

# **NEW YORK STATE EDUCATION DEPARTMENT**



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

UPDATED: July 16, 2014

## 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-c and §§100.2(o) and Subpart 30-2 of the Commissioner's regulations for the school years 2012-13 and beyond.

### Revised Teacher and Principal Evaluation Law

On March 14, 2012, the Assembly and Senate passed the revised teacher and principal evaluation law proposed by the Governor (S.6732/A. 9554). On March 27, 2012, the Governor signed the revised teacher and principal evaluation law as Chapter 21 of the Laws of 2012. At its March meeting, the Board of Regents adopted regulations to implement Education Law §3012-c, as amended by Chapter 21 of the Laws of 2012 (S.6732/A.9554), effective April 4, 2012.

The Legislature further amended Education Law §3012-c on July 1, 2012 (Chapter 68 of the Laws of 2012), March 30, 2012 (Part A Section 22 of Chapter 57 of the Laws of 2012), March 29, 2013 (Part A of Chapter 57 of the Laws of 2013), and March 31, 2014 (Chapter 56 of the Laws of 2014).

Chapter xx of the Laws of 2014 (Governor's Program Bill No. 56) applies to classroom teachers or building principals rated as Ineffective or Developing on their composite ratings in the 2013-14 and/or 2014-15 school years in an APPR conducted pursuant to Education Law §3012-c, where some portion of their APPR rating was based on a State assessment aligned with the Common Core in English language arts and/or math in grades 3-8. For these teachers and principals, Chapter xx of the Laws of 2014 provides that districts and BOCES must provide a "safety net calculation". If the "safety net calculation" is higher than the rating under Education Law §3012-c, the district/BOCES is precluded from making certain employment decisions based on the teacher's or principal's rating under Education Law §3012-c (termination decisions, tenure decisions, expedited hearings pursuant to Education Law §3020-a and decisions related to retention). Provided, however, that nothing in Chapter xx of the Laws of 2014 shall prevent the use of the following for employment decisions: observations, local assessments or other measures of the performance of the teacher or principal, other than their rating or a state 3-8 assessment aligned with the Common Core, whether or not they were included in an APPR.

Section 3012-c of the Education Law can be found at:

[http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=\\$\\$EDN3012-C\\$\\$@TXEDN03012-C+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=38733959+&TARGET=VIEW](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$EDN3012-C$$@TXEDN03012-C+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=38733959+&TARGET=VIEW)

The regulations that implement Education Law §3012-c can be found at:

<http://www.regents.nysed.gov/meetings/2012Meetings/March2012/312bra6.pdf>.

Revisions were made to the 2012 amendments to Education Law §3012-c at the June 2013 meeting of the Board of Regents (<http://www.regents.nysed.gov/meetings/2013Meetings/June2013/613p12hea1.pdf>), February 2014 meeting of the Board of Regents (<http://www.regents.nysed.gov/meetings/2014/February2014/214p12hea1.pdf>), March 2014 meeting of the Board of Regents (<http://www.regents.nysed.gov/meetings/2014/March2014/314brca11.pdf>), April 2014 meeting of the Board of Regents (<http://www.regents.nysed.gov/meetings/2014/April2014/413p12a1revised.pdf>), and June 2014 meeting of the Board of Regents (<http://www.regents.nysed.gov/meetings/2014/June2014/614monthmat.html>).

The New York State Education Department will provide additional or updated guidance as necessary on its website, [www.nysed.gov](http://www.nysed.gov).

## Frequently Requested Websites

*Please review the following websites for further information:*

1. **All New York State RFPs**  
<http://www.nyscr.org/Public/Index.aspx>
2. **List of Approved Student Assessments**  
For use by School Districts and BOCES in Teacher and Principal Evaluations  
<http://usny.nysed.gov/rttt/teachers-leaders/assessments/>
3. **List of Approved Teacher and Principal Practice Rubrics**  
<http://usny.nysed.gov/rttt/teachers-leaders/practicrubrics/>
4. **List of Approved Surveys**  
<http://usny.nysed.gov/rttt/teachers-leaders/approved-surveys/home.html>
5. **Network Team Institute (NTI) Training/Resources**  
<http://engageny.org/network-teams>
6. **NYSED Request for Proposals (RFPs), Race to the Top (RTTT)**  
<http://usny.nysed.gov/rttt/rfp/>
7. **Standards of Educational and Psychological Testing**  
<http://www.apa.org/science/programs/testing/standards.aspx>
8. **Student Learning Objectives (SLOs)**  
Guidance, Road Map, NYSED SLO Template, and Introductory Webinars  
<http://engageny.org/resource/student-learning-objectives/>
9. **Teacher-Student Data Linkages (TSDL) Guidance**  
Updated Guidance on Reporting and Verifying Teacher-Student Data Linkages (TSDL) in the Student Information Repository System (SIRS)  
<http://www.p12.nysed.gov/irs/teacher/>
10. **Teaching and Learning Resources**  
<http://www.engageNY.org>
11. **Teaching /Leader /Mentor Standards**
  - a. The New York State Teaching Standards. Web. 2011.  
<http://www.highered.nysed.gov/tcert/resteachers/teachingstandards.html>
  - b. Educational Leadership Policy Standards. Adopted by the National Policy Board for Educational Administration. Web. 2008.  
[http://www.ccsso.org/Documents/2008/Educational\\_Leadership\\_Policy\\_Standards\\_2008.pdf](http://www.ccsso.org/Documents/2008/Educational_Leadership_Policy_Standards_2008.pdf)
  - c. The New York State Mentoring Standards. Web. 2011.  
<http://www.highered.nysed.gov/tcert/resteachers/mentoring.html>

If you have further questions that are not answered here, please email [educatoreval@mail.nysed.gov](mailto:educatoreval@mail.nysed.gov) and your questions will be considered for inclusion in future revisions of this document.

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## A. Introduction

The New York State Board of Regents has committed to the transformation of the preparation, support, and evaluation of all teachers and school leaders in New York State. Chapter 103 of the Laws of 2010 and Chapter 21 of the Laws of 2012 amended Education Law §3012-c to fundamentally change the way teachers and principals are evaluated. The purpose of the evaluation system is to ensure that there is an effective teacher in every classroom and an effective leader in every school. The evaluation system will also foster a culture of continuous professional growth for educators to grow and improve their instructional practices.

Under the new law, New York State will differentiate teacher and principal effectiveness using four rating categories – Highly Effective, Effective, Developing, and Ineffective. Education Law §3012-c(2)(a) requires annual professional performance reviews (APPRs) to result in a single composite teacher or principal effectiveness score that incorporates multiple measures of effectiveness. 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).

The law specifies that student achievement will comprise 40% of teacher and principal evaluations, as follows:

- For teachers and principals in subjects and grades where there is no “Value-Added” model approved by the Board of Regents for such subject and grade: 20% on student growth on State assessments or comparable measures, and 20% on other locally selected measures that are rigorous and comparable across classrooms in accordance with standards prescribed by the Commissioner.
- For teachers and principals in subjects and grades where there is an approved “Value-Added” model by the Board of Regents for such subject and grade: 25% on student growth on State assessments or comparable measures, and 15% on other locally selected measures that are rigorous and comparable across classrooms, in accordance with standards prescribed by the Commissioner.

The remaining 60% of teacher and principal evaluations shall be based on multiple measures of teacher/principal effectiveness consistent with standards prescribed by the Commissioner in regulation. This will include the extent to which the educator demonstrates proficiency in meeting New York State’s teaching or leadership standards.

If a teacher or principal is rated Developing or Ineffective, the school district/BOCES is required to develop and implement a teacher or principal improvement plan (TIP or PIP). Tenured teachers and principals with a pattern of ineffective teaching or performance – defined

by law as two consecutive annual Ineffective ratings – may be charged with incompetence and considered for termination through an expedited hearing process.

The law provides further that all evaluators must be appropriately trained consistent with standards prescribed by the Commissioner and that appeals procedures must be locally-developed in each school district/BOCES.

The regulations are organized as follows:

**Section 30-2.1 of the regulations** clarifies that the existing APPR regulations (§100.2[o] of the Commissioner’s regulations) remain in effect for teachers and principals who are not subject to the provisions of Education Law §3012-c. For “teachers” and “building principals” subject to this law, school districts/BOCES must comply with the requirements in Subpart 30-2 of the Rules of the Board of Regents. It also reiterates the language from the statute that says the regulations do not override conflicting provisions of any collective bargaining agreement in effect on July 1, 2010 until the agreement expires and a successor agreement is entered into; at that point, however, the new evaluation regulations apply. This section also clarifies that nothing in the regulations shall be construed to affect the statutory right of a school district/BOCES to terminate a probationary teacher or principal for statutorily and constitutionally permissible reasons other than the performance of the teacher or principal in the classroom or school, including but not limited to misconduct. This section of the regulations was amended by the Board of Regents in June 2014 to clarify that performance under this section means a teacher’s or principal’s overall composite rating pursuant to an annual professional performance review conducted under this Subpart.

**Section 30-2.2** defines the terms used throughout the regulations.

**Section 30-2.3** lists the information that every district/BOCES must include in its APPR plan (also see Summary of Regulations below).

**Section 30-2.4** provides that, for the 2011-12 school year, only classroom teachers in the common branch subjects who teach English language arts and/or math to students in grades 4 through 8 and building principals employed in schools where such teachers are employed shall be subject to the requirements of the law. This section lays out the requirements for such teachers and principals. It provides that 20 points of the evaluation will be based on student growth on State assessments and 20 points will be based on locally selected measures; explains what types of locally selected measures of student achievement may be used (first for teachers, then for principals); and describes what types of other measures of effectiveness may be used for the remaining 60 points (first for teachers, then for principals).

**Section 30-2.5** lays out the requirements for evaluating all classroom teachers and building principals for the 2012-13 school year and thereafter (first for classroom teachers, then for principals in each subcomponent). This section explains the requirements for the State Growth or Other Comparable Measures subcomponent, the Locally Selected Measures subcomponent, and



describes what types of other measures of teacher or principal effectiveness may be used for the remaining 60 points.

**Section 30-2.6** explains how evaluations must be scored and rated.

**Sections 30-2.7 and 30-2.8** outline the processes by which the Department will review and approve teacher and principal practice rubrics and student assessments, respectively, for use in districts' and BOCES' teacher and principal evaluation systems.

**Section 30-2.9** describes the requirements for evaluator training. **Section 30-2.10** covers teacher and principal improvement plans, and **Section 30-2.11** covers appeals procedures.

**Section 30-2.12** provides that the Department will annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify districts, BOCES and/or schools where evidence suggests that a more rigorous evaluation system is needed. This section describes how the data will be analyzed and the consequences for non-compliance.

