he or she was properly trained to be an evaluator), his/her evaluations of teachers will not be declared invalid if the principal receives a Developing or Ineffective rating.

J7. May a principal who receives an overall rating of Developing or Ineffective continue to evaluate teachers the following year?

Yes, the principal may continue to evaluate teachers. However, if the district/BOCES believes that the principal needs additional training to evaluate teachers, it should be noted and provided in the principal's improvement plan and such training shall be provided before he or she conducts further evaluations.

K. Collective Bargaining

QUESTIONS AND ANSWERS RELATED TO COLLECTIVE BARGAINING AND THE REQUIREMENTS OF EDUCATION LAW §3012-d, AS ADDED BY CHAPTER 56 OF THE LAWS OF 2015)

Disclaimer: This document constitutes the position of the Department relating to its interpretation of Education Law §3012-d and other applicable laws. Please note that any matters relating to collective bargaining issues are within the jurisdiction of the New York State Public Employment Relations Board. Therefore, please consult with your school district attorney on matters relating to interpretation of the Taylor Law.

K1. What portions of the APPR plan are subject to collective bargaining under Education Law §3012-d ?

Education Law §3012-d(10) requires that the following shall be locally negotiated:

- Whether to use the Optional subcomponent of the Student Performance Category, and in the event that this subcomponent is used, which measure(s) will be used;
- Whether to use the Optional subcomponent of the Teacher Observation/Principal School Visit Category, and how to implement the Teacher Observation/Principal School Visit Categories, consistent with the corresponding Commissioner's regulations, including but not limited to, the scoring ranges aligned to each HEDI category within the parameters determined by the State.

Districts and collective bargaining units, where one exists, must certify that the process for assigning ratings will use the scoring ranges and weighting processes specified in the regulations.

K2. RELATIONSHIP OF THE LAW TO EXISTING AGREEMENTS

(a) What is the relationship of the law to evaluation provisions contained in existing collective bargaining agreements? What are the immediate obligations of school districts/BOCES?

Education Law §3012-d(12) requires that all collective bargaining agreements for teachers and building principals entered into after April 1, 2015 be consistent with its provisions unless such agreements relate to the 2014-15 school year only. It further provides that any conflicting provisions of collective bargaining agreements in effect on April 1, 2015 are not abrogated and remain in effect until there is a successor agreement. In such case, upon entry into a successor agreement, the provisions of Education Law §3012-d apply and the successor agreement must be consistent with the provisions of this section.

However, pursuant to Education Law §3012-d(11), a school district will not be eligible to receive State aid increases from the General Support for Public Schools apportionment if the school district fails to demonstrate that it has fully implemented the standards and procedures for conducting APPRs of its classroom teachers and building principals by November 15, 2015 or by September 1 of each subsequent year. Districts that are facing hardships and are therefore unable to have an APPR plan consistent with §3012-d approved by the Department by the November 15, 2015 deadline must submit a Hardship Waiver application. This is a requirement for districts in order to be eligible for an increase in State aid. Please see Questions C1 and C10 for more information about Hardship Waivers.

(b) If we have entered into a new contract, must we have an APPR plan completed by April 1, 2015?

Education Law §3012-d(12) states that, notwithstanding any other provision of law, rule or regulation to the contrary, all collective bargaining agreements entered into after April 1, 2015 shall be consistent with the requirements of Education Law §3012-d, unless the agreement relates to the 2014-15 school year only. Nothing in Education Law §3012-d shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on April 1, 2015 during the term of such agreement and until the entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement the provisions of this section shall apply.

However, Education Law §3012-d(11) states that, notwithstanding any inconsistent provision of law, no school district shall be eligible for an apportionment of general

support for public schools from the funds appropriated for the 2015-16 school year and any year thereafter in excess of the amount apportioned to such school district in the respective base year unless such school district has submitted documentation that has been approved by the Commissioner by November 15, 2015, or by September 1 of each subsequent year, demonstrating that it has fully implemented the standards and procedures for conducting annual teacher and principal evaluations of teachers and principals in accordance with the requirements of Education Law §3012-d and the Commissioner's regulations.

Districts experiencing a hardship which is delaying their ability to implement the provisions of Education Law §3012-d may wish to submit a Hardship Waiver application to the Department. A Hardship Waiver is a waiver to extend the implementation time-period set forth in Education Law §3012-d(11) and the corresponding 2015 Budget appropriation language that requires districts to have an approved APPR plan consistent with the requirements of Education Law §3012-d by November 15, 2015. Such waiver must be submitted by all districts on a form and in a manner prescribed by the Commissioner.

All districts granted a Hardship Waiver by the Commissioner must continue to implement their previously approved APPR plan, consistent with the provisions of Education Law §3012-c, until such time as the district receives approval of an APPR plan consistent with the provisions of Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents.

Additionally, during the time period when a district is seeking a Hardship Waiver and/or operating under a 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.

- (c) **I'm told that we should "keep this out of the regular contract and regular contract negotiations." What does this mean? Does whatever is negotiated need to be finalized in a memorandum of agreement?**

It is a local decision on whether to negotiate provisions relating to the teacher/principal evaluation in a separate agreement or in conjunction with the primary collective bargaining agreement. A school district/BOCES should consult with its local attorney as to how and when these items should be negotiated and whether a memorandum of agreement is needed.

- (d) **What if a school district is at impasse or is otherwise unable to complete collective negotiations on portions of the plan by the November 15, 2015 deadline?**

Districts that are facing hardships and are therefore unable to have an APPR plan consistent with §3012-d approved by the Department by the November 15, 2015 deadline must submit a Hardship Waiver application. This is a requirement for districts in order to

be eligible for an increase in State aid. Please see Question C10 for more information about Hardship Waivers.

All districts must have an APPR plan consistent with the requirements of Education Law §3012-d and Subpart 30-3 of the Rules of the Board of Regents submitted by July 1, 2016 and approved by the Commissioner by September 1, 2016. For districts this is a requirement in order to be eligible for their increase in State aid.

To the extent that by July 1, 2016, all of the items of the plan have not been finalized as a result of pending collective bargaining negotiations, the entire plan shall be submitted to the Commissioner upon resolution of all its terms, consistent with Article 14 of the Civil Service Law.

A district that is at impasse on November 15, 2015 or July 1, 2016 for submission of its APPR plan should consult with their school attorneys about the applicability of the decision in the Public Employment Relations Board (PERB) in Wappingers Falls [5 PERB 3074], which allows an employer to unilaterally impose its bargaining position under certain specified conditions, as described more fully below. Education Law §3012-c(2)(k) requires that there be resolution of all of the terms of the APPR but is silent about how such resolution may be achieved. Ultimately, the applicability of the Wappingers Falls decision is a matter that can only be decided by PERB.

However, pursuant to section 30-3.15 of the Commissioner's regulations (which maintains the provisions of Education Law §3012-c(2)(1)), if an APPR for the applicable year has not been negotiated, the collectively bargained APPR most recently approved shall remain in effect until a subsequent APPR is agreed to by the parties and approved by the Commissioner.

K3. INCORPORATING THE PROVISIONS OF THE LAW INTO AGREEMENTS

(a) Do new contracts need to reference all the provisions of the law?

No. New collective bargaining agreements do not need to reference all the provisions of the law. However, any new collective bargaining agreements entered into after April 1, 2015 shall be consistent with the provisions of Education Law §3012-d.

(b) Must agreements negotiated after April 1, 2015, include provisions linking teacher and principal evaluations and ratings to supplemental compensation?¹⁰⁹

Pursuant to Education Law §3012-d, all collective bargaining agreements applicable to classroom teachers and building principals entered into after April 1, 2015 shall be consistent with the law. The law requires that the new evaluations be a significant factor

¹⁰⁹ Pursuant to Section 30-3.17 of the Rules of the Board of Regents, districts/BOCES shall only use the overall transition rating for purposes of making employment related decisions for APPRs completed during the 2015-16 through 2018-19 school years.

for employment decisions, including, but not limited to promotion, retention, tenure determination, termination and supplemental compensation, as well as teacher and principal professional development.

What this means is that any new agreements entered into after this date must allow for the new teacher and principal evaluations to be a significant factor in employment decisions, including, but not limited to, supplemental compensation, where applicable.

K4. IMPASSE

- (a) **What if a school district and its teacher and/or principal bargaining unit(s) are at an impasse in negotiations? Can the district unilaterally decide to comply with Education Law §3012-d?**

Under §209-a(1)(d) of the Civil Service Law school districts must “negotiate in good faith with the duly recognized or certified representatives of its public employees.” The Public Employment Relations Board has held that in certain circumstances, boards can unilaterally impose its bargaining position on the union (see Wappingers Falls [5 PERB 3074]).

The Public Employment Relations Board has held that a school board may unilaterally change a term and condition of employment where: (1) the board has negotiated a change in good faith by negotiating with the employee organization to the point of impasse; (2) it continues thereafter to negotiate the issue; and (3) there are compelling reasons for the board to unilaterally act.

Ultimately, the Public Employment Relations Board will need to make a determination as to whether these factors exist.

However, a school district will not be eligible to receive State aid increases from the General Support for Public Schools apportionment if the school district fails to demonstrate that it has fully implemented the new standards and procedures for conducting APPRs of its classroom teachers and building principals.

K5. APPEAL PROCEDURES

- (a) **What are the elements of an appeal under the new Education Law §3012-d?**

An annual professional performance review plan shall describe the appeals procedure utilized by a district through which an evaluated teacher or principal may challenge their annual professional performance review. Pursuant to Education Law §3012-d, a teacher or principal may only challenge the following in an appeal:

(1) the substance of the annual professional performance review; which shall include the following:

- (i) in the instance of a teacher or principal rated Ineffective on the Student Performance Category but rated Highly Effective on the Observation/School Visit Category based on an anomaly, as determined locally;
- (2) the district's adherence to the standards and methodologies required for such reviews, pursuant to Education Law §3012-d and Subpart 30-3 of Commissioner's regulations;
- (3) the adherence to the regulations of the Commissioner and compliance with any applicable locally negotiated procedures, as required under Education Law §3012-d; and
- (4) the school district's issuance and/or implementation of the terms of the teacher or principal improvement plan under Education Law §3012-d and this Subpart.

Appeal procedures shall provide for the timely and expeditious resolution of any appeal.

An evaluation that is the subject of an appeal shall not be sought to be offered in evidence or placed in evidence in any proceeding conducted pursuant to Education Law §3020-a and §3020-b or any locally negotiated alternate disciplinary procedure until the appeal process is concluded.