**New York State Teacher and Principal Evaluation**  
**2012-13 and beyond**

**Summary of regulations adopted by Board of Regents on March 30, 2012 to implement Education Law 3012-c, as amended by Chapter 21 of the Laws of 2012 (S.6732/A.9554)**

<b>Student Achievement Measures: Teachers 2012-13 and beyond</b>		
	<b>ELA/Math 4-8</b>	<b>All Other Classroom Teachers</b>
<p><b>Growth on State Assessments</b></p> <p>20 points</p> <p>(25 points with approved Value-Added measure)</p>	<ul style="list-style-type: none"> <li>• State-provided student scores comparing student growth to those with similar past test scores and which may include consideration of poverty, ELL, SWD status</li> <li>• Value-Added measure with additional controls when approved</li> <li>• Policies on Teacher of Record and linked students</li> </ul>	<ul style="list-style-type: none"> <li>• Additional grades/subjects covered by growth/Value-Added scores, as measures become available, based on existing and new (if resources are available) State assessments:               <ul style="list-style-type: none"> <li>○ All Math Regents</li> <li>○ PARCC as available</li> <li>○ If approved: 6-8 science, social studies, 9-10 ELA and related Regents</li> <li>○ If approved: progress monitoring in K-3 ELA, math</li> </ul> </li> </ul>
<p><b>Growth Using Comparable Measure</b></p> <p>20 points</p> <p>(when there is no State assessment with an approved growth/Value-Added measure)</p>	N/A	<p><b>For all applicable grades/subjects:</b> State-determined district-wide student growth goal-setting process (student learning objectives) used with:</p> <p><b>For core subjects: 8th grade Science, high school English Language Arts, Math, Science and Social Studies courses associated in 2010-11 with Regents exams or, in the future, with other State assessments:</b></p> <ul style="list-style-type: none"> <li>• State assessment (or Regents exam or Regent equivalents)</li> </ul> <p><b>For other grades/subjects: district-determined assessments from options below:</b></p> <ul style="list-style-type: none"> <li>• State assessment</li> <li>• State-approved third-party assessments<sup>1</sup></li> <li>• District, regional, or BOCES-developed assessments provided that the district/BOCES verifies comparability and rigor</li> <li>• School- or BOCES-wide, group or team results based on State assessments</li> </ul>

<sup>1</sup> Please note: Effective March 2, 2014, the Department has removed all third-party assessments for use in kindergarten through grade two **only** from its posted list. For further information about the regulatory amendments and the process for using non-traditional standardized assessments, please see: [Guidance on the Approved Regulatory Amendments to APPR to Help Reduce Local Testing](#), the [K-2 Annual Professional Performance Review \(APPR\) Assessment Guidance Document](#), and the [Removal of Traditional Standardized Third Party Assessments in K-2 FAQ](#). Please also note that school districts/BOCES with an APPR plan that was approved or determined by the Commissioner for use in the 2013-14 school year which remains in effect in the 2014-15 school year or thereafter in accordance with Education Law §3012-c(2)(l) may continue to use a standardized assessment that was on the State-approved list for students in grades K-2 prior to March 2, 2014, until a material change is made to their APPR plan and approved by the Commissioner to eliminate such use.

**Student Achievement Measures:  
Teachers  
(Continued)**

<p><b>Locally Selected Measures of Student Achievement</b></p> <p>20 points</p> <p>(15 points with approved Value-Added measure)</p>	<p><b>Locally comparable means:</b> The same locally selected measures of student achievement or growth across all classrooms in same grade/subject in district/BOCES.</p> <p>Districts may use more than one type of locally selected measure for different groups of teachers within a grade/subject if districts/BOCES prove comparability based on standards of Educational and Psychological Testing.</p> <p><b>Growth or achievement measure(s) from these options.</b> <i>Locally selected and points assigned to teachers in manner determined locally, through collective bargaining, using regulatory standards and scoring bands.</i> Measures based on:</p> <ul style="list-style-type: none"> <li>● State assessments, Regents examination and/or Regent-equivalent assessments provided that they are <b>different than</b> the measure used for the State Growth or Other Comparable Measures subcomponent above. These include: <ul style="list-style-type: none"> <li>○ Teacher-specific change in percentage of students who achieve a specified level of performance on State assessments (<i>e.g. 3% point increase in number of students earning the proficient level 3 or better on the grade 7 State math test compared to those same students' performance on the grade 6 State math test</i>)</li> <li>○ Teacher-specific growth computed by the State based on percentage of students who achieve a State-determined level of growth (<i>e.g. percentage of students whose growth is at least average for similar students</i>)</li> <li>○ Other teacher-specific growth or achievement measure using State assessments, Regents exams and/or department approved alternative examinations computed in a manner determined locally</li> </ul> </li> <li>● State-approved list of third-party assessments</li> <li>● District, regional or BOCES-developed assessments provided that the district/BOCES verifies comparability and rigor vs. Testing Standards to the extent practicable.</li> <li>● School-wide growth or achievement results based on: <ul style="list-style-type: none"> <li>○ State-provided school-wide growth score for all students in a school taking the State ELA or math assessment in grades 4-8.</li> <li>○ Locally-computed measure based on State assessment, State-approved third-party assessment, or a district, regional or BOCES-developed assessment for which the district/BOCES verifies comparability and rigor.</li> </ul> </li> <li>● Student learning objectives (<i>if teachers do not have State-provided growth or Value-Added measures for Growth subcomponent</i>): <ul style="list-style-type: none"> <li>○ Used with any State, State-approved third-party or district, regional, or BOCES-developed assessment, provided that the district/BOCES verifies comparability and rigor.</li> <li>○ These measures must be <b>different than</b> the measures used with student learning objectives as a comparable growth measure in the Growth subcomponent.</li> </ul> </li> </ul>
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<b>Student Achievement Measures Principals 2012-13 and beyond</b>		
<b>Growth on State Assessments</b>	<b>Elementary/Middle</b>	<b>High Schools</b>
20 points  (25 points with approved Value-Added measure)	<ul style="list-style-type: none"> <li>• Result of student growth/Value-Added measure as applied to State assessments in 4-8, ELA/math</li> <li>• Add grades and/or subjects as growth/Value-Added measure applies</li> </ul>	<ul style="list-style-type: none"> <li>• Result of principal student growth percentile/Value-Added measure as applied to State assessments and/or graduation rates</li> <li>• Add subjects as growth/Value-Added measure applies</li> </ul>
<b>Other Comparable Measures</b>  If principal is not covered by a State-provided growth or Value-Added measure	State-determined district-wide student growth goal setting process (student learning objectives) with one of the following assessment options: <ul style="list-style-type: none"> <li>• State assessment</li> <li>• State-approved third-party assessments</li> <li>• District, regional, or BOCES-developed assessments provided that the district/BOCES verifies comparability and rigor</li> </ul>	
<b>Locally Selected Measures of Student Achievement</b>  20 points  (15 points after Value-Added measure is approved)	Comparable means the same locally selected measures used for all principals in same or similar programs or grade configuration across district/BOCES.  <b>Locally selected and points assigned to principals in manner determined locally, through collective bargaining, using regulatory standards and scoring bands.</b>	
	<b>Growth or achievement measures from these options (must be different than measures used for Growth subcomponent):</b> <ul style="list-style-type: none"> <li>• Achievement levels on State tests (% proficient or advanced) in ELA and math grades 4 to 8</li> <li>• Growth or achievement for student subgroups (SWD, ELL) on State assessments in ELA and math grades 4 to 8</li> <li>• Growth or achievement of students in ELA and math grades 4 to 8 at each specific performance level (e.g. level 1, level 2) on State or other assessments</li> <li>• Student learning objectives (if principals do not have State-provided growth or Value-Added measures for Growth subcomponent) used with any State assessment or an approved student assessment or a district, regional or BOCES-developed assessment that is rigorous and comparable across classrooms</li> <li>• Student performance on any district-wide locally selected assessments approved for use in teacher evaluations</li> </ul>	<b>Growth or achievement measures from these options (must be different than measures used for Growth subcomponent):</b> <ul style="list-style-type: none"> <li>• Percent of cohort achieving specified scores on Regents exams or other Regents-equivalents</li> <li>• Graduation rates (4,5,6 years) and/or drop-out rates</li> <li>• Graduation % with Advanced designation and/or honors</li> <li>• Credit accumulation (e.g. grades 9 and 10) or other strong predictor of progress toward graduation</li> <li>• Student learning objectives (if principals do not have State-provided growth or Value-Added measures for Growth subcomponent) used with any State assessment or an approved student assessment or a district, regional or BOCES-developed assessment that is rigorous and comparable across classrooms</li> <li>• Student performance on any district-wide locally selected assessments approved for use in teacher evaluations</li> </ul>

OTHER 60 POINTS TEACHER		OTHER 60 POINTS PRINCIPAL
<b>Standards</b>	NYS Teaching Standards	ISLLC 2008
<b>Choice of Rubrics (through collective bargaining)</b>	Menu of State-approved rubrics to assess performance based on standards. <i>Also district variance process available for district/BOCES that seeks to use a rubric not on State-approved list.</i>	
<b>Requirements and options based on practice rubric:</b> Options selected locally, and points assigned based on standards in regulation in a manner determined locally, through collective bargaining.		
<b>Requirements:</b> <ul style="list-style-type: none"> <li>• Multiple measures</li> <li>• At least a majority (31) of the 60 points shall be based on multiple (at least 2) classroom observations by principal, or other trained administrator, at least one of which must be unannounced: <ul style="list-style-type: none"> <li>○ Observations may be conducted in-person or using video</li> </ul> </li> <li>• Any remaining points shall be allocated to one or more of the following: <ul style="list-style-type: none"> <li>○ One or more observation(s) by trained evaluators independent of school</li> <li>○ Observations by trained in-school peer teachers</li> <li>○ Feedback from students and/or parents using State-approved survey tools</li> <li>○ Structured review of lesson plans, student portfolios and/or other teacher artifacts</li> </ul> </li> <li>• Any remaining teaching standards not addressed in classroom observation must be assessed at least once a year</li> </ul>		<b>Requirements:</b> <ul style="list-style-type: none"> <li>• Multiple measures</li> <li>• At least a majority (31) of the 60 points shall be based on broad assessment of principal leadership and management actions based on the practice rubric by the supervisor, a trained administrator or a trained independent evaluator: <ul style="list-style-type: none"> <li>○ Must incorporate multiple school visits by supervisor, trained administrator, or trained independent evaluator, at least one of which must be from a supervisor, and at least one of which must be unannounced</li> </ul> </li> </ul> <p>Any remaining points shall be assigned based on: results of one or more ambitious and measurable goals set collaboratively with principals and their superintendents or district superintendents as follows:</p> <ul style="list-style-type: none"> <li>• At least one goal must address the principal’s contribution to improving teacher effectiveness, based on one or more of the following: <ul style="list-style-type: none"> <li>○ Improved retention of high performing teachers;</li> <li>○ Correlation of student growth scores to teachers granted vs. denied tenure; or</li> <li>○ Improvements in proficiency rating of the principal on specific teacher effectiveness standards in the principal practice rubric</li> </ul> </li> <li>• Any other goals shall address quantifiable and verifiable improvements in academic results or the school’s learning environment (e.g., student or teacher attendance)</li> <li>• Goals shall include at least two other sources of evidence from the following options: <ul style="list-style-type: none"> <li>○ structured feedback from teachers, students, and/or families using a State-approved tool (each constituency is one source);</li> <li>○ school visits by other trained evaluators</li> <li>○ review of school documents, records, and/or State accountability processes. (all documents are one source)</li> </ul> </li> </ul> <p>Any remaining leadership standards not addressed in the assessment of the principal’s leadership and management actions must be assessed at least once a year.</p>

**Teacher and Principal: Subcomponent and Composite Scoring and Ratings**

**What is State-determined:**

- Scoring bands for Growth and Local subcomponents, and for Composite Score to determine an educator’s rating category of Highly Effective, Effective, Developing and Ineffective (HEDI).
- Process for assigning points to educators for the State Growth or Other Comparable Measures subcomponent. (districts will determine the points assigned to educators with student learning objectives in this subcomponent, following State guidance).

**What is locally-established through negotiations:**

- Scoring bands for the Other Measures of Effectiveness (60 point) subcomponent
  - The process for assigning points in the Locally Selected Measures and the Other Measures of Effectiveness subcomponents.
- The process by which points are assigned in subcomponents and the scoring ranges for the subcomponents must be transparent and available to those being rated before the beginning of each school year.
  - The assignment of points in each subcomponent must ensure it is possible for an educator to obtain any of the available points (including 0) in the subcomponents.
  - Districts and collective bargaining units, where one exists, must certify that the process for assigning points will use the narrative descriptions below to effectively differentiate educators’ performance in ways that improve student learning and instruction.