Nothing shall be construed to authorize a teacher or principal to commence the appeal process prior to receipt of his or her rating from the district.

(b) May a school district/BOCES terminate or deny tenure to a probationary teacher or principal during the pendency of an APPR appeal? ¹¹⁰

Section 30-3.12 of the Rules of the Board of Regents each provide that nothing therein shall be construed to alter or diminish the authority of the governing body of a school district/BOCES to grant or deny tenure to or terminate probationary teachers or principals during the pendency of an appeal for statutorily and constitutionally permissible reasons, including the teacher's or principal's performance that is the subject of the appeal. This language allows a board of education or BOCES to make a tenure determination or termination decision during an APPR appeal, even if it relies upon the performance that is being appealed (the subject of the appeal).

(c) May a probationary teacher or principal acquire tenure by estoppel as a result of a pending APPR appeal?

The language in Education Law §3012-d allowing school districts/BOCES to terminate or make tenure determinations while an APPR appeal is pending is intended to prevent probationary teachers and principals from obtaining tenure by estoppel as a result of delays in an APPR appeal.

¹¹⁰ Pursuant to Section 30-3.17 of the Rules of the Board of Regents, districts/BOCES shall only use the overall transition rating for purposes of making employment related decisions for APPRs completed during the 2015-16 through 2018-19 school years.

(d) When does the right to appeal commence?

The APPR law provides that a teacher or principal is not authorized to trigger the appeal process until he or she receives an overall rating. For teachers and principals receiving State-provided scores, this means that an overall rating will not be available until the State-provided growth score is generated by the State.¹¹¹ Teachers and principals must receive their overall ratings no later than September 1 of the school year next following the school year for which they are being evaluated. Therefore, the appeal process will be triggered on or before September 1, when the teacher or principal receives his or her overall rating. During the 2015-16 through 2018-19 school years, educators whose APPRs are based, in whole or in part, on the results of the grades 3-8 ELA or math State assessments and/or State-provided growth scores shall be provided with their APPR transition scores and ratings as soon as practicable but in no case later than September 1st of the school year following the evaluation year. During the 2015-16 through 2018-19 school years, such educators shall also be provided with their original overall rating by September 1st of the school year following the evaluation year or as soon as practicable thereafter.

(e) Education Law §3012-d indicates that annual professional performance reviews must be a significant factor in employment decisions, including tenure determinations. Must a district/BOCES wait until all three annual professional performance reviews are conducted before a tenure decision can be made?¹¹²

If the decision is to not grant tenure, then the district/BOCES does not have to wait until all three APPRs have been conducted. However, pursuant to Education Law §2509(b), for persons appointed on or after July 1, 2015, in order for tenure to be granted, a teacher must have been rated Effective or Highly Effective in at least three of the four preceding school years on his or her APPR under either Education Law §3012-c or §3012-d.

Notwithstanding any other provision of §2509 to the contrary, when a teacher or principal receives an Effective or Highly Effective rating in each school year of his or her probationary service except he or she receives an Ineffective rating in the final year of his or her probationary period, such teacher or principal shall not be eligible for tenure but the board of education in its discretion, may extend the teacher's probationary period for an additional year.

However, if such teacher or principal successfully appealed their Ineffective rating, such teacher or principal shall immediately be eligible for tenure if the rating resulting from

¹¹¹ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

¹¹² Pursuant to Section 30-3.17 of the Rules of the Board of Regents, districts/BOCES shall only use the overall transition rating for purposes of making employment related decisions for APPRs completed during the 2015-16 through 2018-19 school years.

the appeal established that such individual has been Effective or Highly Effective in at least three of the preceding four years and was not Ineffective in the final year.

(f) Are educators able to appeal their State-provided growth scores?

Yes, at its September 2015 Board of Regents meeting, sections 30-2.13 and 30-3.16 of the Rules of the Board of Regents were amended to allow for teachers and principals to who were rated Ineffective on their State-provided growth score during the 2014-15 school year and thereafter may appeal their State-provided growth score to the Department in certain limited circumstances. Please see the [Independent Evaluator Hardship Waiver resource page](#) for more information about this process.

K6. If we do not have an administrators' union at the BOCES, are our principals still entitled to negotiate the aspects that are stated must be done by CBA?

No, if there is no administrative bargaining unit in a BOCES, the BOCES will not be required to negotiate the provisions of the APPR relating to principals. However, the district will still be required to negotiate any negotiable provisions relating to teachers with the applicable bargaining representative for teachers.

L. Model Appeals Procedure

APPEALS OF INEFFECTIVE AND DEVELOPING RATINGS ONLY

Appeals of annual professional performance reviews should be limited to those that rate a teacher/principal as Ineffective or Developing only. Additional procedures may be appropriate where compensation decisions are linked to rating categories.

WHAT MAY BE CHALLENGED IN AN APPEAL

Appeal procedures should limit the scope of appeals under Education Law §3012-d to the following subjects:

- (1) the substance of the annual professional performance review; which shall include the instance of a teacher/ principal rated Ineffective on the Student Performance Category but rated Highly Effective on the Observation/School Visit Category based on an anomaly, as determined locally.
- (2) the school district's or board of cooperative educational services' adherence to the standards and methodologies required for such reviews, pursuant to Education Law §3012-d and Subpart 30-3 of Commissioner's regulations;
- (3) the adherence to the Commissioner's regulations, as applicable to such reviews and compliance with any applicable locally negotiated procedures, as required under Education Law §3012-d; and

- (4) the school district's or board of cooperative educational services' issuance and/or implementation of the terms of the teacher or principal improvement plan under Education Law §3012-d.

PROHIBITION AGAINST MORE THAN ONE APPEAL

A teacher/principal may not file multiple appeals regarding the same performance review or teacher improvement plan. All grounds for appeal must be raised with specificity within one appeal. Any grounds not raised at the time the appeal is filed shall be deemed waived.

BURDEN OF PROOF

In an appeal, the teacher or principal has the burden of demonstrating a clear legal right to the relief requested and the burden of establishing the facts upon which petitioner seeks relief.

TIMEFRAME FOR FILING APPEAL

All appeals must be submitted in writing no later than 15 calendar days of the date when the teacher or principal receives his or her APPR. If a teacher/principal is challenging the issuance of a teacher or principal improvement plan, appeals must be filed within 15 days of issuance of such plan. The failure to file an appeal within these timeframes shall be deemed a waiver of the right to appeal and the appeal shall be deemed abandoned.

When filing an appeal, the teacher or principal must submit a detailed written description of the specific areas of disagreement over his or her performance review, or the issuance and/or implementation of the terms of his or her improvement plan and any additional documents or materials relevant to the appeal. The performance review and/or improvement plan being challenged must also be submitted with the appeal. Any information not submitted at the time the appeal is filed shall not be considered.

TIMEFRAME FOR DISTRICT/BOCES RESPONSE

Within 15 calendar days of receipt of an appeal, the school district/BOCES staff member(s) who issued the performance review or were or are responsible for either the issuance and/or implementation of the terms of the teacher's or principal's improvement plan must submit a detailed written response to the appeal. The response must include any and all additional documents or written materials specific to the point(s) of disagreement that support the school district's or BOCES' response and are relevant to the resolution of the appeal. Any such information that is not submitted at the time the response is filed shall not be considered in the deliberations related to the resolution of the appeal. The teacher or principal initiating the appeal shall receive a copy of the response filed by the school district/BOCES, and any and all additional information

submitted with the response, at the same time the school district/BOCES files its response.

DECISION-MAKER ON APPEAL

A decision shall be rendered by the superintendent of schools or the superintendent's designee except that an appeal may not be decided by the same individual who was responsible for making the final rating decision. In such case, the board of education shall appoint another person to decide the appeal.

DECISION

A written decision on the merits of the appeal shall be rendered no later than 30 calendar days from the date upon which the teacher or principal filed his or her appeal. The appeal shall be based on a written record, comprised of the teacher's or principal's appeal papers and any documentary evidence accompanying the appeal, as well as the school district/BOCES' response to the appeal and additional documentary evidence submitted with such papers. Such decision shall be final.

The decision shall set forth the reasons and factual basis for each determination on each of the specific issues raised in the teacher's or principal's appeal. If the appeal is sustained, the reviewer may 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 or order a new evaluation if procedures have been violated. A copy of the decision shall be provided to the teacher or principal and the evaluator or the person responsible for either issuing or implementing the terms of an improvement plan, if that person is different.

EXCLUSIVITY OF §3012-D APPEAL PROCEDURE

The 3012-d appeal procedure shall constitute the exclusive means for initiating, reviewing and resolving any and all challenges and appeals related to a teacher/principal performance review and/or improvement plan. A teacher/principal may not resort to any other contractual grievance procedures for the resolution of challenges and appeals related to a professional performance review and/or improvement plan, except as otherwise authorized by law.

M. Data Management

M1. Why is it important for districts/BOCES to follow the Department's data guidelines and definitions?

In order for New York to meet its federal and State requirements, as well as to ensure that the policies on teacher/principal evaluation system are fair and understandable, the Department needs to develop guidelines for determining the teachers and principals who are responsible for student instruction for evaluation purposes.

M2. What kinds of data will districts/BOCES need to collect in order to determine who is the teacher of record for evaluation purposes?

Districts/BOCES will need to collect additional data elements to support teacher of record determinations. The data elements collected in the staff student course template include information about the multiple teachers who may be assigned to a course section; differential instructional weightings between teachers and individual students; and changes in teacher assignment, student enrollment, and student attendance over the duration of a course.

M3. What happens to teachers/principals who move from one district to another? Do their scores move?

Teachers or principals who change employers in the middle of the year will be evaluated by each employer in accordance with the employer's approved APPR plan. For the 2012-13 school year and beyond, (1) students and teachers must be "linked" for a minimum of 60% of the duration of the course, as reported on the staff student course record, in order to be included in a teacher's growth score; (2) students must be enrolled on BEDS day and assessment day to be included in a grades 4-8 principal's growth score, and the principal must have a staff assignment record submitted for any grades 4-8; and (3) students must be enrolled on BEDS day and the first day of Regents exam administration to be included in a grades 9-12 principal's growth score, and the principal must have a staff assignment record submitted for all grades 9-12. If an educator is not linked to a sufficient number of students a State-provided growth score will not be calculated for her/him and the educator must be evaluated by SLOs according to the employer's APPR plan.