<b>Standards for Rating Categories</b>	<b>Growth or Other Comparable Measures</b>	<b>Locally Selected Measures of Growth or Achievement</b>	<b>Other Measures of Effectiveness (Teacher and Leader Standards)</b>
<b>Highly Effective</b>	Results are well-above State average for similar students (or District goals if no State test).	Results are well-above District or BOCES -adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results exceed standards.
<b>Effective</b>	Results meet State average for similar students (or District goals if no State test).	Results meet District or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results meet standards.
<b>Developing</b>	Results are below State average for similar students (or District goals if no State test).	Results are below District or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results need improvement in order to meet standards.
<b>Ineffective</b>	Results are well-below State average for similar students (or District goals if no State test).	Results are well-below District or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results do not meet standards.

*For educators for whom there is no approved Value-Added measure of student growth the scoring ranges will be:*

Where there is no Value-Added measure	Growth or Other Comparable Measures	Locally Selected Measures of Growth or Achievement	Other Measures of Effectiveness (60 points)	Ranges determined locally	Overall Composite Score
Highly Effective	18-20	18-20			91-100
Effective	9-17	9-17			75-90
Developing	3-8	3-8			65-74
Ineffective	0-2	0-2			0-64

*For educators for whom there is an approved Value-Added measure for student growth the scoring ranges will be:*

Where Value-Added growth measure applies	Growth or Other Comparable Measures	Locally Selected Measures of Growth or Achievement	Other Measures of Effectiveness (60 points)	Ranges determined locally	Overall Composite Score
Highly Effective	22-25	14-15			91-100
Effective	10-21	8-13			75-90
Developing	3-9	3-7			65-74
Ineffective	0-2	0-2			0-64

*For the 2013-14 school year and thereafter, the Commissioner will review specific scoring ranges annually before the start of each school year and recommend any changes to the Board of Regents for consideration<sup>2</sup>.*

### **State Approval Required for District Annual Professional Performance Review Plan**

Each district must submit a complete APPR plan, using a State-prescribed form, for Commissioner approval. The new system is intended to ensure evaluation plans that are rigorous, transparent and fair. The Commissioner may reject a plan that does not meet these criteria through rigorous adherence to the law and/or the APPR regulations. The APPR plan must describe the following:

- The process for ensuring that NYSED receives timely and accurate teacher, course and student “linkage” data, and the process for teachers and principals to verify the courses and/or student rosters assigned to them.
- The process for reporting to NYSED the individual subcomponent scores and the total composite effectiveness score for each applicable educator.
- The assessment development, security, and scoring processes used by the district/BOCES, including ensuring that assessments 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.

<sup>2</sup> Based on the arguments presented in the NYC arbitration proceeding held on May 30 and 31 and pursuant to his authority in Education Law §3012-c(2)(a), the Commissioner imposed new proportional scoring ranges for use in NYC for the 2013-14, 2014-15, 2015-16 and 2016-17 school years. Please see the following link for a description of these scoring ranges: <http://usny.nysed.gov/rttt/teachers-leaders/plans/docs/new-york-city-appr-plan.pdf>.

- The details of the evaluation system, including options selected for the Locally Selected Measures of student achievement for each grade and subject.
- Decisions about teacher and principal practice rubrics; survey tools, if any, to be used in the “other measures” category. How many observations or school visits will be conducted by whom, how many unannounced, and what other procedures have been agreed to for the Other Measures of Effectiveness subcomponent.
- Descriptions of the process used in the district for assigning points based on results to educators for each subcomponent (including student learning objectives where applicable in the Growth subcomponent, the Locally Selected Measures subcomponent, and the Other Measures of Effectiveness subcomponent). This process must be based on the Commissioner’s standards for the HEDI rating criteria and must ensure that it is possible for an educator to earn each point, including 0, in the subcomponent scoring range, and that it is possible for an educator to earn any of the four rating categories (HEDI) for a subcomponent. This section must include the locally-negotiated HEDI scoring bands for the Other Measures of Effectiveness subcomponent.
- How educators will receive timely and constructive feedback as part of the evaluation process.
- Description of the Teacher or Principal Improvement Plan and process for developing and monitoring an individual educator’s TIP or PIP, which must be in place for educators with a Developing or Ineffective rating within 10 school days from the opening of classes in the school year following the performance year.
- How appeals of annual performance evaluations will be handled in a timely, expeditious way.
- How the district/BOCES will ensure that all evaluators are properly trained and that lead evaluators, who complete an individual’s performance review, will be “certified” to conduct evaluations, consistent with regulations. Evaluator training must address specific considerations in evaluating teachers and principals of English language learners and students with disabilities.
- How the district/BOCES will ensure that lead evaluators maintain inter-rater reliability over time, and how they will periodically recertify lead evaluators.

### **Other Requirements in Regulations**

- Annual professional performance reviews for each educator must be completed and results provided to the educator by **September 1** of the school year following the evaluation year. The rating on the Other Measures of Effectiveness subcomponent and any of the other two subcomponents for which the evaluation rating is available shall be computed and provided to the educator before the end of the school year for which the performance is being measured.
- NYSED will conduct ongoing monitoring and may require corrective action around evaluation implementation including requiring additional professional development or in-service training, and/or utilizing independent trained evaluators to review the efficacy of the evaluation system.
- Nothing in the statute or regulations shall be construed to affect the statutory right of a school district/BOCES to terminate a probationary teacher or principal for statutorily and constitutionally permissible reasons other than the performance of the teacher or principal in the classroom or school, including but not limited to misconduct.
- Nothing in the statute or regulations 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 probationary building principals during the pendency of an appeal pursuant to this section for statutorily and constitutionally permissible reasons other than the teacher’s or principal’s performance that is the subject of the appeal.
- Effective May 10, 2014, any plan submitted to the Commissioner for approval for use in the 2014-15 school year and thereafter shall include a signed certification, on a form prescribed by the Commissioner 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 the grade; and
- 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 or federal law relating to English language learners or the individualized education program (IEP) of a student with a disability.

- No APPR plan shall be approved for use in the 2014-15 school year or thereafter that provides for the administration of traditional standardized assessments to students in kindergarten through grade two that are not being used for diagnostic purposes or are required to be administered by federal law, including but not limited to assessments developed by any vendor, third-party, or other comparable entity; except this shall not preclude the use of school-or BOCES-wide, group or team results using State assessments that are administered to students in higher grades in the school or district, regional or BOCES developed student assessments that are developed in collaboration with a vendor, if otherwise authorized by the Commissioner. This shall not apply to any APPR plan that is approved or determined by the Commissioner for use in the 2013-14 school year which remains in effect in the 2014-15 school year or thereafter in accordance with Education Law §3012-c(2)(l). Effective March 2, 2014, the Department has removed all third-party assessments for use in kindergarten through grade two only from its posted list. For further information about the regulatory amendments adopted at the February, March, and April 2014 Regents' meetings, please see: [Guidance on the Approved Regulatory Amendments to APPR to Help Reduce Local Testing](#), [K-2 Annual Professional Performance Review \(APPR\) Assessment Guidance Document](#), and the [Removal of Traditional Standardized Third Party Assessments in K-2 FAQ](#).
- Chapter xx of the Laws of 2014 (Governor's Program Bill No. 56) applies to classroom teachers or building principals rated as Ineffective or Developing on their composite rating in the 2013-14 and/or 2014-15 school years in an APPR conducted pursuant to Education Law §3012-c, where some portion of their APPR rating was based on a State assessment aligned with the Common Core in English language arts and/or math in grades 3-8. For these teachers and principals, districts and BOCES must provide a "safety net calculation". If the "safety net calculation" is higher than the rating under Education Law §3012-c, the district/BOCES is precluded from making certain employment decisions based on the teacher's or principal's rating under Education Law §3012-c (termination decisions, tenure decisions, expedited hearings pursuant to Education Law §3020-a and decisions related to retention). Provided, however, that nothing shall prevent the use of the following for employment decisions: observations, local assessments or other measures of the performance of the teacher or principal, other than their rating or a state 3-8 assessment aligned with the Common Core, whether or not they were included in an APPR.

## B. Educators Covered by the Law

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

The statute provides for a phase-in of the new evaluation system. In the 2011-12 school year, the new evaluation system includes teachers of English language arts (ELA) and/or math in grades 4-8 (including common branch teachers who teach ELA or math) and the building principals of the schools in which those teachers are employed. Beginning in the 2012-13 school year, the evaluation system includes all classroom teachers and building principals.

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 new law?**

The law requires that all classroom teachers be evaluated under the new law. 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 30-2.2 of the Rules of the Board of Regents.

*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 new law.

**Section 30-2.2(d) of the Commissioner’s regulations also excludes supplemental school personnel** (e.g., teacher aides and teaching assistants) and the definitions in sections 30-2.2 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-c 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 new law beginning in the 2012-13 school year if they are teachers of record.

### *Speech Teachers*

**Speech teachers**, who are teachers of record, and are certified under section 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 section 80-1.1 of the Commissioner's regulations. Therefore, they are considered classroom teachers pursuant to Education Law §3012-c 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-c.

### *Substitute Teachers*

**Substitutes**, long-term or otherwise, are not covered by §3012-c 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 new evaluation system beginning in the 2012-13 school year. 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 “building principal”?**

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

A co-principal means a certified administrator 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 new 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-c, §100.2(o) of the Commissioner's regulations, and Subpart 30-2 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 new 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 BOCES comply with the new APPR for the 2012-13 school year and beyond?**

Yes, BOCES must comply with the new APPR for the 2012-13 school year and each school year thereafter.

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

Yes. Special education teachers in team-teaching classrooms are subject to the new evaluation requirements. Co-teachers will receive the same evaluation score, based on all of the students in the classroom, for the State Growth or Other Comparable Measures subcomponent whether it is a State-provided growth measure or a student learning objective. The district/BOCES must then evaluate both teachers pursuant to the requirements of the law and implementing regulations for the remaining subcomponents

(i.e., Locally Selected Measures and Other Measures of Teacher Effectiveness). The district/BOCES must determine locally whether both co-teachers will receive the same scores for Locally Selected Measures and/or Other Measures of Effectiveness subcomponents, or if the co-teachers will receive individual scores for the remaining subcomponents.

**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 new 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 Value-Added provider to determine when and how these data can be incorporated into evaluations for teachers and principals. Until then, AIS teachers will have student learning objectives (SLOs) for their State Growth or Other Comparable Measures subcomponent (see [Section D](#) for further information on the use of SLOs).

**Questions Added to August 2012 Guidance**

**B9. Are Article 81 schools, Special Act districts, State-supported or State-operated schools included in Education Law §3012-c? 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-c, 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-c 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-c 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-c 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-c?**

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-c.

**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-c?**

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-c.

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

Beginning in the 2012-13 school year, all classroom teachers and building principals must be evaluated under Education Law §3012-c. "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-c.

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-c.

**Questions added to July 2013 Guidance**

**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

### Approval Process, Plan and State-Required APPR Form

#### **C1. What is the timeline for the APPR plan approval process?**

- The APPR portal for the next school year will be made available in late spring or early summer of the preceding school year.
- The review of submitted APPR plans is done on a rolling basis (please see Question C8 for more information about annual submission deadline).
- For any district/BOCES that utilizes the Expedited Material Change Process to eliminate unnecessary assessments required for students for APPR purposes, the Commissioner shall complete the review of material changes that are properly and completely submitted within 10 business days of submission (please see Question C8 for more information about this process).
- If a district does not have an approved plan by September 1, the most recently approved plan will remain in effect (please see Question C10).
- If a district is not fully implementing an approved plan by September 1, that district will not be eligible to receive an increase in State aid for the school year (please see Questions C30 and C31).
- In order to demonstrate that each district/BOCES has fully implemented their approved APPR plan for the prior school year, 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 at: <http://usny.nysed.gov/rtt/teachers-leaders/appr-implementation-certification.html>. This completed form must be submitted annually irrespective of the district's/BOCES' decision to make material changes to their approved APPR plan.