M4. What is the teacher-student data linkage verification process? How will you provide guidance to districts regarding collection, verification, and submission of all data and especially student attendance data at the classroom level?

Please see the links below to memorandums providing more detailed guidance related to the collection, reporting, and verification of teacher-student data linkage (TSDL) information:

- [Updated Guidance on Reporting and Verifying Teacher-Student and Principal Linkage Information memorandum](#)
- [Updated Guidance on Reporting and Verifying Teacher-Student Data Linkages \(TSDL\) in the Student Information Repository System \(SIRS\) memorandum](#)
- [Verification and Certification of SIRS 2013-2014 School Year Data](#)
- [Upcoming 2014-15 Changes for Personnel Master File \(PMF\) memorandum](#)
- [Guidance on Reporting and Verifying Teacher-Student and Principal Linkage Information for the 2014-15 School Year memorandum](#)

As with all reported school year data, superintendents, district superintendents, and charter school principals must establish school and district verification processes to

ensure that complete and accurate TSDL information, as summarized in the memorandums referred to above, are submitted to NYSED prior to the verification deadlines. RIC or Big 5 City School District data center staff with whom the school district or charter school has contracted can assist with these efforts.

Because of the complexity and importance of TSDL information, regulations require that teachers be involved in data verification efforts. In order to make this process more manageable, it is highly recommended that data be reviewed and verified throughout the school year, rather than immediately prior to the reporting deadline.

In order to ensure the accuracy of the TSDL, two types of information, described in more detail in the memorandums referred to above, must be reviewed and verified by teachers and other relevant school and district personnel:

- Basic roster information, including which students are linked to which teachers with what start and end dates.
- Linkage durations, or the total course time, prior to the administration of the assessment or the end of the school year, that each student is linked to a teacher.

Daily Verification of Rosters

Teachers should review and verify student rosters in their local student management system each time they take class attendance or, if class attendance is not taken, each time they take daily attendance. If rosters are verified in the local student management system on a class and/or daily basis, the task of verification will be much more manageable.

NYSED Teacher-Student Roster Verification Reports (with weekly data refreshes)

In addition to daily verification, teachers, principals, and school/district data coordinators will have access to Teacher-Student Roster Verification Reports that are updated at least weekly.¹¹³

Teacher-Student Roster Verification Reports for school, BOCES and district data coordinators can be found within the Level 2 reporting environment through links provided by the local RIC or Big 5 City School District data center. These school- and district-wide reports may be displayed for specific teachers or courses or for all teachers and courses that have been submitted to the SIRS.

Teacher-Student Roster Verification Reports for teachers are available at the single sign-on location for our [Education Data Portal \(EDP\)](#). Reports will be refreshed at least weekly to reflect updates or corrections made prior to the verification deadline. Please see

¹¹³ Please note that for Teacher Student Data Linkages reports and verification, teachers and principals who are employed by the NYCDOE will use STARS Classroom to review and update class roster information. If NYCDOE teachers have questions about this process, they should contact their principals. Principals should contact their networks with questions. Teachers and principals may also contact AdvanceSupport@schools.nyc.gov with questions.

the [Teacher Student Roster Verification Report site](#) for a description of how teachers can access these Teacher-Student Roster Verification Reports, including steps that schools and districts must take to facilitate this process.

The Teacher-Student Roster Verification Reports available to district and school data coordinators through the Level 2 reporting environment, as well as the reports for individual teachers, both display the same underlying data. The only differences between these reports are the ways they are displayed and delivered to meet the needs of different users.

Data Certification

Consistent with the reporting of all other school year data, district superintendents, superintendents and charter school principals will be responsible for certifying the completeness and accuracy of all TSDL information. To do so, and consistent with other data collection and reporting initiatives, district superintendents, superintendents and charter school principals will need to create internal processes to gather assurances from teachers and principals that they (1) have reviewed the information prior to the verification deadline and determined it to be complete and accurate, and (2) understand that the data will be used for evaluation and other analytic purposes.

Please note that existing Level 2 verification reports, including school, BOCES and district accountability reports, may be used by school/district data coordinators to assist with the verification of student demographic, enrollment, program service, other special education, and assessment information prior to the verification deadlines provided in the memorandums referenced above.

Verification Strategies

The accuracy of TSDL information depends on correct data being stored in the school or district student management system and correct data being exported from those systems for reporting to NYSED. If the data contained in the verification reports are inaccurate, please check that the information described below is correct in your student management system.

The accuracy of **basic roster information**, including teacher-student linkage start and end dates, is dependent upon:

- The creation of an accurate master schedule that includes all teachers assigned to courses and all students enrolled in those courses;
- The ongoing maintenance of both the master and student schedules, including accurate entry of start and end dates when students drop or add courses or teacher assignments change.

The accuracy of **linkage duration information** requires accurate basic roster information, as well as the following additional information to be correct in the student management system:

- The amount of time that a course meets daily or, if the course schedule fluctuates daily, the weekly average for the course;
- Instructional calendars, or the total number of days that a course is scheduled to meet;
- Duration adjustments, to be used if a particular student or teacher participates in a course for only a portion of the course’s schedule; and
- Student course attendance.

Since linkage duration calculations are created by the school’s, BOCES’, or district’s student management system consistent with State rules and not directly by NYSED, LEAs, in coordination with their RIC or Big 5 City School District data centers, are strongly encouraged to request evidence from student management system vendors that the duration calculations are accurate. If your vendor product is meeting State requirements, linkage duration information will accurately reflect the course and roster information contained in your school’s master schedule.

Data Correction

As with all other school year data, if the information displayed in the Teacher-Student Roster Verification Reports is incomplete or inaccurate, the data should be corrected in the local source system (e.g., the student management system) and submitted again to NYSED. Schools, districts, BOCES, and charter schools are responsible for creating and communicating clear processes and identifying contact people for identifying data inaccuracies and correcting this information prior to the verification deadline.

M5. What information must be reported on teacher and student data for APPR purposes?

School districts, charter schools, and BOCES must report teacher-student data linkage (TSDL) information for all K-12 classroom teachers. To ensure comparability among schools and districts, a statewide comprehensive course catalog is required for the reporting of course information. Although schools do not need to adopt these statewide codes for local use, it will be necessary to map local codes to State codes when reporting data to the SIRS. Course codes can be found online in [The New York State Comprehensive Course Catalog](#).

The data elements to be reported for teacher of record purposes by BOCES, charter schools, and other public schools are captured in the table below.

The table below is specific to teacher/principal evaluation data reporting requirements. It is not comprehensive for all staff/course reporting.

Data Elements to be Reported for Teacher/Principal Evaluation	
1	Unique statewide identifier for all teachers assigned to reported courses
2	Student enrollment in all courses using the statewide standardized course codes located online in The New York State Comprehensive Course Catalog
3	Duration of reported course section ^
4	Teacher-student linkage start/end dates for reported course section
5	Duration of the student enrollment – teacher assignment linkage for the reported course section (“enrollment linkage”) ^
6	Duration of student attendance – teacher assignment linkage for the course section (“attendance linkage”) ^
7	Teacher-student linkage duration adjustments for reported course section
8	Student exclusion-from-evaluation flag for reported course section **
9	Overall evaluation rating category (Highly Effective, Effective, Developing, Ineffective) ¹¹⁴
10NC	Evaluation Categories: ¹¹⁵ Student Performance Category -Required Student Performance subcomponent score (combined State-provided growth and Student Learning Objectives) -Optional Student Performance subcomponent score (combined locally selected measures of student growth), as applicable Teacher Observation/Principal School Visit Category -Required Observation/School Visit subcomponent score (combined principal, supervisor or other trained administrator, and impartial independent trained evaluator) -Optional Observation/School Visit subcomponent score (trained peer observer), as applicable
11NC	Tenure Status

^ For State-provided growth scores, these data elements are used to proportionately attribute students to teachers.

** Additional requirements to be determined.

NC Data element is not required to be reported by charter schools, unless the charter has an approved APPR plan under §3012-d.

M6. What do LEAs need to do to implement the new data-reporting requirement?

The procedures for reporting these data are similar to those already in place for reporting student demographic, enrollment, program service, assessment, and special education data to the SIRS. For technical support, please contact your regional data center personnel.

¹¹⁴ During the 2015-16 through 2018-19 school years, both original and transition scores and ratings (as applicable) must be reported. Additional guidance on APPR data collection and reporting requirements for the current school year will be provided in the spring of each school year.

¹¹⁵ During the 2015-16 through 2018-19 school years, both original and transition scores and ratings (as applicable) must be reported. Additional guidance on APPR data collection and reporting requirements for the current school year will be provided in the spring of each school year.

M7. What steps can a district/BOCES take to facilitate participation in the statewide data system?

The key to successful participation in the statewide data system are student and human resource management systems that contain accurate and complete data for State reporting and subscribe to the appropriate standards for format and content. Schools and districts that have these systems in place will find that transferring data to the SIRS is an efficient process. To ensure that this process is as seamless as possible, please consider the additional recommended steps below:

- (1) Schools and districts are strongly advised to empower a data coordinator to provide leadership on the collection of data, oversee changes in and maintenance of the local data management systems, and chair a committee of school/district staff charged with ensuring the accuracy of data. This individual should have the authority to assign tasks and deadlines, as required. Data coordinators should be aware of the [TSDL resources](#) available to them.
- (2) Verify that your human resource and student management system will be capable of storing these Teacher of Record and other required data elements.
- (3) Plan to report subject-level course enrollment for elementary school students.
- (4) BOCES-operated programs and other schools that may not have a student management system with the capacities described above should continue to make the necessary arrangements to comply with these State requirements.
- (5) Develop the procedures and train staff to implement the collection, reporting, and verification steps outlined above.

M8. Which students in a course will be included in the State-provided growth score calculation for a teacher's evaluation?

Each student enrolled in a course leading to a State assessment in grades 4-8 ELA and math will contribute toward the State-provided growth score for all teachers assigned to the course as long as the student has an assessment score associated with the course, was reported as enrolled in the course to which the teacher was assigned prior to the administration of the assessment, has at least the immediate prior year, same subject State assessment score, and meets the minimum enrollment linkage requirement.¹¹⁶ Students and teachers must be “linked” for at least 60% of the course duration in order to generate a State-provided growth score for a teacher, based on the staff student course template data provided to NYSED by the LEA. Any student who is not enrolled in a course for at least 60% of the course will NOT count in the calculation of the teacher's MGP. A student who has met this 60% enrollment requirement will then have her or his SGP score weighted in the teacher's MGP proportionate to the student's enrollment and attendance in the course. For example, a student who was enrolled for 90% of the course duration with 90% of attendance is weighted 0.90×0.90 or 0.81.

¹¹⁶ During the 2015-16 through 2018-19 school years, such scores and ratings shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

M9. Who is the teacher of record for students at BOCES that belong to a particular district?

Teacher of record determinations will be made for evaluation purposes for every course. The teacher of a course in a BOCES-operated program will be the teacher of record for that course and the students who enroll. Teachers in local districts will be teachers of record for the district courses in which those students enroll.

M10. Is there a minimum amount of time a teacher must spend with a student to be considered the teacher of record?

There is not a minimum amount of time that a teacher must spend with a student to be considered the teacher of record. However, students and teachers must be “linked” for at least 60% of the course duration in order to generate a State-provided growth score. A student who meets this minimum amount of linkage to a teacher will then have her/his SGP score weighted by the proportion of time that the student was enrolled in and attended the course, based on the staff student course template data provided to NYSED by the LEA.

M11. What criteria will be used to “flag out” certain students from an educator’s State-provided growth score when using the “exclude flag” on the staff student course template?

Currently, for State-provided growth score calculations, students are currently not “flagged-out.” However, in extremely limited situations to be determined and published at a future date, students may be excluded from teacher of record aggregations for evaluation purposes. Once the rules for the student exclude flag are determined, this data element, like all other data elements used for performance accountability purposes, will need to be certified as accurate by the principal of a charter school or superintendent of a school district/BOCES.

M12. How should co-principal information be reported?

It is possible for districts, schools, and BOCES to associate students to principals by grade level, therefore allowing students within a school to have different principals (e.g., grades K-2 students are assigned to one principal; grades 3-5 to another). Specifically, districts/BOCES/schools will report principal information through the Staff Assignment template by reporting a record for each grade for which the principal is responsible for the purposes of beta modeling. For example, a grades 7-12 principal should have six staff assignment records and a grades K-6 principal should have seven staff assignment records. If a principal is responsible for the entire building, one staff assignment record with a grade level of “ALL” can be reported. In order to receive a State-provided growth score based on the high school measures, principals must be reported on the staff assignment template as being responsible for all of grades 9-12. A grades 9-10 principal, for example, will not have a 9-12 State-provided growth score calculated for her/him, and must be evaluated by SLOs according to the employer’s APPR plan. A grades 7-9

principal may have a State-provided growth score calculated for her/him based on the SGPs of her/his students in grades 7 and 8, if there are at least 16 students that meet the requirements for inclusion; however, the State-provided growth score will not include the high school measures for students in grade 9.

In order to ensure students are accurately linked to principals, the courses students take must be reported with a course location code in the staff student course record that matches the assignment location code on the appropriate principal's staff assignment record. In 2013-14 and beyond, this information will be used to generate a State-provided growth score for applicable principals.¹¹⁷

M13. Will the State collect and aggregate local student assessment results data for evaluation purposes?

No. The State will not collect local assessment results for the purposes of determining a teacher or principal score in the Student Performance Category. Districts will be responsible for all calculations made on locally selected assessments used in the Student Performance Category and must follow the providers' requirements, as set forth in the Assessment RFQ list of State-approved assessments. Additional information about reporting requirements under Education Law §3012-d will be forthcoming.

M14. What do “enrollment linkage” and “attendance linkage” mean?

Students are reported as linked to a teacher in two ways (i.e., “enrollment” linkage and “attendance” linkage):

- **“Enrollment linkage”** is defined as the amount of time that a teacher is assigned to the class and a student is enrolled in that class.
- **“Attendance linkage”** is defined as the amount of time that a teacher is assigned to a class, the student is enrolled in the class, and the student attends the class.

How enrollment and attendance linkage are reported will vary, depending on whether the class has a generally fixed schedule (i.e., generally meets during a fixed period of time each day) and whether class attendance is taken each time the class meets.

Courses that end in a State assessment require reporting entities to submit an assessment staff student course record (which tracks attendance and enrollment linkage to the day before the assessment period begins) and a roster staff student course record (which tracks attendance and enrollment linkage through the end of the course). Courses that do not end in a State assessment only require reporting entities to submit a roster staff student course record (end of year snapshot).

¹¹⁷ During the 2015-16 through 2018-19 school years, such scores and ratings shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

M15. How is enrollment and attendance linkage for classes that follow a generally fixed schedule and for which class attendance is taken reported?

If a teacher is assigned to a class with a generally fixed schedule (i.e., generally meets during a fixed period of time each day), the enrollment linkage for each student enrolled in that class will be calculated by the student management system (or other LEA systems, as appropriate) based on the beginning and end dates for the teacher assignment, the beginning and end dates for the student enrollment, and the daily start and end times for the class period. For example, if a teacher was assigned to teach a class from September 1 to June 25, the class met 40 minutes per day, and a student was enrolled in that class only one day (March 15), the enrollment linkage between that teacher and student would be 40 minutes.

The attendance linkage for each student enrolled in that class will be calculated by the student management system (or other LEA systems, as appropriate) based on the beginning and end dates for the teacher assignment, the beginning and end dates for the student enrollment, the daily start and end times for the class period, and the record of student attendance in the class. For example, if a teacher was assigned to teach a class from September 1 to June 25, the class met 40 minutes per day, and a student was enrolled in that class only one day (March 15), but was absent on that day, the attendance linkage between that teacher and student would be 0 minutes.

M16. How are student course enrollments in classes that are organized across subjects by “homeroom” or “common branch” reported?

In order to support teacher evaluation decisions, students, including students in elementary school, must be reported as enrolled in classes on a subject-by-subject basis. For example, if an elementary school student has the same teacher (typically referred to as a “homeroom” or “common branch” teacher) for English language arts, science, social studies, and math, the students must be reported as enrolled in four courses, with the same teacher assigned to each of these courses. If an elementary school student has one teacher for English language arts and social studies and another teacher for math and science, that student will also be reported in four courses with linkages to the teachers assigned to each class, as appropriate.

M17. How are enrollment and attendance linkage for classes that do not follow a fixed schedule reported?

Since some courses may not have predictable meeting times, it may not be practicable to capture these dynamic meeting schedules in student management system schedules. If that is the case, in order to ensure that data extracted from student management systems and reported to the State are accurate and fair, districts should schedule students in student management systems to capture the weekly average amount of time that courses meet. For example, if a course meets on a schedule that is too variable to capture in a student management system, but meets on average for 150 minutes per week, the course

could be scheduled in the student management system for 30 minutes per day in a five-day cycle in order to ensure that accurate linkage data are reported to the State.

For the purpose of reporting this information at the elementary level, schools and districts may choose to schedule the following “default” levels for English language arts, math, science and social studies classes that do not follow a fixed schedule: ELA and math scheduled at 45 minutes a day, five days a week, or 225 minutes per week; science and social studies at 45 minutes a day, three days a week, or 135 minutes per week. Schools and districts may choose to schedule and report different values that better describe local arrangements.

M18. How is attendance linkage for classes in which period attendance is not taken reported?

If schools, consistent with State attendance requirements (see 8 NYCRR §104.1)¹¹⁸, do not record period attendance in the student management system, the district may elect to have the student management system vendor use the daily attendance value as the period attendance value when reporting attendance linkage data to the State. For example, if a student was marked as “present” for the day, the district may elect to have the daily value of “present” be attributed to each class period in the student’s schedule for that day for the purpose of reporting attendance linkage. In elementary schools where attendance is not collected each period, but rather twice per day (i.e., morning, afternoon), it may be preferable to use the “morning” attendance status when reporting attendance linkage data for classes scheduled during the morning and the “afternoon” attendance status when reporting attendance linkage data for classes scheduled during the afternoon.

If districts/BOCES elect to use this method to report attendance linkage for classes during which period attendance is not typically recorded, the district should establish a procedure to guide the actions of an individual teacher who wishes to override period attendance information that is not accurately represented by the daily attendance value (e.g., if a student is marked present for the day, but he or she arrived to school late and was not present for a morning math session).

¹¹⁸ “Commencing July 1, 2003, attendance shall be taken and recorded in accordance with the following:

(i) for pupils in non-departmentalized kindergarten through grade eight such pupil's presence or absence shall be recorded after the taking of attendance once per school day, provided that if pupils in such schools are dismissed from school grounds during a lunch period, each such pupil's presence or absence shall also be recorded after the taking of attendance a second time upon the pupil's return from the lunch period each school day;

(ii) for pupils in grades 9 through 12 or in departmentalized schools at any grade level, each such pupil's presence or absence shall be recorded after the taking of attendance in each period of scheduled instruction except that where such pupils do not change classrooms for each period of scheduled instruction attendance shall be taken in accordance with subparagraph (i) of this paragraph.”

M19. How is enrollment and attendance linkage information for teachers who have a long-term absence or take a leave of absence reported?

In order to ensure that enrollment and attendance linkage information is accurate for teachers who have a long-term absence or a leave of absence, districts should end the teacher assignment (in the student management system or other LEA systems, as appropriate) as of the first day of the long-term absence or leave of absence and begin the teacher assignment again on the date that the teacher returns. For the purpose of reporting enrollment and attendance linkage information, a long-term absence or leave of absence is defined by applicable federal and state laws, rules and regulations and local policy/practice.

Substitute teachers, including long-term substitutes, are not subject to APPR but staff student course records accurately reflecting the time a long-term substitute instructs a class should be reported. This information is important for connecting student outcomes to principals.

Districts should confirm with their student management system vendor that ending teacher assignments will not delete any grade book information that the district wishes to retain.

M20. How are linkage duration adjustments reported on the staff student course template?

Enrollment and attendance linkage information depends on the accuracy of the course schedule in the student management system (or other LEA systems, as appropriate). As described above for classes that do not follow a fixed daily schedule, the course schedule in the student management system can be established based on the weekly course duration divided by the number of days in the weekly cycle.

It may not be practicable to use an electronic student management system to schedule all types of student instructional arrangements, such as pull-out and push-in sessions. Teacher-student linkage duration adjustments are percentages that can be used to adjust the teacher-student -course relationship to account for differences in instructional time that are not captured by the course schedule. These weightings are used for enrollment and attendance linkage reporting purposes to determine the extent to which a teacher's responsibility for a student's instruction is equal to or less than the full instructional window allowed by the course schedule.