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

Districts/BOCES will no longer need to include their grant award information in the APPR Review Portal. Under Education Law §3012-c(2)(l), any district 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. Thus, with a few exceptions, the various grant program APPR requirements or deadlines will not be an issue where an approved APPR plan already exists. However, be aware that various grant programs may have different APPR requirements or deadlines (e.g., fully implementing the approved APPR plan as a requirement for grant award or continuation), which may require additional documentation.

**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-c and Subpart 30-2 of the Rules of the Board of Regents. The individual who submits the district’s 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. How 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 Teachers and Principals Law and regulations.
- By consulting NYSED’s documents posted on EngageNY at <http://engageny.org/>, such as the teacher and principal evaluation road maps, APPR training modules, etc.
- 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@mail.nysed.gov](mailto:educatoreval@mail.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 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 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 locally selected measures including assessment options; allocation of points based on SLOs or local assessments; or change in allocation of points for “Other Measures.”

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 Education Law §3012-c and Subpart 30-2 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 or determined by the Commissioner pursuant to Education Law §3012-c(2)(m).

In addition, on January 2, 2014, Commissioner King announced that the United States Department of Education (USDE) had approved New York State's request for a waiver from Elementary and Secondary Education Act (ESEA) provisions that currently require students who take Regents exams in math when they are enrolled in seventh or eighth grade to also take the State math assessment for that grade. In response to this approval, the Department has also provided an expedited review process for districts/BOCES that want to make a material change to the portions of their APPR plan that are impacted by this ESEA waiver. (Please see: <http://www.engageny.org/resource/guidance-on-recently-approved-elementary-and-secondary-education-act-waiver>). As part of the expedited review, the Department will only review the listed material changes included on the [ESEA Waiver Material Change Form](#). No other portion of the APPR plan will be reviewed by the Department for compliance with Education Law §3012-c. If your district/BOCES has concerns regarding the implementation of measures in its currently approved APPR plan in light of the ESEA waiver, the Department recommends that you consult with your local counsel before determining whether a material change is needed to your currently approved APPR plan.

Finally, based upon amendments to Section 30-2.3(a)(2) of the Rules of the Board of Regents that were adopted by the Board of Regents at its April 2014 meeting and are effective May 10, 2014, for any district/BOCES that utilizes the Expedited Material Change Process to eliminate unnecessary assessments required for students for APPR purposes, the Commissioner shall complete the review of material changes that are properly and completely submitted within 10 business days of 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-c and Subpart 30-2; 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.

**C9. What will happen if any of the items required to be included in the APPR plan are not finalized by July 1 for the 2013-14 school year or any subsequent year, as a result of pending collective bargaining negotiations?**

If all of the terms of the plan have not been finalized by July 1, 2013 (or by July 1 of any subsequent year), as a result of unresolved collective bargaining negotiations the plan may not be submitted. 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. Pursuant to Education Law §3012-c(2)(l), the most recently approved plan will remain in effect. Proposed material changes to approved APPR plans must be submitted to the Commissioner by March 1; please see Question C8.

**C10. Is my school district required to have an APPR in place for the 2013-14 school year by September 1, 2013 – or any subsequent year – in order to maintain eligibility for State aid increases?**

Yes – in one of three ways: (1) through approval by the Commissioner of a negotiated APPR plan for 2013-14 and thereafter by September 1; (2) through application of Education Law §3012-c(2)(l), which provides that if agreement is not reached through collectively bargained APPR plan by September 1, the previously negotiated and approved APPR plan continues in effect until a revised APPR plan for 2013-14 and thereafter is negotiated and approved by the Commissioner; or (3) through a plan determined by the Commissioner pursuant to Education Law §3012-c(2)(m), as added by Section 7-a of Chapter 57 of the Laws of 2013. However, Section 1 of Chapter 57 of the Laws of 2013 (as well as Chapter 53 of the Laws of 2013) also makes Commissioner’s approval of documentation that the school district has fully implemented the APPR by September 1 a condition of eligibility for increases in State aid from the GSPS appropriation. In order to demonstrate that each district/BOCES has fully implemented their approved APPR plan for the 2012-13 school year and thereafter, the Department requires that an additional certification form be completed by the superintendent of schools and Board President. The new certification form, directions, and deadline for completing this form are available: <http://usny.nysed.gov/rttt/teachers-leaders/appr-implementation-certification.html>.

**Terminating Probationary Teachers and/or Principals**

**C11. Are APPRs the only basis on which a school district/BOCES may terminate probationary teachers and principals?**

No. Education Law §3012-c 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, a school district/BOCES may terminate a probationary teacher or principal for constitutionally and statutorily permissible reasons, as described in Questions C12, C13, and C15 below.

**C12. May a school district/BOCES ever terminate a probationary teacher or principal without regard to the APPR?**

Yes. The APPR law clarifies that the significant factor requirement does not preclude a school district/BOCES from terminating a probationary teacher or principal for statutorily and constitutionally permissible reasons other than the performance of the teacher, including but not limited to misconduct. Section 30-2.1(d) of the Rules of the Board of Regents defines performance for this purpose as the teacher’s or principal’s overall composite rating. Therefore, permissible reasons for termination include but are not limited to: misconduct, insubordination, time and attendance issues, or conduct inappropriate for a teaching professional. They may also include the quality of the instruction or services provided by the probationary teacher or principal based on evidence other than the overall composite rating.

**C13. May a school district/BOCES terminate a probationary teacher or principal during the middle of a school year or before the composite evaluation score 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 composite APPR rating. Once it has completed an APPR, the board of education must consider the APPR rating as a significant factor to retain or terminate the employee, unless the employee is being terminated for statutorily and constitutionally permissible reasons other than the teacher’s or principal’s composite APPR rating, such as misconduct, insubordination, time and attendance issues and other performance issues and the like.

**C14. May a school district/BOCES terminate a probationary teacher or principal for reasons based solely upon the APPR composite rating after the first year of probation during the pendency of an APPR appeal?**

No. If the termination determination is based solely upon the **APPR composite 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.

**C15. 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. Education Law §3012-c and Section 30-2.11 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 other than 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 as long as it does not rely upon the performance that is being appealed, **which is defined as the teacher or principal's APPR composite rating** (the subject of the appeal). An appeal relates solely to evaluation of the performance of the teacher or principal in a single year, **which is defined as the APPR composite rating**. However, an appeal from an **APPR subcomponent rating necessarily involves an appeal from the overall composite rating**, so the district may not rely upon an **APPR subcomponent rating that is the subject of an appeal either**.

This means that the board of education or BOCES may base a tenure determination or termination decision made during the pendency of an APPR appeal on prior year APPRs that measure the teacher's or principal's performance in prior years and are not the subject of the pending APPR appeal. In addition, probationary teachers and principals may be terminated or denied tenure during an APPR appeal for constitutionally and statutorily permissible reasons other than the teacher's or principal's **APPR composite rating**.

However, if the **APPR composite rating** that is the subject of the appeal forms the sole basis for the board of education's or BOCES determination to terminate or deny tenure to a probationary teacher or principal, the pendency of the appeal would effectively stay the board of education's or BOCES' ability to make such a determination until the appeal process is completed.

## Appeals

### **C16. When does the right to appeal commence?**

The new APPR law provides that a teacher or principal is not authorized to trigger the appeal process until he or she receives a composite score. For teachers and principals receiving State-provided scores based on student growth or Value-Added measures, this means that a composite score will not be available until the State-provided growth subcomponent score is generated by the State. Teachers and principals must receive their composite scores 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 composite score.

## Teacher and Principal Improvements Plans

### **C17. 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 school district/BOCES must formulate and commence implementation of a teacher or principal improvement plan (TIP and PIP, respectively) for that teacher or principal.

The TIP or PIP must be developed locally through negotiations and implementation must begin no later than 10 school days from the opening of classes in the school year following the school year for which such teacher or principal's performance is being measured.

### **C18. What are some potential elements of improvement plans?**

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.

**Questions Added to August 2012 Guidance**

**C19. What will happen if a district wishes to develop an assessment for use under State Growth or Locally Selected Measures, but has not done so at the time of submission of their APPR plan? What will happen if a district does submit their APPR plan listing a district, BOCES, and/or regionally-developed assessment and later decides they wish to change their assessment option?**

Districts/BOCES who wish to develop an assessment for use under State Growth or Locally Selected Measures, but have not completed the development of the assessment, may still submit their APPR plan even if the assessment is not completed. When the district/BOCES submits their APPR plan they should list the name of the assessment(s) developed by the district/BOCES/region, as well as the grade and subject level (e.g., DISTRICT NAME-developed grade 1 ELA assessment), and certify that such assessment(s) will be rigorous and comparable across classrooms.

If the district/BOCES submits an APPR plan that lists a district, BOCES, and/or regionally-developed 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.

**C20. What is the proper format for writing in the name of a district, regional, or BOCES-developed assessment within the APPR Review Portal?**

Districts/BOCES who intend to use a district, regional, or BOCES-developed assessment must include the name, grade, and subject of the assessment. For example, a regionally-developed grade 7 Social Studies assessment would be written as the following within the APPR Review Portal: [INSERT SPECIFIC NAME OF REGION]-developed grade 7 Social Studies assessment.

**C21. Is the department going to review each TIP and PIP 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).

**C22. If a district selects a multi-year plan, will it be approved for all of the years?**

If an APPR plan complies with the requirements of Education Law §3012-c and the implementing regulations, the plan will be approved and in effect unless there are material changes to the APPR plan or the form, a change in the law and/or regulations, or if SED determines in the future that additional information is required.

Districts/BOCES who wish to make a material change to their currently approved plan may do so through <https://nysed-appr2.myreviewroom.com/>.

**C23. If we want to use a different third-party assessment than those currently listed on the *Approved Assessment List*, do we have to wait to submit our APPR plan until the next round of the Assessment RFQ is completed?**

Districts/BOCES do not need to wait for the results of the next round of the Assessment RFQ before submitting their APPR plans. To complete Task 2 and Task 3 in the APPR Review 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 Assessment List*, and choose that option from the dropdown menu. Then, in the “Assessment” box, the district/BOCES must enter the name of the corresponding assessment that will be used, followed by the words “unless [OFFICIAL NAME OF THIRD-PARTY ASSESSMENT] is an approved third-party assessment.”

Effective March 2, 2014, all standardized assessments for students in K-2 were removed from the list of State-approved third-party assessments for use in APPR plans for the 2014-15 school year and thereafter. However, school districts/BOCES with an APPR plan that was approved or determined by the Commissioner for use in the 2013-14 school year which remains in effect in the 2014-15 school year and thereafter in accordance with Education Law §3012-c(2)(1) may continue to use a traditional standardized assessment that was on the State-approved list for students in grades K-2 prior to March 2, 2014, until a material change is made to their APPR plan and approved by the Commissioner to eliminate such use. Please see Questions F7 and F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs and the third-party assessment RFQ process.

**C24. What should a district enter in the APPR Review 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 APPR Review 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 D17 and D18).

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. Additional SLOs will then be set based on the grade 3 ELA and math State assessment results. 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 third-party assessments and/or district-, regional-, or BOCES-developed assessments. Please see Questions F7 and F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs.