A teacher-student linkage duration adjustment value of 100% indicates that the teacher is responsible for supporting the student's instruction during all times that the course meets. A value of 100% can be used regardless of whether additional teachers (e.g., co-teachers) are also responsible for supporting a student's course instruction. In other words, more than one teacher can simultaneously have a teacher-student linkage duration adjustment value of 100%.

A teacher-student linkage duration adjustment value that is greater than 0% but less than 100% may be used for a push-in teacher who is assigned to support students in a class for a consistent and recurring portion of the weekly class meeting time over the duration of the class. For example, a push-in teacher assigned to a class one day per week may be assigned a teacher-student linkage duration adjustment value of 20% for those students he or she is supporting.

A teacher-student linkage duration adjustment value that is greater than 0% but less than 100% may be used for a classroom teacher who has certain students who are pulled out of the class for a consistent and recurring portion of the class weekly meeting time over the duration of the class. For example, students enrolled in a class who are pulled out one day per week for instructional support may have a teacher-student linkage duration adjustment value of 80% for teacher(s) of the class from which they are being pulled.

A teacher-student linkage duration adjustment value of 0% may be used in the situation where a teacher is assigned to a course, but he or she has no instructional responsibility for certain students enrolled in that course. For example, a push-in reading teacher or a special education consultant teacher who pushes into a course one day a week may have a 20% teacher-student instructional weighting for certain students in a class, but 0% teacher-student instructional weighting for others.

If a teacher's teacher-student linkage duration adjustment value changes over the course of the year in a way that should be factored into evaluation decisions, the composite value can be calculated and reported. For example, if a teacher had a linkage duration adjustment value of 80% for a quarter of the year and 100% for the remaining three-quarters, the composite value would be $(0.8 \times 0.25) + (1 \times 0.75) = 0.95$, or 95%.

M21. What is the teacher-student linkage duration adjustment value between a special education inclusion teacher and the general education students enrolled in the course section to which he or she is assigned?

For evaluation purposes, special education teachers assigned to a course as part of an integrated co-teacher inclusion model are responsible for the learning outcomes of all students enrolled in the course. Therefore, the appropriate teacher-student linkage duration adjustment values should be reported to reflect the percentage of the scheduled course time that the student and teacher are present in the course. As with the general education teacher assigned to the course, these weights will typically be 100%.

A special education teacher assigned to work with a student on a part-time basis (i.e., one day per week) as part of a consultant teacher model may, for example, be assigned a 20% teacher-student linkage duration adjustment value for those students to which he or she offers instructional services and a 0% teacher-student linkage duration adjustment value for those students for whom the teacher does not provide instructional support.

M22. What is the minimum number of students required (minimum “n”) for a teacher in grades 4-8 ELA/math to receive a State-provided growth score?

The minimum number of SGP scores required for a growth score to be generated by the State for grades 4-8 ELA or math teachers and principals is 16 scores. This could be, for instance, 16 SGPs in one subject, or 8 students who have SGPs in both ELA and math.¹¹⁹

M23. Are there any reporting requirements for classes that contain all students for the NYSAA? Should they be mapped to the appropriate NYS course code without a corresponding State assessment or should there be no reporting for classes that are NYSAA students only?

Since there is no State-provided growth measure for NYSAA, these classes will have SLOs for the required subcomponent of the Student Performance Category. Therefore, if all students in a class are NYSAA-eligible and are not taking a State assessment, the course does not need to be linked to the State exam course codes. Rather, it should be linked to the appropriate course code that best describes the course curriculum.

If some of the students in the course are expected to take a State assessment, then all of the students in the course must be linked to the appropriate State exam course code. For purposes of a teacher or principal's evaluation under Education Law §3012-d, if enough students in a teacher's class take State assessments to generate a State-provided growth score, then the teacher will have a State-provided growth score. However, if there are not enough students to generate these measures, then the teacher is required to set SLOs and the teacher will need to set one of his/her SLOs using the NYSAA performance assessment as evidence. All teachers with students who take ELA or math State assessments must set backup SLOs for the required subcomponent of the Student Performance Category, in case there are not enough students to generate a State-provided growth score.¹²⁰

M24. Can the teacher be evaluated if he/she has different grades in the same class? For example, a few kids will take the grade 4 assessment, a few will take the grade 5, and a few will take the grade 6 assessment?

Yes, however, in order to ensure data quality for those elementary/middle-level courses in which a State assessment is offered (grades 3-8 ELA and math; grades 4/8 science), districts can report data to the State only for those students who are enrolled in the grade level identified by the State course code or are ungraded. For example, a grade 6 student cannot be reported as enrolled in a grade 8 math class for State reporting purposes. A student who is enrolled in a local course code that allows for multiple grades of enrollment must be reported to the State as enrolled using a State course code that aligns with the individual student's grade level.

¹¹⁹ During the 2015-16 through 2018-19 school years, such scores and ratings shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

¹²⁰ Except for principals of buildings that include all of grades 9-12, back-up SLOs for educators anticipated to receive a State-provided growth score are only required during the 2015-16 school year and beginning again in the 2019-20 school year.

M25. For grade 8 students who take both the grade 8 math State assessment and a Regents exam in math, which assessment will be used for calculating State-provided growth scores?

When a student takes both their appropriate grade-level math assessment and a Regents exam in math, the grade-level math assessment will be used for the State-provided growth score for teacher evaluations.¹²¹ Please see [Associate Commissioner Ira Schwartz's memo](#) for additional details.

However, the district/BOCES may choose the Regents exam as one of the choices for the optional subcomponent of the Student Performance Category. Therefore, these students must also be reported as enrolled in the Regents course they are taking and have an assessment staff student course record with a reporting date for the grade level math testing period.

M26. How should enrollment linkage and minutes be collected for teachers and principals related to the following students?

- **students who are in out-of-school suspension**
- **students suspended in-school**
- **students on medical leave**
- **homebound students**

In general, students are enrolled in courses and courses are linked to teachers. Teachers are responsible for keeping accurate attendance of students enrolled in their courses. Courses are linked to a school and, in turn, a principal for purposes of accountability. The following student groups may require additional reporting consideration as detailed below:

Students suspended in-school

Students who are suspended in-school must be continuously enrolled in the courses to which they are assigned. The student's attendance should accurately reflect whether the student received instruction by the teacher of the course on each school day they are suspended.

Students who are in out-of-school suspension

Students who are suspended out-of-school must be continuously enrolled in the courses to which they are assigned. The student's attendance should accurately reflect whether the student received instruction by the teacher of the course on each school day they are suspended. If a suspended student receives home instruction from a district tutor, the time with the tutor should only count towards course attendance if the tutor is also the teacher of record for the course in question.

¹²¹ During the 2015-16 through 2018-19 school years, such score and rating shall only be used for purposes of calculating original scores and ratings for advisory purposes only.

Homebound students

Homebound students (also known as home-tutored students) fall into two categories: a) students who remain enrolled in a school but are provided temporary instruction in the home, and b) students who are unable to attend school for the remainder of the school year because of a physical, mental, or emotional illness or injury substantiated by a licensed physician or, for students with disabilities, are placed in homebound instruction by the CSE and are instructed at home or in a hospital by a tutor provided by the district of responsibility.

Students who remain enrolled in a school (homebound type (a) above) must be continuously enrolled in the courses to which they are assigned. The student's attendance should accurately reflect whether the student received instruction by the teacher of the course on each school day they are in homebound status. If a suspended student receives home instruction from a district tutor the time with the tutor should only count towards course attendance if the tutor is also the teacher of record for the course in question.

Students who are unable to attend school for the remainder of the school year due to a physician substantiated illness/injury or CSE placement (homebound type (b) above), and are unenrolled from the school using exit code 238 (please see "Enrollment Exit Codes for Determining Continuous Enrollment for Grades 3–8 Students" in the [SIRS Manual](#)), should be reported with a staff student course record as follows:

- If the district does not appoint a new teacher of record to provide home instruction, or the original teacher of record provides home instruction/tutoring, a new student course record should be reported linking the student to the original course and teacher of record but include a new BEDS code- the first 8 digits of the district of residence BEDS code and "0777" as the last 4 digits. The linkage start date reported in the record should be the first date the student was not in attendance in the original class. The student's attendance should accurately reflect whether the student received instruction by the original teacher of record for the course on each school day they are in homebound status.
- If the district appoints a new teacher of record to provide home instruction/tutoring a new student course record should be reported linking the student to the new teacher of record using a new BEDS code- first 8 digits of the district of residence BEDS code and "0777" as the last 4 digits. The linkage start date reported in the record should be the first date the student receives home instruction/tutoring from the new teacher of record. The student's attendance should accurately reflect whether the student received instruction from the new teacher of record for the course on each school day they are in homebound status.

M27. If a student attends lessons separate from, and in addition to, the regularly scheduled class time, should the time that the lessons meet be included in the total instructional time for the course?

Teachers are linked to the courses they are assigned to as "teacher of record." Students who are enrolled in a teacher's course are linked to the teacher for that assignment. If a

teacher is assigned as “teacher of record” to a ‘lesson’ (e.g., music lesson), and that assignment is linked to a course code, then the time that the lesson meets would be considered part of a separate course and would not be included in the total instructional time (course duration) for the regularly scheduled course.

M28. If a student audits a general education course or attends a general education classroom for the purposes of socialization, should that student be enrolled in the course? Should that student be included in the creation of SLOs for the general education teacher?

If the student is not expected to learn the standards associated with the general education course, the student should not be enrolled in the course, should not be listed on the teacher’s roster for the course in the student information system, and would not be included in the SLOs for the general education teacher.

M29. How should enrollment and attendance linkage information for principals who have a long-term absence or take a leave of absence be reported?

In order to ensure that enrollment and attendance linkage information is accurate for principals who have a long-term absence or a leave of absence, districts should end the principal assignment (in the student management system or other LEA systems, as appropriate) as of the first day of the long-term absence or leave of absence and begin again the principal assignment on the date that the principal returns. For the purpose of reporting enrollment and attendance linkage information, a long-term absence or leave of absence is defined by applicable federal and State laws, rules and regulations and local policy/practice. Districts should confirm with their student management system vendor that ending principal assignments will not delete any grade book information that the district wishes to retain.

M30. What data do BOCES need to collect for itinerant teachers?

BOCES must collect TSDL data (staff student course template) and evaluation data (staff evaluation rating template) for only 4-8 ELA and/or math BOCES itinerant teachers. For all other itinerant teachers, BOCES must only collect evaluation data (staff evaluation rating Template).