**C25. Do we have to submit any additional forms in order for our APPR plan to be reviewed?**

In addition to completing the online forms, you will need to upload certain documents, where required, in the format found at <https://nysed-appr2.myreviewroom.com/>. For example, the task forms in the APPR Review 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. 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 a signed certification, on a form prescribed by the Commissioner by the superintendent, district superintendent, or chancellor, attesting 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 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 or federal law relating to English language learners or the individualized education program (IEP) of a student with a disability. Please see: <http://www.engageny.org/resource/guidance-on-the-approved-regulatory-amendments-to-appr-to-help-reduce-local-testing> and Questions C39-C45 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 using the 'Add Document' button in the APPR Review 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.

**C26. 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.

**C27. 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 permissions 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.**

**C28. 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.

**C29. 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 APPR Review 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 §3012-c.

**Questions added to July 2013 Guidance**

**C30. Is my school district's eligibility for an increase in State aid in 2013-14 and thereafter dependent on my district's full implementation of its APPR?**

Yes. Expanding on what was done in Chapter 57 of the Laws of 2012 using a January 17, 2013 deadline, section 1 of Part A of Chapter 57 of the Laws of 2013 (and corresponding appropriation language in Chapter 53 of the Laws of 2013) makes the Commissioner's approval by September 1 of each year of documentation that a school district has fully implemented the standards and procedures for conducting APPRs in accordance with Education Law §3012-c and Subpart 30-2 of the Rules of the Board of Regents a condition of eligibility for any increases in State aid from the General Support for Public

Schools appropriation over the amount apportioned in the prior school year. Section 1 of Chapter 57 applies to State aid increases for the 2013-14 school year and thereafter.

**C31. What documentation of full implementation is my district required to submit as of September 1?**

A. If your school district had an APPR plan approved by the Commissioner for the current 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 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. Therefore, the Commissioner will require the following documentation of full implementation:

1. Either evidence that the Commissioner has approved an APPR plan that applies to the subsequent school year or a certification by the superintendent of schools that the district has been unable to reach agreement on an APPR plan that applies to the subsequent school year and obtain the Commissioner's approval by September 1; and that the district will fully implement the district's approved current APPR plan until approval of the Commissioner is obtained on a collectively bargained APPR plan that applies to the subsequent school year pursuant to Education Law §3012-c(2)(1).
2. Proof of submission of preliminary data on subcomponent and composite 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 and composite 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.

B. Districts that do not have an approved APPR plan for the current school year, but do have an approved APPR plan for subsequent school year, shall provide the documentation of full implementation required under paragraphs 1 and 3 of A above. Districts that have an APPR plan for the subsequent school year, determined by the Commissioner pursuant to Education Law §3012-c(2)(m) are deemed to satisfy the requirement of documenting full implementation of the APPR for the subsequent school year, to receive their increase in State aid.

**C32. On September 1, 2014 and each September 1 thereafter, must my district submit documentation that it has fully implemented its APPR Plan?**

Yes. Section 1 of Part A of Chapter 57 of the Laws of 2013 is a provision of permanent law that links State aid increases to Commissioner's approval of documentation of full implementation by September 1 of each year, commencing with September 1, 2013. Please see Question C31 for information on what documentation will be required in 2014 and thereafter.

**C33. If my district has an approved multi-year APPR plan, must it nonetheless submit documentation of full implementation for approval by September 1?**

Yes, the district must submit the documentation of full implementation described in Question C31, above. Having an approved APPR is not sufficient in and of itself to document full implementation of the APPR.

**C34. If September 1 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 deadline falls on a weekend or holiday, the actual deadline for obtaining Commissioner's approval of documentation of full implementation is the next business day.

**C35. Does Education Law §3012(2)(1) require that previously approved collectively negotiated APPR plans and APPR plans determined by the Commissioner in arbitration remain in effect while an APPR for the following school year is being negotiated, apply to a APPR entered for one year only pursuant to a collective bargained agreement with a sunset?**

Yes. Education Law §3012(2)(1) provides that if an APPR for the applicable year (2013-14 and each year thereafter) has not been negotiated as of September 1, the collectively bargained APPR most recently approved, or the APPR determined by the Commissioner in arbitration shall remain in effect until a subsequent APPR is agreed to by the parties and approved by the Commissioner. There are no exceptions in the statute, so it applies even if the agreement containing the provisions of the APPR that are subject to collective bargaining included an explicit sunset provision.

**C36. When does a district have to submit revisions to their APPR plan to the Commissioner if they wish to obtain Commissioner's approval by September 1 of the upcoming school year?**

Education Law §3012-c(2)(k) requires districts to submit to the Commissioner their collectively bargained APPR plans applicable to the upcoming school year by July 1. Now that the vast majority of districts have approved APPR plans that can form the basis for an APPR plan, we do not anticipate that it will take 4 to 6 weeks for Commissioner's approval. However, we recommend that district submit the revisions they need to make to their approved APPR plans for the upcoming school year by July 1 to allow sufficient time for review to obtain Commissioner's approval by September 1.

### **C37. What additional certifications will be required of all districts?**

As described above, 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.<sup>3</sup> The certification must be submitted either (1) when the district seeks approval of provisions of an APPR that are collectively bargained for the 2013-14 school year and thereafter, or (2) by August 30, 2013 if the school district does not have the Commissioner's approval of collectively bargained provisions of its APPR for the current school year or, for the 2014-15 school year and thereafter, the district has not previously had an approved plan that was collectively bargained but does have a plan determined by the Commissioner pursuant to Education Law §3012-c(2)(m). 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.

#### ***Questions added to July 2014 Guidance***

##### ***Certifying Instruction Time***

**C38. My district/BOCES does not use any 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 certifications in our APPR plan?**

Districts/BOCES who are **not** using any **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.

**C39. What is considered 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 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

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<sup>3</sup> Any district that has its 2013-14 APPR plan determined by the Commissioner pursuant to Education Law §3012-c(2)(m) is exempted from this requirement for the 2013-14 school year only.

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 accommodations<sup>4</sup> as the indicator of “time devoted to traditional standardized assessments that are not required by state or federal law<sup>5</sup>.”

Please note, the regulation **does not** apply to assessments used for formative or diagnostic purposes (as defined below).

**C40. 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.

**C41. What is considered “one percent of the minimum required annual instructional hours for such grade”? How should districts/BOCES calculate the time spent on 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 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 district-developed traditional

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<sup>4</sup> For the purposes of calculating time spent taking 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.

<sup>5</sup> Please see <http://www.regents.nysed.gov/meetings/2013Meetings/October2013/AssessmentUpdate.pdf> for additional information concerning state and federal testing requirements, particularly slide 5 which outlines the testing required under state and federal law.

standardized ELA assessments that will be utilized for students in grade two (common branch) classrooms in both the State Growth or Other Comparable Measures subcomponent as well as the Locally Selected Measures subcomponent. The district is not using any pre-tests and is instead relying on historical academic data when educators set targets. District A estimates it will take grade two 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 2 will be spent on traditional standardized assessments for APPR purposes (see table below).

District A: District-Developed Traditional Standardized ELA and Math Assessments in Grade 2	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%

**C42. 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%

**C43. 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 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 or 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.<sup>6</sup>

**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 teachers when they decide how to most appropriately design or modify instructional activities.<sup>7</sup> Diagnostic assessments include also include assessments used for diagnostic screening required by Education Law §3208(5).

**Traditional standardized assessments** are defined by NYSED in section 30-2.2(v) 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

<sup>6</sup> Definition adopted by the CCSSO Formative Assessment for Students and Teachers State Collaborative on Assessment and Student Standards (FAST SCASS), October 2006.

<sup>7</sup> Distinguishing Formative Assessment From Other Educational Assessment Labels. The Council of Chief State School Officers, May 2012.

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.

Please also see Question F15 for additional guidance on the Department's definition of "traditional standardized assessments."

**C44. When are districts/BOCES required to make these certifications regarding caps on instructional time for testing and test preparation for the 2013-14 school year?**

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.

***Removal of Traditional Standardized Third-Party Assessments in K-2***

**C45. My district is already using a locally determined traditional standardized third party assessment for APPR purposes for the 2013-14 school year for students in kindergarten through grade two. Are we required to submit a material change to our APPR plan just to remove these assessments from use?**

No. Districts or BOCES with an approved APPR plan for the 2013-14 school year that are using a traditional standardized third party assessment for students in kindergarten, grade one, and/or grade two are not required to submit a material change to their APPR plan just to remove these assessments from use. The currently approved APPR plan shall remain in effect for the 2014-15 school year and thereafter in accordance with Education Law §3012-c(2)(l) and districts or BOCES may continue to use such assessments until a material change is made to any portion of the APPR plan and approved by the Commissioner. At the time of the material change submission, districts and BOCES must remove the use of the traditional standardized third party assessment(s) for students in kindergarten, grade one, and/or grade two from their APPR plan.

**C46. If my district/BOCES wants to make a material change to our APPR plan solely to eliminate the use of a traditional standardized third party assessment being used for APPR purposes for students in kindergarten through grade two, is there a way to expedite the review of our APPR plan?**

Yes. Districts/BOCES that wish to submit a material change to their approved APPR plan that solely relate to the elimination of unnecessary assessments that are used with



students for APPR purposes (for any grades/subjects) 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-c and Subpart 30-2. For more information, see: <https://www.engageny.org/regents-regulatory-changes-subpart-30-2-expedited-materials-change-form>. This form must be completed and submitted to EducatorEval ([educatoreval@mail.nysed.gov](mailto:educatoreval@mail.nysed.gov)) no later than March 1. 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 school districts and BOCES consult with their local counsel before submitting this certification form and any changes to their currently approved plan in the APPR portal.

Please see Question C8 for more information.

**C47. Will traditional standardized assessments for use in kindergarten through grade two remain on the list of State-approved assessments for use in APPR? How will we know whether the third-party assessment we are using 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. Therefore, those districts/BOCES who determine that for APPR purposes they will use a third-party or vendor-developed assessment that is not a traditional standardized assessment for students in kindergarten, first, or second grade, the Department has issued an APPR Assessment Guidance Document consistent with §30-2.8 for use with these grades (please see: <https://www.engageny.org/resource/guidance-on-the-approved-regulatory-amendments-to-appr-to-help-reduce-local-testing>).

***APPR Data Submission and Certification***

**C48. 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 composite ratings and subcomponent scores to the NYSED’s Student Information Repository System (SIRS). All final and complete data, including scores for the Student Growth or Other Comparable Measures subcomponent, the Locally Selected Measures subcomponent, the Other Measures of Effectiveness subcomponent, the overall composite score, and rating categories for all applicable teachers and principals must be submitted to the Department. Please see Questions M5, C30, and C31.

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 assured 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 Student Growth or Other Comparable Measures subcomponent, the Locally Selected Measures subcomponent, the Other Measures of Effectiveness subcomponent, the overall composite score, and rating categories, for all teachers and principals employed by the district or BOCES, for the prior school year.

However, please be advised that pursuant to Education Law §3012-c(9) and §30-2.12 of Commissioner’s regulations, 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.

**C49. When is the data on subcomponent and composite ratings of 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 on subcomponent and composite ratings 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 on such subcomponent and composite ratings will be submitted by October. Please see Question C31. 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.

**C50. Why do we need to submit data on subcomponent and composite ratings of classroom teachers and building principals? What happens if we do not submit this data?**

Section 1 of Part A of Chapter 57 of the Laws of 2013 (and corresponding appropriation language in Chapter 53 of the Laws of 2013) makes the Commissioner’s approval by September 1 of each year of documentation that a school district has fully implemented the standards and procedures for conducting APPRs in accordance with Education Law §3012-c and Subpart 30-2 of the Rules of the Board of Regents a condition of eligibility for any increases in State Aid from the General Support for Public Schools appropriation over the amount apportioned in the prior school year. Please see Questions C30 and C31; please also see the Implementation Certification Form.

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 and includes the State Growth or Other Comparable Measures subcomponent, Locally Selected Measures subcomponent, Other Measures of Effectiveness subcomponent, and final composite rating, for all teachers and principals employed by the district or BOCES, for the prior school year. 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 (please see Questions C30 and C31). 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.

## D. Student Growth on State Assessments or Other Comparable Measures

### State-Provided Growth Measures

#### **D1. What is the State providing for the teacher or principal growth scores?**

##### *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.
- 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 and 2013-14 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.

<b>Included in the 2011-12 Growth Measures Model</b>	<b>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)</b>
<b>Academic History:</b> <ul style="list-style-type: none"> <li>• Up to 3 years student State exam scores, same subject</li> </ul>	<ul style="list-style-type: none"> <li>• Prior year test score, different subject</li> <li>• Retained in grade</li> <li>• New to school in year other than entry year</li> <li>• Average prior achievement and range around average prior score in student's class/course (same subject)</li> </ul>
<b>Student with Disability (SWD)</b> <ul style="list-style-type: none"> <li>• Yes/No</li> </ul>	<ul style="list-style-type: none"> <li>• SWD spends less than 40% of time in general education setting</li> <li>• Percent SWD in student's class/course</li> </ul>
<b>English Language Learner (ELL)</b> <ul style="list-style-type: none"> <li>• Yes/No</li> </ul>	<ul style="list-style-type: none"> <li>• NYSESLAT scores</li> <li>• Percent ELL in student's class/course</li> </ul>
<b>Poverty</b> <ul style="list-style-type: none"> <li>• Yes/No</li> </ul>	<ul style="list-style-type: none"> <li>• Percent poverty in a student's class/course</li> </ul>

- Students will be assigned to teachers and schools based on linkage information provided by districts. (See <http://www.p12.nysed.gov/irs/teacher/Reporting-and-VerifyingLinkageInformation-Final2-26-13.pdf> and <http://www.p12.nysed.gov/irs/memos/2014/2013-14-TSDL-2-20-14.pdf> for detailed guidance on teacher-student data linkage). For details on the attribution rules established by NYSED please see Questions D54 and D73.
- For 2012-13 and 2013-14, and beyond, students will have to 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  $0.8 \times 0.9$  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 State Growth or Other Comparable Measures subcomponent.

***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.

**D2. When will the State-provided growth scores for teachers and principals be provided to districts, schools, and teachers?**

The State-provided growth scores will be available prior to September 1 of each school year.

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.

Online 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 (please see: <http://www.engageny.org/resource/secure-online-growth-reporting-system> for information about the Growth Reporting System and login link). 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.

**D3. What is a “Value-Added score” and how is it different from the teacher or principal SGP Score?**

The Board of Regents has voted to continue with the use of an enhanced growth model and postpone the use of a “Value-Added” model for State-provided growth scores until at the earliest the 2015-16 school year (see <http://www.regents.nysed.gov/meetings/2014/July2014/714brca4.pdf>). Both the “growth model” and the “Value-Added” model produce teacher and principal mean SGP scores, referred to generally as “growth scores.” There are two differences between NYSED’s “growth” model and the “Value-Added” model. First, with a Value-Added model, the State-Provided Growth or Comparable Measures subcomponent will count for 0-25 points on evaluations of educators covered by this measure instead of 0-20 points.

The second difference is that under a “Value-Added” model, NYSED may take into account a wider range of student, classroom, teacher and/or school characteristics in defining “similar students” than is allowable under New York State’s regulatory definition of a “growth model.” Two examples that have been discussed with the Board of Regents include student age and class/course size. NYSED will continue to work with its vendor and advisory boards to determine additional factors to be used in the “Value-Added” model based on empirical and policy reasons and will present its recommendations to the Board of Regents before the start of the 2015-16 school year.

**D4. What changes to the State-provided growth model were approved for use in the 2012-13, 2013-14, and 2014-15 school years?**

At its June 2013 meeting, the Board of Regents approved the use of an “enhanced” growth model for the 2012-13 and 2013-14 school years for teachers in grades 4-8 ELA and math and their building principals (see <http://www.regents.nysed.gov/meetings/2013Meetings/June2013/613p12hea1.pdf>). It also approved the use of an enhanced growth model for high school principals of buildings with grades 9-12. At its July 2014 meeting, the Board of Regents voted to continue with the use of an enhanced growth model and postpone the use of a Value-Added model until at the earliest the 2015-16 school year and continue to use the enhanced growth model for the 2014-15 school year (see <http://www.regents.nysed.gov/meetings/2014/July2014/714brca4.pdf>).

In all other grades and subjects (i.e., those for which the State does not have an approved growth or Value-Added model including high school principals with other grade configurations [e.g. 9-10, 10-12, etc.]), Education Law §3012-c requires that teachers’ and principals’ evaluations be based in part on comparable measures of student growth. For these grades/subjects, districts will be required to utilize the student learning objective process (see subsection below for further information on SLOs as well as: <http://engageny.org/resource/student-learning-objectives-guidance-document>). Districts will be required to assign 0-20 points to each educator based on the students’ results compared to the targets set in the goal-setting process.

**D5. When will the percentage of the composite score that is based on the State-provided growth subcomponent increase from 20 to 25 points?**

A Value-Added scoring methodology has been approved by the Board of Regents for use in certain grades/subjects, at the earliest, in the 2015-16 school year and thereafter. Therefore, in the 2015-16 school year, at the earliest, the Value-Added methodology will be the basis for the teacher or principal’s State-provided growth score on the State Growth or Other Comparable Measures subcomponent, the State will determine the score for each educator based on a 0-25 point scale.

For teachers and principals who have a mix of SLOs and State-provided growth scores, the State Growth or Other Comparable Measures subcomponent will *not* increase from 20 to 25 points when a Value-Added scoring methodology has been approved by the Board of Regents. The 25 point score will *only* be applicable to those teachers for whom more than 50% of students are covered by a State-provided Value-Added measure and principals for whom more than 30% of students are covered by a State-provided Value-Added measure.

**D6. 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?**

As of June 2013, 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).

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.

**D7. What characteristics of students, classrooms, and schools will be considered in constructing the Value-Added scores?**

Please refer to Questions D1 and D3 for details about Value-Added measures.

**D8. How will you take into account factors like whether students are homeless or living in transitional housing or shelters in the State-provided growth scores?**

If NYSED determines that we have a reliable source of data statewide to measure these factors, they could be included in a future “Value-Added” model.

**D9. 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. Among the places to learn more are the National Comprehensive Center for Teacher Quality (<http://www.tqsource.org/webcasts/evaluateEffectiveness/resources.php>) and The Center for Public Education ( <http://www.centerforpubliceducation.org/Main-Menu/Staffingstudents/Building-A-Better-Evaluation-System/References.html>); The Long-term Impacts of Teachers (Chetty, Friedman, Rockoff) [http://obs.rc.fas.harvard.edu/chetty/value\\_added.pdf](http://obs.rc.fas.harvard.edu/chetty/value_added.pdf) and Measures of Effective Teaching research project at <http://www.metproject.org>.

**D10. 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.



**D11. 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.

**D12. 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 2012-13 and 2013-14, 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. This could be, for instance, 16 SGPs in one subject, or 8 students who have SGPs in both ELA and math.

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. Please see Question D1 for details about the State-provided growth scores for principals in grades 9-12.

The specific number was determined by NYSED in consultation with the vendor of the growth and/or Value-Added 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.

NYSED recommends that **all** educators with students close to the minimum “n” size also set SLOs for comparable growth measures, in case there are not enough students, not enough scores, or unforeseen issues with the data to generate a State-provided growth score.

**D13. 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 math (*please see the NYSED SLO Guidance document for further details as to the rules of SLOs: <http://engageny.org/resource/student-learning-objectives-guidance-document>*). At this time, the NYSESLAT will not be used to generate a specific State-provided growth score.

However, in the 2012-13 school year and beyond, 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. Districts may also use the NYSESLAT as the basis of locally selected measures for classrooms with students who take this assessment.

The ESL teacher may have a State-provided growth score if enough students take the ELA State assessment. 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 see NYSED resources on the use of the NYSESLAT within SLOs:* <http://www.engageny.org/resource/using-the-nyseslat-in-the-development-of-slos>)

**D14. 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. 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 one of his/her SLOs using the NYSAA performance assessment as evidence. Additional SLOs are also set based on the subject area taught. Please see the SLO Guidance document for further details as to the rules of SLOs for teachers who have students who take the NYSAA: <http://engageny.org/resource/student-learning-objectives-guidance-document> as well as the NYSAA resources found on EngageNY: <http://www.engageny.org/resource/using-the-nysaa-in-the-development-of-slos>.

Regardless of whether or not children take a State assessment, *all* students' achievement should in some way be represented in a teacher's evaluation score. Districts may also use their choice of different locally selected measures to hold teachers accountable for these students. The decision of which locally selected measures to use is subject to collective bargaining. Additionally, classroom observations will look for evidence of practices that engage *all* students in learning.

**Student Learning Objectives**

*Please Note: The New York State Education Department (NYSED) has released [important resources](#) for district leaders as they implement a critical component of the new teacher evaluation system, including the [Student Learning Objective \(SLO\) Guidance document](#), [Student Learning Objective \(SLO\) Road Map](#), and [a series of introductory webinars](#). These resources explain how New York State will assess the learning growth of students in classrooms where there is no State assessment that can be used for a State-provided growth or Value-Added measure (sometimes called non-tested subjects).*

### **D15. What is the State-determined district- or BOCES-wide student growth goal-setting process?**

The State determined district- or BOCES-wide student growth goal-setting process 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. Please see: <http://engageny.org/resource/student-learning-objectives/> for further information including guidance, webinars, and training resources related to SLOs.

### **D16. What is NYS' definition of an SLO?**

A student learning objective is an academic goal for an educator's students that is set at the start of a course. It represents the most important learning for the year (or semester, where applicable). It must be specific and measurable, based on available prior student learning data, and aligned to Common Core, State, or national standards, as well as to any other school and district priorities. Educators' scores are based upon the degree to which their goals were attained.

*New York State student learning objectives (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:** what assessment(s) or student work product(s) will be used to measure this goal?
- **Baseline:** what is the starting level of learning for students in the class?
- **Target and HEDI Criteria:** what is the expected outcome (target) by the end of the instructional period?
- **HEDI Criteria:** how will evaluators determine what range of student performance "meets" the goal (Effective) versus "well below," (Ineffective), "below" (Developing), and "well above" (Highly Effective). These ranges

translate into HEDI categories to determine educators' final rating for the Growth subcomponent of evaluations. Districts and BOCES must set their expectations for the HEDI ratings and scoring.

- **Rationale:** why choose this learning content, evidence and target?

**D17. Which principals must have SLOs for the Growth subcomponent of their evaluations, and how will SLOs be set? Are they set based on every student in the school?**

There are two categories of principals in NYS' 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 full State Growth or Other Comparable Measures subcomponent score of their evaluation. Generally, principals with grades 4-8 will have a State-provided growth score based on 4-8 ELA and math assessments and high schools principals with grades 9-12 will also receive a State-provided growth score.

Principals with 0 – 29% of students covered by State-provided growth scores must use SLOs for the State Growth or Other Comparable Measures subcomponent. Principals 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-wide student results from one of the following assessment options: State-approved third-party assessments<sup>8</sup> or district-, regional-, or BOCES-developed assessments that are rigorous and comparable across classrooms.