M31. How should a district handle an evaluation for a teacher or principal who is out on a long-term leave of absence (e.g., medical, maternity)?

To the extent possible, any teacher or principal, who is the teacher/principal of record will need to be evaluated pursuant to the requirements of Education Law §3012-d and the requirements of the district’s/BOCES’ approved APPR plan. Districts/BOCES will need to determine locally their processes for conducting observations, setting SLOs (e.g., short-term SLOs), and other details about the APPR for these educators to ensure that, to the extent possible, they are evaluated pursuant to the requirements of Education Law §3012-d and the district’s/BOCES’ approved APPR plan. Please note that substitutes,

long-term or otherwise, are not covered by §3012-d, unless they are also teachers of record.

If it is not possible, due to extenuating circumstances beyond the control of the school district, for an evaluation to be completed for a teacher/principal who is a teacher/principal of record but is out on a long-term absence, SED asks that districts/BOCES track this information for auditing purposes. As per §30-3.13 of the Rules of the Board of Regents, SED reserves the right to annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify school districts, BOCES and/or schools where evidence suggests that a more rigorous evaluation system is needed to improve educator effectiveness and student learning outcomes. Moreover, Education Law §3012-d(11) links State aid increases to Commissioner's approval of documentation of full implementation by November 15, 2015 or by September 1 of each subsequent year. Please also see Questions C26, D58, and H9 for more information.

M32. How should online courses used to grant high school credit be reported?

NYSED regulations require the granting district to ensure that instruction in online/blended learning courses in which students earn high school credits used toward graduation requirements be provided by or under the direction and/or supervision of a teacher certified in the subject area of instruction. Such courses must provide regular and substantive interaction between students taking the course and the certified teacher. Refer to §100.5(d)(10) of the Regulations of the Commissioner of Education to ensure any online courses you report meet all other requirements.

The certified teacher must either be a certified teacher from the school district in which the student is enrolled; or a certified teacher from a board of cooperative educational services (BOCES) that contracts with the school district to provide instruction in the subject area where authorized pursuant to Education Law §1950; or a certified teacher from a school district who provides instruction in the subject area under a shared service agreement; or in the case of a charter school, a teacher of the subject area from a charter school. Please see the [Regulations of the Commissioner of Education](#) for further detail regarding how the teacher needs to be associated to the district.

For the purposes of APPR and TSDL, a teacher providing instruction or directing/supervising instruction would be the Teacher of Record. Districts, BOCES, and charter schools responsible for teachers serving in this role should report them with staff student course records linking them to the students they are assigned to instruct or supervise.

M33. How should online courses when students do not earn high school credit from course completion be reported?

For the purposes of APPR and TSDL, districts are not required to report information relating to online courses where students do not earn high school credit from course completion, including teachers and students in these courses.

M34. How should students of teachers of make-up or online courses be reported?

Make-up and online courses are being reported to SIRS and require submission of the student class grade detail record. Students will need to be linked to the teacher of record for the course. This teacher must be a certified teacher in the subject area of the course being taught who provides regular and substantive interaction with students taking the course.

M35. How should college courses used for granting high school credit be reported?

For online/distance learning college courses- Report these courses as you would any other online/distance learning course. This includes instruction provided by or under the direction and/or supervision of a teacher certified in the subject area of instruction who has regular and substantive interaction with students taking the course. For APPR and TSDL purposes, this teacher is a teacher of record. Districts should report teachers providing instruction or supervising/directing instruction with staff student course records linking them to the students they are assigned to instruct or supervise.

For college courses taught by college instructors (and/or district teachers) in a traditional classroom setting used for granting high school credit- Instruction must be provided by or under the direction and/or supervision of a teacher certified in the subject area of instruction who has regular and substantive interaction with students taking the course. For APPR and TSDL purposes, this teacher is a teacher of record. Districts should report teachers providing instruction or supervising/directing instruction with staff student course records linking them to the students they are assigned to instruct or supervise. Please see Question M33 and [Regulations of the Commissioner of Education 100.2\(o\)\(1\)\(i\)](#) for additional, related details.

M36. How should college courses be reported when students do not earn high school credit from course completion?

For the purposes of APPR and TSDL, districts are not required to report teachers and students in courses that do not result in high school credit from course completion.

M37. Do courses that do not end in a State assessment need to be broken out by grade?

- Art, PE, music, etc.
- Multi-grade elementary K-2 classes
- NYSAA and Special Education self-contained classes

If a multi-grade course does not end in a State assessment, then you do not need to break it out by grade. If a multi-grade class includes grade levels associated with State assessments, the course must be broken out by grade and linked to the appropriate State exam course codes for the purposes of reporting teacher-student data linkages.

M38. Should AIS, Push-in, and Pull-out courses be linked to State exam course codes?

For the purposes of teacher-student data linkage, AIS, Push-in, or Pull-out courses where the teacher of record is providing instruction that directly relates to the State assessment and is meant to help students succeed on the State assessment must be linked to the State exam course code. If the course is not providing instruction that relates to the assessment, use the course code that best describes the instruction provided.

Please refer to [New York State Comprehensive Course Catalog Frequently Asked Questions \(FAQ #25\)](#) for more information about reporting AIS courses. Please refer to [The New York State Comprehensive Course Catalog home page](#) for a list of State course codes.

M39. Must districts/BOCES/charter schools submit Student Class Grade Detail records for all courses that are required to have teacher-student data linkage (i.e., staff student course) information submitted to the State?

A Student Class Grade Detail record is required for a staff student course linkage unless ALL of the following are true:

1. No grade or other outcome is awarded for the scheduled time;
2. No credit is earned for the scheduled time; and
3. The linkage is not reflected on the student's report card or transcript.

If the course has no grade/other outcome, no credit earned, and the course is not reported on the student's transcript, a Student Class Grade Detail record does not need to be reported.

M41. If a class is being "taught" by a teaching assistant (TA), does the teacher who oversees the TA (gives them lesson plans, for instance) get tied to the class as the teacher of record and, therefore, have the students on his/her SLOs or growth scores from the State? Or do the students not go on anyone's SLO? Can Credit Recovery students be assigned to a TA and not be a part of anyone's APPR?

Teaching assistants are not included in APPR. The teacher of record that is primarily and directly responsible for the student's learning for this class must be linked. Instruction provided by TAs must be supervised by a certified teacher.

M42. How are home-schooled students reported?

Students who are home-schooled by definition are not enrolled in a school and should therefore not be enrolled in any course delivered by a school, BOCES, or district. These students are not linked to a school, teacher, or principal for TSDL or APPR purposes.

M43. How are minutes that are collected on the staff student course template being used?

The enrollment and attendance linkage durations (in minutes) that correspond to grades 4-8 ELA and math courses will be used to determine the amount of time that students were enrolled in the course while the teacher was assigned to the course and the amount of time that the student attended the course while he or she was enrolled and the teacher was assigned to the course; two elements that will be used in calculating a teacher's State-provided growth score.

In addition, NYSED will use these duration values, as well as additional TSDL information, for beta modeling of State-provided growth scores with other courses that lead to State assessments in additional grades and subject areas. NYSED will not be using TSDL information for APPR purposes for courses that do not lead to State assessments. However, it is still required to report this linkage information for all courses, as per the [“Updated Guidance on Reporting and Verifying Teacher-Student Data Linkages \(TSDL\) in the Student Information Repository System \(SIRS\)” memorandum](#), for instructional and classroom reporting purposes. District personnel should be sure to review the SIRS Manual to ensure data accuracy.

Data Submission

All public school districts, BOCES, and applicable charters are required to annually submit school year data to SIRS that includes the Required Student Performance subcomponent scores, the Optional Student Performance subcomponent scores, the Required Teacher Observation/Principal School Visit subcomponent scores, the Optional Teacher Observation/Principal School Visit subcomponent scores, and the Overall Ratings, for all teachers and principals.

M44. How must the data for subcomponent scores and overall ratings of classroom teachers and building principals be submitted to the Department for purposes of the October deadline?

Districts, BOCES, and charter schools should follow typical protocol regarding data submission. During the 2015-16 through 2018-19 school years, districts/BOCES must calculate two sets of scores and ratings (original and transition) for educators whose original APPR results are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. “Original” scores and ratings use all of the measures specified in the approved APPR plan, including the results of the grades 3-8 ELA and math State assessments and State-provided growth scores. Transition scores and ratings exclude the results of the grades 3-8 ELA and math State assessments and any State-

provided growth scores. During the 2015-16 school year, in instances where there are no remaining measures for either the required or optional subcomponents for the Student Performance Category for an affected educator for purposes of calculating transition scores and ratings, the district/BOCES shall not utilize the subcomponent(s) when determining the overall transition score and rating. The district/BOCES shall instead scale up the remaining portions of the evaluation to ensure that a new overall HEDI rating can be reported. During the 2016-17 through 2018-19 school years, in instances where excluding the results of the grades 3-8 ELA and math State assessments results and any State-provided growth scores results in no student performance measure for a teacher or principal in the Student Performance Category, districts/BOCES must develop an alternate SLO using assessments approved by the Department that are not the grades 3-8 ELA and math State assessments.

For questions regarding loading staff evaluation data into SIRS, please contact your [RIC/Big 5 City School District data center](#).

M45. What format should be used to enter APPR data on subcomponent scores and overall ratings of classroom teachers and building principals?

Some districts, BOCES and charter schools have Professional Development or Instructional Information Systems and even HR or Financial Systems that allow users to enter APPRs and export the data in the New York State data collection format. Other LEAs create spreadsheets in the NYS data collection format, while others manually enter the data in the Level 0 application. Follow typical protocol in your district/BOCES regarding data submission and/or formatting. If you have additional questions you may want to contact your Level 1 data center.

M46. Are we required to report both teacher and principal data on subcomponent scores and overall ratings?

Yes, both teacher and principal data are required to be submitted to the Department. By signing the Implementation Certification form that is due to the Department in August of each school year, districts/BOCES must assure that all data will be submitted to the Department starting in August, to the extent practicable, will be a complete and accurate representation of the information requested and includes the Required Student Performance subcomponent scores, the Optional Student Performance subcomponent scores, the Required Teacher Observation/Principal School Visit subcomponent scores, the Optional Teacher Observation/Principal School Visit subcomponent scores, and the overall ratings, for all teachers and principals employed by the district or BOCES, for the prior school year.