NYSED recommends that **all** principals also set SLOs for comparable growth measures, to be used 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.

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<sup>8</sup> Effective March 2, 2014, all standardized assessments for students in K-2 were removed the list of State-approved third-party assessments for use in plans in the 2014-15 school year and thereafter. Please see Questions F7 and F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs.

**D18. What will happen if a principal is in a K-4 building, but fewer than 30% of students receive a State-provided growth score?**

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 results from one of the following assessment options: State-approved third-party assessments<sup>9</sup> or district, regional, or BOCES-developed assessments that are rigorous and comparable across classrooms.

**D19. Which teachers will have State-provided growth measures and which teachers must have SLOs as comparable growth measures?**

There are two categories of teachers in NYS' 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 full State Growth or Other Comparable Measures subcomponent score of their evaluation. Teachers with 0 – 49% of students covered by State-provided growth scores must have SLOs for the State Growth or Other Comparable Measures subcomponent 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.

NYSED recommends that **all** teachers with students close to the minimum “n” size also set SLOs for comparable growth measures, in case there are not enough students, not enough scores, or unforeseen issues with the data to generate a State-provided growth score.

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<sup>9</sup> Effective March 2, 2014, all standardized assessments for students in K-2 were removed the list of State-approved third-party assessments for use in plans in the 2014-15 school year and thereafter. Please see Questions F7 and F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs.

**D20. How will a teacher’s score on the State Growth or Other Comparable Measures subcomponent 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 then 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). Please see Example Model 1(B) in the SLO Guidance document: <http://engageny.org/resource/student-learning-objectives-guidance-document>.

**D21. If we choose an SLO with a school-wide measure for the Growth or Other Comparable Measures subcomponent, how might it work in practice for our teachers? Does it have to be based on State assessments or can a group, team, or school- or BOCES-wide measure be based on something else?**

A growth SLO using School- or BOCES-wide, group, or team results must be based on State assessments. District/BOCES leaders may decide that all kindergarten teachers, for example, 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 grade 8 ELA and math State assessment results. Please see the SLO Guidance document for other examples: <http://engageny.org/resource/student-learning-objectives-guidance-document>.

**D22. Are any adjustments allowed in setting SLOs for growth for any grades and subjects?**

All students in the course sections subject to an SLO must be included in the SLO. Students may not be excluded from a course they are enrolled in based on poor attendance (this applies to both the State Growth or Other Comparable Measures subcomponent and the Locally Selected Measures subcomponent).

The only adjustments that a district/BOCES can consider for SLOs for growth are those also used in the State-provided growth measures, which include students with disabilities, English language learners, students in poverty, and prior academic history (please see Question D1).

The rationale for including adjustment factors and processes that will be used to mitigate potentially problematic incentives associated with the control or adjustment must be described in the district/BOCES’ APPR plan. Assurances must be made that enrolled students in accordance with teacher of record policies are included and may not be

excluded, and that use of locally-developed controls will not have a disparate impact on underrepresented students in accordance with any civil rights laws. For any adjustment factors selected, there must also be assurances by the district/BOCES in the APPR agreement that the application of locally-developed controls will be rigorous, fair, and transparent and that procedures for ensuring data accuracy and integrity are being used.

Please note that controls and adjustments in APPR plans cannot ever be applied to an educator's State-provided growth subcomponent score. Controls and adjustments are **only** permissible in APPR plans that have negotiated their use in SLOs for the State Growth or Other Comparable Measures subcomponent or for measures in the Locally Selected Measures subcomponent.

**D23. 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 Growth subcomponent based on SLOs. These processes include who creates SLOs, who proposes SLOs, what the revision process will look like for SLOs, who has final decisions, etc.

In some cases, district/BOCES leaders may develop entire SLOs (or just targets and/or HEDI expectations) for all teachers or certain subject area teachers, and in other instances, district/BOCES leaders may leave the development of the SLO (or just targets and/or HEDI expectations) to principals and/or principals and teachers. In some cases, the district/BOCES may decide that all SLOs must use the same target expectations based on growth progress norms while in other instances the district/BOCES may allow principals and/or teachers to propose a target based on the starting level of the students covered within the SLO. Decisions as to whether all teachers of the same subject will use a common SLO (or whether principals may even dictate this) are allowable; however, these are decisions first to be made by district/BOCES leaders.

**Elements of an SLO**

***Student Population***

**D24. 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.

**D25. 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. For more information on the 50% rule, please see the webinar on EngageNY at the following link:  
<http://engageny.org/resource/student-learning-objectives-the-50-rule-for-teachers>.

**D26. 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.

**D27. 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*

**D28. 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 our webinar for more information on using multiple data sources to set SLO targets: <http://www.engageny.org/resource/slo-103-for-teachers>.

**D29. 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?**

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. Further, SLOs look at growth, so if students come in knowing very little (as evidenced by the pre-assessment, baseline data) you will still want to know how much they learned of the critical content of



the course (as evidenced by the summative assessment) in order to assess whether the teacher added instructional value as expected. The teacher may want to also 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. Please also see our webinar for more information on using multiple data sources to set SLO targets:

<http://www.engageny.org/resource/slo-103-for-teachers>.

**D30. If our district has developed an assessment for grade 8 science, can we have our grade 8 science teachers set two SLOs for growth: one SLO that uses the State assessment and one SLO that uses our district-developed assessment?**

No, 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. In this instance, the district may want to consider using the district-developed assessment within the Locally Selected Measures subcomponent.

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 achievement in science will be measured by the student's performance on the Regents Exam in science.

**D31. 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*

**D32. 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. Please note that SLOs are **not** the same as unit tests or formative assessments used in Data-Driven Instruction. The unit work and formative assessments that educators do throughout the year give critical information regarding student learning to educators and their supervisors; however, this is not the same as an SLO. 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. A unit test or formative assessment used in a Data-Driven Instruction cycle would

not provide enough information to ascertain whether students learned all of the most important learning content for the course.

### *Learning Content*

#### **D33. 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. Some learning standards may receive more emphasis than others during the interval of instruction, and in some cases the assessment may focus on certain priority standards.

It is up to the district to determine what the most important learning content is for the course. The key is to ensure that all students are thoroughly prepared for the next level when they leave a course of study.

### **SLO Rules for Specific Teachers: What Assessments Must be Used as Evidence?**

#### *Elementary School Teachers and Common Branch Teachers*

#### **D34. Do all common branch teachers who have State-provided growth scores for ELA and math need to also develop SLOs for social studies and science?**

No. If a common branch teacher receives a State-provided growth score for his or her entire State Growth or Other Comparable Measures subcomponent score, he or she does not have to have SLOs for the State Growth or Other Comparable Measures subcomponent. If less than 50% of a teacher's students are covered under the State-provided growth score, please see Question D35 for more information.

Districts/BOCES may, however, wish to cover these other subject areas under the Locally Selected Measures subcomponent. Please note: If a teacher receives a State-provided growth score for the entire State Growth or Other Comparable Measures subcomponent, then the teacher cannot use an SLO for the locally selected measure (please see the summary of the regulations: <http://engageny.org/resource/summary-of-revised-app-provisions-2012-13-the-purple-memo>).

#### **D35. Although teachers in grade 5 are part of the “common elementary branch” it is our practice to assign particular grade 5 teachers to a particular subject area. For example, one of our grade 5 teachers teaches one section of math and 4 sections of social studies. For which courses would he need to develop a SLO? Would he be at all responsible for the ELA scores?**

In this scenario, less than 50% of the teacher's students are covered by a State-provided growth measure so this teacher must have SLOs for the State Growth or Other Comparable Measures subcomponent. Since the teacher has one section of math and 4

sections of social studies, this teacher would set one SLO for his or her math section, and the State would provide a State-provided growth score that must be used for that SLO (see Example Model 1(B) of the SLO Guidance document for a similar example: <http://engageny.org/resource/student-learning-objectives-guidance-document>). Then, the teacher would have one SLO that would cover the 4 sections of social studies (this assumes that the social studies sections all use the same end-of-course assessment).

**D36. In our district, we only have one teacher for multiple grades of art and one teacher for multiple grades of physical education. Students are combined due to scheduling limitations. How are SLOs set when the SLO seems so grade specific?**

SLOs are not necessarily grade specific; they are course-specific. Additionally, the NYS Standards in these subject areas in particular are conducive to a teaching set-up that includes multiple grades because the standards are divided generally between elementary, intermediate, and commencement. If the students in the course are given the same learning content and same final assessment, then the SLO should be the same for all. SLOs measure the most important learning content at the beginning and end of the course. You may want to work with your district, region, or BOCES to develop a rubric around the most important learning and measure students on a continuum. The SLO target can be differentiated to recognize that some students are going to start (and end) below others, but all students should show meaningful growth.

*High School Teachers and Teachers of Regents Subjects*

**D37. 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. The resulting SLO target could be set around the percentage of students expected to pass based on this assessment. The district/BOCES should decide if the percentage predicted from the pre-test equates to Effective performance or if a different standard should apply. 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.

One special note with Regents exams: it is important that districts/BOCES not create incentives to discourage students from taking the Regents exam (or other advanced courses and assessments). Therefore, an SLO might include an assumption of exam take rates based on historical patterns or district/BOCES expectations. For example, if less

than X% takes the Regents exam, the SLO will earn an automatic Ineffective.

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. For additional details about the transition to Common Core Regents exams, please see: <http://www.p12.nysed.gov/assessment/commoncore/transitionccregents1113rev.pdf>.

**D38. 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 school- or BOCES-wide, group, or team result based on a Regents exam.

**D39. 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.

**D40. 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?**

Keep in mind that core subjects is a term used for APPR purposes and is defined in the regulation as science grade 8 and high school courses in ELA, math, science and social studies that lead to a Regents exam in the 2010-11 school year, or a State assessment in the 2012-13 school year or thereafter (please see Question D98). Since the grade 9 global studies course does not lead to a State assessment, it is treated as a non-core subject and the following are the options that may be used as evidence of student learning within the SLO: a third-party assessment from the State-approved list (<http://usny.nysed.gov/rttt/teachers-leaders/assessments/>); district, regional, or BOCES-developed assessments that are rigorous or comparable across classrooms; or school- or BOCES-wide, group or team results based on State assessments.

**D41. 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 see Question D70 for more information regarding SLOs for science Regents courses.

### *Non-Grade Specific Teachers*

**D42. May student learning objectives 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. 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:

- List of State-approved third-party assessments (<http://usny.nysed.gov/rttt/teachers-leaders/assessments/>);
- District, regional, or BOCES-developed assessments, provided the district/BOCES verifies comparability and rigor;
- School- or BOCES-wide, group, or team results based on State assessment.

NYSED encourages district/BOCES leaders to ask vendors they work with to submit their assessments to the RFQ for third-party assessments for potential inclusion on the State-approved list. Only the third-party assessments that are included on the State-approved list may be used for APPR purposes. Please see the following link for third-party assessments approved for CTE courses: <http://usny.nysed.gov/rttt/teachers-leaders/assessments/cte-approved-list.html>.

**D43. 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?**

Districts/BOCES 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.

**D44. 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.**

Districts/BOCES 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 6 day cycle would not have an SLO.

### *Special Education Teachers*

**D45. Do co-teachers have to have the same SLO for the State Growth or Other Comparable Measures subcomponent? 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 State Growth or Other Comparable Measures subcomponent. The measure, for both teachers, will cover all of the students in the course section(s) covered by the SLO.