During the 2015-16 through 2018-19 school years, districts/BOCES must calculate two sets of scores and ratings (original and transition) for educators whose original APPR results are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. “Original” scores and ratings use all of the measures specified in the approved APPR plan, including the results of the grades 3-8 ELA and math State

assessments and State-provided growth scores. Transition scores and ratings exclude the results of the grades 3-8 ELA and math State assessments and any State-provided growth scores. During the 2015-16 school year, in instances where there are no remaining measures for either the required or optional subcomponents for the Student Performance Category for an affected educator for purposes of calculating transition scores and ratings, the district/BOCES shall not utilize the subcomponent(s) when determining the overall transition score and rating. The district/BOCES shall instead scale up the remaining portions of the evaluation to ensure that a new overall HEDI rating can be reported. During the 2016-17 through 2018-19 school years, in instances where excluding the results of the grades 3-8 ELA and math State assessments results and any State-provided growth scores results in no student performance measure for a teacher or principal in the Student Performance Category, districts/BOCES must develop an alternate SLO using assessments approved by the Department that are not the grades 3-8 ELA and math State assessments.

M47. What educator ID should be used when submitting the data on subcomponent scores and overall ratings of classroom teachers and building principals?

Staff Evaluation Rating records can be submitted using either the local ID (field 2) or the Alternate Staff (TEACH) ID (field 14). Either field 2 or field 14 is used, not both. The ID used (field 2 or 14) must match that defined in the Staff Snapshot table.

M48. What elements are required to be submitted to the Department for each teacher and principal in the Staff Evaluation Rating template?

Further guidance as to the data elements that are required to be submitted via the Staff Evaluation Rating Template can be found on the [Resources for Closeout of APPR page](#) on EngageNY.

M49. What are charter schools required to report?

Charter schools that are not required to implement the Education Law §3012-d evaluation rating categories (i.e., Highly Effective, Effective, Developing, Ineffective) must map their local evaluation rating categories to the State rating categories for State reporting purposes; please see Question M5. Most charter schools are only required to submit the HEDI rating for the "overall composite score" and not subcomponent scores, however there may be instances where a charter school is required to submit additional data to meet particular grant requirements where implementation of Education Law §3012-d is required. Please see Section O as well as the July 23, 2013 [Field Memo to NYS Charter School Leaders](#).

Charter schools outside of New York City should contact their [Regional Information Center](#) for support and guidance on submitting and verifying this data.

Charter schools in New York City should contact CSsupport@schools.nyc.gov for support and guidance on submitting and verifying this data.

M50. How do I find out if our data on subcomponent scores and overall ratings of classroom teachers and building principals has been submitted to the Department? I think we submitted our full and complete data set, but I would like to confirm and verify the data. How do we do so?

Your submitted data can be viewed in L2RPT-SIRS 325 Staff Evaluation Rating Verification Report in the Level 2 (L2RPT) Reporting System. If your data is not available in L2RPT, please follow typical protocol in regard to questions surrounding data submission, which may include contacting your Level 1 data center to determine if data has been submitted.

Please note: Staff Evaluation Rating Records can only be verified in the L2RPT-SIRS 325 Staff Evaluation Rating Verification Report. The report is a district-only report and as such, only users with district-level accounts can view and verify this data if provisioned in SEDDAS. The user must be granted access to L2RPT and Staff Evaluation (or Staff Evaluation Only) for the L2RPT application in SEDDAS.

M51. What should I do if there are incorrect data on subcomponent scores and overall ratings of classroom teachers and building principals in my Staff Evaluation Rating Report?

Prior to the October deadline, districts, charter schools, and BOCES should verify the data submitted to the Department Level 2 (L2RPT).

If you believe there has been an error in the data reported to the Department, please check your source data to confirm the data submitted to the Department is the correct data. If an error still exists after confirming your source data, contact your RIC or Big 5 City School District data center through your local Data Coordinator to confirm that the data submitted to the Department are the correct data before the October deadline.

M52. We do not have full and complete data on subcomponent scores and overall ratings for all of our educators. What data do we submit to the Department for those educators with incomplete subcomponent or category scores? Should a zero be used for an incomplete subcomponent or category?

Full and complete data, including subcomponent scores and overall ratings, are due to the Department no later than the October deadline. If for some reason, districts/BOCES have one or more educator(s) who are missing a subcomponent or category evaluation score, districts/BOCES should **not** report for any missing or incomplete subcomponent(s) and should **not** report an overall rating for those educator(s) who are missing one or more subcomponent score(s). A value of zero should only be reported for an educator's subcomponent score when the evaluation requirements for the subcomponent have been completed and the educator's performance merits a rating of zero.

During the 2015-16 through 2018-19 school years, districts/BOCES must calculate two sets of scores and ratings (original and transition) for educators whose original APPR results are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. “Original” scores and ratings use all of the measures specified in the approved APPR plan, including the results of the grades 3-8 ELA and math State assessments and State-provided growth scores. Transition scores and ratings exclude the results of the grades 3-8 ELA and math State assessments and any State-provided growth scores. During the 2015-16 school year, in instances where there are no remaining measures for either the required or optional subcomponents for the Student Performance Category for an affected educator for purposes of calculating transition scores and ratings, the district/BOCES shall not utilize the subcomponent(s) when determining the overall transition score and rating. The district/BOCES shall instead scale up the remaining portions of the evaluation to ensure that a new overall HEDI rating can be reported. During the 2016-17 through 2018-19 school years, in instances where excluding the results of the grades 3-8 ELA and math State assessments results and any State-provided growth scores results in no student performance measure for a teacher or principal in the Student Performance Category, districts/BOCES must develop an alternate SLO using assessments approved by the Department that are not the grades 3-8 ELA and math State assessments.

Please note that during the 2015-16 school year, for purposes of calculating transition scores and ratings, the district/BOCES must only scale up the remaining subcomponents for educators whose original measures are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. In all other instances, if the original staff evaluation record is incomplete, the transition staff evaluation record should also be incomplete.

M53. Should an Overall Rating be reported for an educator who is missing a subcomponent or category?

No, districts/BOCES should **not** report an overall rating for those educator(s) who are missing one or more subcomponent or category score(s). Please note that during the 2015-16 school year, for purposes of calculating transition scores and ratings, the district/BOCES must only scale up the remaining subcomponents for educators whose original measures are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. In all other instances, if the original staff evaluation record is incomplete, the transition staff evaluation record should also be incomplete.

M54. If an educator is missing a subcomponent score, should that educator be left out of the data file?

No, districts and BOCES must submit all complete data sets for that educator even if there is one or more subcomponent score(s) missing. However, an overall rating should not be submitted for an educator who is missing one or more subcomponent score(s). Please note that during the 2015-16 school year, for purposes of calculating transition scores and ratings, the district/BOCES must only scale up the remaining subcomponents

for educators whose original measures are based on the grades 3-8 ELA and math State assessments or any State-provided growth scores. In all other instances, if the original staff evaluation record is incomplete, the transition staff evaluation record should also be incomplete.

M55. How do I report an educator who was subject to evaluation under Education Law §3012-d, but for whom which there are no staff evaluation data? (i.e., missing both categories)

In the rare instance whereby an educator was subject to evaluation under Education Law §3012-d but is missing scores for all subcomponents (Required and Optional (if applicable) Student Performance and Teacher Observation/Principal School Visit), report this information within the Statement of Confirmation of Staff Evaluation Rating Certification Report Form located in the [SED Monitoring APPR portal](#).

This reporting will require the following information:

- Educator's Teach ID
- A selection from the drop-down menu indicating that there was no staff evaluation data reported for this individual

M56. What if an educator's rating is the subject of an ongoing appeal that will not be resolved by the October deadline, what data should be submitted? What if we have submitted and certified our data but due to an appeal an educator's rating changes after the October deadline?

The data submitted to the Department in October must be complete data as of that date. The Department understands that as a result of appeals data may still be the subject of change after the October deadline. Changes for staff evaluation data must be handled through the Level 0 Historical application for LEAs with approved appeals. More information about the process for submitting changes will be made available after the initial reporting cycle is complete.

As of May 2014, the following information is available on the [NYSED Office of Information and Reporting Systems' Data Reporting page for Level 0 Historical](#):

- For accounts/access to Level 0 Historical, LEAs must contact their organization's [SEDDAS Administrator](#).
- For instruction on use and navigation of the Level 0 Historical application, visit the [NYSED Longitudinal Data System Technical Assistance Center website](#) or make use of the help/resources available within the LOH application itself.
- For data issues (once a user is within the Level 0 Historical application), users should contact their local School/District Data Coordinator.

Statement of Certification Form Questions

The Statement of Confirmation of Staff Evaluation Rating Certification Report form is required to be signed by the LEA's certifying official who verifies that the data on subcomponent scores and overall ratings of classroom teachers and building principals provided for review in the Staff Evaluation Rating Verification Report(s) generated by L2RPT are complete and accurate. The Certification Form will be accessible to districts [via the SED Monitoring APPR portal](#).

M57. Where do I find the Statement of Confirmation of the Staff Evaluation Rating Certification Report?

The Statement of Confirmation of the Staff Evaluation Rating Certification Report can be found in [the SED Monitoring APPR portal](#).

M58. How do I submit the Statement of Confirmation of the Staff Evaluation Rating Certification Report?

The "Statement of Confirmation of the Staff Evaluation Rating Certification Report" should be submitted electronically [through the SED Monitoring APPR portal](#).

M59. I see there is an option to report educators who received a modified State-provided growth score. Under what circumstances would I report these educators?

There may be rare instances where an educator receives a State-provided growth score that can be modified and replaced by a locally-derived growth score. As a reminder, the four reasons a State-provided growth score can be modified and replaced by a locally-derived growth score are as follows:

- A principal has less than 30% of his or her students covered by the State-provided growth measures and the back-up SLO was used.
- A teacher has less than 50% of his or her students covered by the State-provided growth measure and the back-up SLO was used.
- A State-provided growth measure may have been provided for an educator who is not subject to Education Law §3012-d.
- Final determination of a local appeal.
- Final determination of an appeal to the State.

Please also see Question 14 of the [State-provided Growth Score FAQ](#) document.

M60. What needs to be reported if an educator received a modified State-provided growth score?

If an educator's State-provided growth score has been modified, the Statement of Confirmation of Staff Evaluation Rating Certification Report form, [located in the SED Monitoring APPR portal](#), requires the educator's Teach ID and a selection from the drop down menu indicating the reason for the modification of the State-provided growth score.

N. Prohibited Elements

N1. In the past, my district/BOCES used elements such as surveys, goal-setting, and BOCES-developed assessments in APPR. Are these still permissible to be used under Education Law §3012-d? What are considered “prohibited elements” under Education Law §3012-d(6)?

Education Law §3012-d(6) lists several elements that are no longer permitted for use in teacher or principal evaluations. These elements are as follows:

- Evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, except for student portfolios measured by a State-approved rubric where permitted by the Department;
- Use of an instrument for parent or student feedback;
- Use of professional goal-setting as evidence of teacher or principal effectiveness;
- Any district or regionally-developed assessment that has not been approved by the Department; and
- Any growth or achievement target that does not meet the minimum standards established by the Commissioner.

Please see relevant sections within this guidance document for further information about each of these prohibited elements:

- Section H addresses teacher observations and principal school visits
- Section F addresses the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*
- Questions D38-D84 address SLOs

N2. What State-approved assessment can my district/BOCES use to incorporate student portfolios into teacher and principal evaluations for the Student Performance Category

There is currently no State-approved assessment that uses a rubric to score performance-based or performance task assessments. However, districts/BOCES that are interested in having such an assessment considered by the Department may submit it, along with a rubric, for approval through the *RFQ for State-Designed Supplemental Assessments and Corresponding Growth Models and/or Assessments for Use with SLOs to be Used by New York State School Districts and Boards of Cooperative Educational Services (BOCES) in Teacher and Principal Evaluations*. Please see Questions F2-F6 for more information.

O. Charter Schools

O1. How does Education Law §3012-d apply to charter schools?

Public charter schools are not subject to the requirements of Education Law §3012-d regarding the annual professional performance review of classroom teachers and building principals.

O2. What data must charter schools submit?

All charter schools must report and verify TSDL data (except for the exemptions specified in the list of TSDL data elements in Appendix A of the memo). See Education Law §§215 and 2857(2)(a) and 8 NYCRR 119.3 (a)(3) and (7), (b)(1)(v) and (b)(6).

Charter schools outside of New York City should contact their [Regional Information Center](#) for support and guidance on submitting and verifying this data.

For charter schools in New York City, NYCDOE is working with NYSED to determine how best to continue to meet your data collection and reporting needs. NYCDOE will update NYC charter schools as soon as additional information is available.

The specific data elements that must be submitted by charter schools are outlined in the table above and in the [SIRS Manual](#).

P. APPR Privacy Law (Chapter 68 of the Laws of 2012)

Chapter 68 of the Laws of 2012 enacted a new subdivision (10) of Education Law §3012-c relating to the public disclosure of the results of APPRs of classroom teachers and building principals. This subdivision has been incorporated by §30-3.15 of the Rules of the Board of Regents. The following guidance addresses some of the questions arising out of Chapter 68, which strikes a balance between the privacy interests of teachers and principals and the interests of parents and the public for information on teacher and principal performance.

Guidance for Parents:

P1. How do I obtain my child's teachers' and principal's rating?

The ratings must be requested by the parent or legal guardian. Pursuant to Education Law §3012-c(10)(b), incorporated by §30-3.15 of the Rules of the Board of Regents, each school district/BOCES shall fully disclose and release to the parents and legal guardians of a student the final quality rating for each of the teachers, and for the principal of the school building, to which the student is assigned for the current school year upon the request of such parents and legal guardians. The governing body of each school

district/BOCES is required to provide conspicuous notice to parents and legal guardians of the right to obtain such information.

For purposes of disclosure to parents/guardians upon request pursuant to Education Law §3012- c(10)(b), as made applicable to Subpart 30-3, the original overall rating pursuant to Education Law §3012-c or §3012-d (as applicable) and Subpart 30-2 or 30-3 of the Rules of the Board of Regents (as applicable) shall be reported along with the overall transition rating and an explanation of such overall transition rating. This shall be done for the entire transition period, i.e., 2015-16 through 2018-19.

P2. Can I obtain the APPR rating for teachers and principals other than my child's current teachers and principal?

No. Aggregate data on the APPR ratings of teachers and principals in a school district must be made available as described in Question P6 below, but Education Law §3012- c(10)(c), incorporated by §30-3.15 of the Rules of the Board of Regents, prohibits the release of APPR data that is personally identifiable, other than the data that must be released to the parents or legal guardians concerning their child's current teachers and principal. The law provides that a parent and legal guardian may only obtain the final rating for the teachers and principal to whom their child is assigned for the current school year. Therefore, the parents or legal guardians may not receive the APPR ratings for teachers their child was assigned in the prior year or for other teachers in their child's school or district/BOCES.

P3. Do I have to make a request for my child's teacher's rating in writing or can I get his/her rating over the phone?

Education Law §3012-c(10)(b), incorporated by §30-3.15 of the Rules of the Board of Regents, authorizes a parent or legal guardian to receive such data in any manner, including by phone or in person and requires that they receive an oral or written explanation for the final quality ratings; and that they be offered opportunities to understand such ratings in the context of teacher evaluation and student performance.

To determine how to make a request for such information in your school district/BOCES, you should review your school district's or BOCES' policy on requests for such APPR information.

P4. As a parent, am I entitled to receive APPR data relating to my child's current teachers and/or principal other than their final quality rating?

Education Law §3012-c(10)(b), incorporated by §30-3.15 of the Rules of the Board of Regents, does not authorize or require the release of other APPR data, such as subcomponent ratings or subcomponent scores of an individual teacher; data may only be provided as described in Question P6 below and if such data are not personally identifiable.

Guidance for Districts:

P5. What are my obligations as a school district/BOCES to verify that it is a parent or legal guardian making a request for a teacher or principal's APPR rating?

The privacy law requires that school districts/BOCES ensure that any release to the public of APPR data does not include personally identifying information for any teacher or principal, provided, however, that nothing shall impair the right of parents and legal guardians to review and receive the final quality rating of individual teachers to whom their child is assigned for the current school year, and of the principal of their child's current school.

As a result, the law requires that reasonable efforts be made to verify that any request for APPR data for a child's current teachers or principal is a bona fide request by a parent or guardian entitled to review and receive such data pursuant to Education Law §3012-c(10)(b), incorporated by §30-3.15 of the Rules of the Board of Regents. Therefore, the Department recommends that each school district/BOCES consult with their local counsel to develop an appropriate confidentiality policy to ensure that only authorized individuals receive such information.

P6. What types of APPR data will be made available to the public for research, analysis and comparison of APPR data?

The law requires the Commissioner to fully disclose APPR data for teachers and principals in each school district/BOCES on the Department website and in any other manner to make sure data are widely available to the public. Such information will include the final quality ratings by school district for principal evaluation data, and by school building for teacher evaluation data and, within each district and school building, by class, subject and grade; final quality ratings by region, district wealth, district need category, student enrollment, type of school (i.e., elementary, middle and high school), student need (e.g. poverty level), and district spending; final quality ratings by the percentage or number of teachers and principals in each final quality rating category, moving to a higher rating category than the previous year, moving to a lower rating category than the previous year, and retained in each rating category; and data on tenure granting and denial based on the final quality rating categories¹²².

Please note that any data provided on the Department's website on the APPR ratings of teachers and principals will not reveal the teacher or principal's identity or any other personally identifying information.

For purposes of public reporting of aggregate data pursuant to Education Law §3012-c(10)(b), as made applicable to Subpart 30-3, the original subcomponent scores and overall ratings pursuant to Education Law §3012-c or §3012-d (as applicable) and

¹²² The Department will post this information on its website where the data are available.

Subpart 30-2 or 30-3 of the Rules of the Board of Regents (as applicable) shall be posted to the Public Data Site along with the transition ratings. This shall be done for the entire transition period, i.e., 2015-16 through 2018-19.

P7. Will members of the public be able to receive APPR reviews for teachers and principals in my school district under the Freedom of Information Law (FOIL)?

No, pursuant to Education Law §3012-c(10)(c), incorporated by §30-3.15 of the Rules of the Board of Regents, APPR's of individual teachers and principals shall not be subject to disclosure pursuant to Article 6 of the Public Officers Law, which is FOIL.

P8. Does Education Law §3012-c(10) restrict the sharing of APPR data with officers and employees of a school district/BOCES or with the State Education Department?

Education Law §3012-c(10)(c), incorporated by §30-3.15 of the Rules of the Board of Regents, prohibits the release of personally identifying APPR information to members of the public, and is silent about release to school district/BOCES officers or employees.

Section 84.3 of the Commissioner's regulations provides that information obtained from employee personnel records by members of the board of education shall be used only for the purpose of aiding members of the board to fulfill their legal responsibilities in making decisions in employee personnel matters, or to aid in the development and implementation of personnel policies, or such other uses as are necessary to enable the board to carry out legal responsibilities. Section 84.3 applies to APPR information.

Because Education Law §3012-c(10), incorporated by §30-3.15 of the Rules of the Board of Regents, is designed to balance the public's right to know and the privacy rights of teachers and principals, the Department recommends that the internal release of an individual teacher's or principal's final quality rating or any other personally identifying information to other school district officers and employees be similarly limited to those officers and employees whose access to such information is necessary to carry out their job responsibilities relating to employment decisions, APPR, and/or data management and data reporting and that all such officers and employees be bound by the confidentiality provisions of Education Law §3012-c(10)(c).

Therefore, the Department recommends that each school district/BOCES consult with their school attorney about your local policies on sharing such information.

Education Law §3012-c(10)(d), incorporated by §30-3.15 of the Rules of the Board of Regents, explicitly provides that nothing in subdivision (10) shall prohibit the State Education Department from collecting the APPR data and materials it needs to carry out its functions and duties.

Guidance for Educators:

P9. I just received my State-provided growth score from my school district/BOCES, will the State be publishing my State-provided growth score?

No, not in a manner that would personally identify you as the teacher or principal that received a specific growth score. Education Law §3012-c(10) was added by Chapter 68 of the Laws of 2012, and incorporated by §30-3.15 of the Rules of the Board of Regents, to protect the rights of parents and the public to access information about how the teachers, principals and schools charged with educating New York's children are performing, while also respecting teacher and principal privacy. This section prohibits the Department, school districts/BOCES from releasing to the public APPR data, or any other data that are used as a component of APPRs that includes personally identifying information for any teachers or principals, provided however, that nothing shall impair the right of parents and legal guardians to review and receive the final quality rating of individual teachers and principals. Therefore, individual teacher/principal State-provided growth scores will not be made available to the public, though aggregate data will be disclosed as discussed in P6 above.