**D46. 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. Please see the SLO Guidance document for further details as to the rules of SLOs for teachers such as those you mention here: <http://engageny.org/resource/student-learning-objectives-guidance-document>. 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 has the required number of SGPs attributed to him/her using the staff student course records will receive a State-provided growth score. Other AIS teachers will have SLOs. 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 school- or BOCES-wide, group, or team measure based on State assessments and/or to collaboratively set goals with those classroom teachers whose students they work with during the school year. District/BOCES leaders will need to determine the option that is most appropriate for these teachers.

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 school- or BOCES-wide, group, or team results based on State 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.

**D47. Can SLOs for students with disabilities have a different target for growth?**

The target for students in any SLO may be differentiated because of the baseline (starting point of learning) and historical academic data. It is important to keep in mind that targets for all students, regardless of any special education classification, should be differentiated because of baseline data and not because of any special education classification.

**D48. For special education teachers who have SLOs and also have students with individualized education plans (IEPs), will the criteria for student learning set forth in the IEPs be used in the SLO?**

Teachers who have SLOs must follow the rules set forth in the State’s SLO Guidance: <http://engageny.org/resource/student-learning-objectives-guidance-document>.

District/BOCES leaders may determine that in certain circumstances academic goals in an IEP may be used as appropriate targets within an SLO.

The student learning objective 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, 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.

**D49. 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.

**Questions added to August 2012 Guidance**

**D50. When will the State-provided growth scores for teachers and principals be provided to districts, schools, and teachers?**

The State-provided growth scores will be provided to districts for incorporation into educator evaluations prior to September 1 of each school year.

The State will also provide the data files needed for districts to be able to compute the locally selected measure 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.

Online 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 (please see: <http://www.engageny.org/resource/secure-online-growth-reporting-system> for information about the Growth Reporting System and login link). 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.

**D51. 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?**

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 Regents Exams Passed measure to be calculated by the State, the principal must have 16 students attributed to her or him. Please see Question D1 for details about the State-provided growth scores for principals in grades 9-12.

**D52. In 2012-13 and beyond, 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?**

NYSED recommends that all teachers with students close to the minimum “n” size of student scores in ELA or math required for calculating an educator’s State-provided growth score who take ELA or Math State assessments also set **back-up** SLOs for the State Growth or Other Comparable Measures subcomponent, in case there are not enough students, not enough scores, or unforeseen issues with the data to generate a State-provided growth score. **The Department recommends that districts/BOCES consult with their local counsel regarding the implementation of back-up SLOs for APPR purposes.**

**D53. 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?**

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.

**D54. Which students are included in the calculation of a grades 4-8 ELA or math teacher’s MGP for 2012-13 and beyond?**



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 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.

**D55. 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.

**D56. Are graduation rates an allowable option for the State Growth or Other Comparable Measures subcomponent or Locally Selected Measures subcomponent for teachers?**

No, graduation rates are NOT an allowable option for the State Growth or Other Comparable Measures subcomponent or Locally Selected Measures subcomponent for teachers under section 30-2.5(b)(1) of the Regents Rules. However, please see Question D59 for examples of allowable alternatives. The Regents Rules are posted on EngageNY at the following link: <http://www.engageny.org/resource/the-commissioners-regulations-on-annual-professional-performance-review>.

**D57. Can you please provide more specific examples of how group measures for high school teachers work for the State Growth or Other Comparable Measures subcomponent?**

An SLO based on school- or BOCES-wide, group, or team results based on State assessments is an allowable option for those high school teachers of courses that do not end in a State or Regents exam (please also refer to Question D21).

There are a number of ways that a school-wide measure based on one or more Regent(s) exams could be used for high school teachers outside of the core subject areas. The following are just a couple of hypothetical examples of how SLOs may be constructed for the State Growth or Other Comparable Measures subcomponent using school- or BOCES-wide, group or team results.

- a. *High-school-wide student population progress toward passing five Regents exams: composite measure based on increase in the number of Regents exams passed by all students in the four high school grades from the beginning to the end of the school year.***

This example of a school-wide measure holds all teachers accountable for helping each student progress each year toward passing the five Regents subject tests required for a Regents diploma: English, math, science, U.S. history, and global history. This measure applies to students in years two, three, and four of high school.

The district/BOCES sets the target for the expected progress each student must make toward passing five Regents exams, compared to the number of Regents exams each student has left to pass at the beginning of each academic year. Each year, each high school student has a specific number of Regents exams left to pass in order to graduate, and that number of remaining Regents exams will either remain the same or decline for each student. Districts will set a target goal for the school based on all students in the school and their expected progress toward passing Regents exams from the beginning to the end of the year, with the expectation that, by the end of the year, students will have fewer Regents exams left to pass.

*Example for 2013-14:*

*Baseline at start of school year:*

- 100 grade 9 students begin the school year with 500 Regents left to pass by 2016-17
- 100 grade 10 students begin the year with 350 Regents left to pass by 2015-16
- 100 grade 11 students begin with 160 Regents left to pass by 2014-15
- 100 grade 12 students begin with 60 Regents left to pass by the end of the 2013-14 school year

*At the beginning of the 2013-14 school year, school-wide there are 1070 Regents exams left for students in grades 9-12 to pass. The district sets the target for the school-wide SLO based on students taking and passing enough Regents exams for the overall number to decrease by the end of the academic year. The HEDI criteria are then set around that target:*

- Target: students will pass, school-wide, at least 428 Regents exams (or 40% of the total number of Regents exams left at the start of the year)

- HEDI:
  - Highly Effective: students pass, school-wide, 590 – 1070 Regents exams
  - Effective: students pass, school-wide, 375 – 589 Regents exams
  - Developing: students pass, school-wide, 268 – 374 Regents exams
  - Ineffective: students pass, school-wide, fewer than 267 Regents exams

It is important to keep in mind that districts have options to set differentiated targets for this type of SLO. Whatever approach to setting targets and HEDI criteria a district uses, the district should always use as much baseline and historical data as possible to set rigorous and ambitious targets. The following are a few illustrative examples of how districts could approach differentiated targets for a school-wide SLO:

1. Districts could differentiate targets in ways that give additional weight to those Regents exams that are passed by students who enter high school academically behind their peers, based on their grade 8 State assessment results.
2. Districts could differentiate targets in ways that give additional weight to those Regents exams that are passed by students with disabilities and/or English language learners whose academic data demonstrates that they are academically behind their peers.
3. Districts could differentiate targets in ways that give additional weight to those Regents exams that are passed with college readiness scores of 75 on the English Regents exam and 80 on the math Regents exam.
  - a. *Growth on English Regents and Algebra I Regents exams: composite measure based on individual students' scores on the English Regents exam and the math Regents exam.*

This example of a school-wide measure would hold all teachers accountable for school-wide results on two key gate-keeper Regent exams, typically taken in different grades. In support of this school-wide goal, other teachers would infuse the Common Core Learning Standards for English language arts and literacy and math into their regular teaching, regardless of the content area.

The district/BOCES needs to determine the process for assigning points in each of the rating categories. For example, the district/BOCES could use the target percentage of students scoring at particular levels on the English and Algebra I Regents exams as its process for assigning points within the Commissioner's scoring ranges for each rating category.

One approach would be to use the same targets and HEDI criteria used for the teacher(s) of the English Regents course(s) and the teacher(s) of the Algebra I course(s) as the school-wide target.

*Sample approach to setting the SLO:*

- This SLO could use all of the same information from the SLOs set by the English Regents teacher(s) and the Algebra I Regents teacher(s).
- The HEDI results from the English Regents teacher(s) and the Algebra I Regents teacher(s) would be weighted proportionately based on the number of students in each SLO and then combined into one overall HEDI score that would be provided school-wide to all non-core subject area teachers.
- Districts will need to determine their district-wide processes for how teachers should submit their school-wide SLOs.

It is important to keep in mind that this approach could include additional Regents subjects.

**D58. Can you please provide more specific examples of how school-wide measures for high school teachers work for the Locally Selected Measures subcomponent?**

Districts/BOCES have a number of options to select from for the Locally Selected Measures subcomponent. School-wide growth or achievement results are one such option (please see the “Purple Memo” for all available options: <http://engageny.org/resource/summary-of-revised-appr-provisions-2012-13-the-purple-memo>).

There are a number of ways that a school-wide measure could be used for high school teachers. For example, the first two options described above could be used as a locally selected measure if constructed as a locally computed measure based on State assessments rather than as SLOs (SLOs for the Locally Selected Measures subcomponent cannot use school- or BOCES-wide, group, or team results based on State assessments). The following provides an illustrative example of how a school-wide measure may be constructed for the “school-wide growth or achievement results based on a locally-computed measure based on State assessments.”

This example of a school-wide measure holds all teachers accountable for helping increase the percentage of students scoring a 65 or higher (proficient or above) on the five required Regents exams. This approach uses a school-wide measure based on Regents exams and can be used for all high school teachers. The district and its collective bargaining unit establish school-wide targets and HEDI criteria. In this illustrative example, the school-wide target is based on a 3% increase in students scoring at or above proficiency (score of 65) on each of the following Regents exams: English, Algebra I, Global Studies, U.S. History, and Living Environment Regents exams. (3% increased as compared to the percent of students who took a Regents exam and earned proficient or better (score of 65 or higher) during the previous school year including August Regents

exam administration.)

1. Increase 3% proficiency on the Comprehensive ELA Regents exam (Capped at 4 Points)
2. Increase 3% proficiency on the Global Studies Regents exam (Capped at 4 Points)
3. Increase 3% proficiency on the U.S. History Regents exam (Capped at 4 Points)
4. Increase 3% proficiency on the Living Environments Regents exam (Capped at 4 Points)
5. Increase 3% proficiency on the Algebra I Regents exam (Capped at 4 Points)

<b>Conversion Chart for Points Scored Based on Percentage Increase in Students Scoring at Proficiency (minimum score of 65)</b>				
<b>Percent Increase</b>	0 - 2.1%	2.2 - 2.4%	2.5 - 3%	3.1 - 3.3+%
<b>Points Earned (% increased x 1.2)</b>	0 - 2.5	2.6 - 2.9	3.0 - 3.6	3.7 - 4

The points earned from each Regents exam are added and applied to the 20 point HEDI scale (and for some teachers, this scale will become 15 points with an approved Value-Added measure):

<b>Ineffective</b>	<b>Developing</b>	<b>Effective</b>	<b>Highly Effective</b>
0 - 2	3 - 8	9 - 17	18 - 20

**D59. Can teachers in a K-2 building use SLOs with the grade 3 ELA assessment from another school in the district for the State Growth or Other Comparable Measures subcomponent?**

No. For the purposes of a school-wide measure, the teachers can only be linked to other teachers in the same school with State assessment results.

**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. In some instances, it may be preferable to link some teachers in a BOCES program to the results of all of the students who take certain State assessments. This is, however, a local decision.

**D61. 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 ELA and math State assessment results. 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-wide student results from a K-2 third-party assessment that is not a traditional standardized assessment as defined by NYSED and that meets the Department's [K-2 APPR Assessment Guidance](#) or a district-, regional-, or BOCES-developed assessment that is rigorous and comparable across classrooms. Please see Questions F7 and F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs.

**D62. 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 are treated as non-core subjects, and the following options may be used as evidence of student learning within the SLO: a third-party assessment from the State-approved list (<http://usny.nysed.gov/rtt/teachers-leaders/assessments/home.html#assess>); district-, regional-, or BOCES-developed assessments that are rigorous and comparable across classrooms; or school- or BOCES-wide, group or team results based on State assessments.

**D63. For those teachers creating an SLO for the State Growth or Other Comparable Measures subcomponent based on the NYSESLAT, what pre-assessment should be used?**

Districts have a number of options to choose from for the pre-assessment for SLOs for the State Growth subcomponent. For example, districts may decide in setting SLOs for the State Growth subcomponent 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. *Please see NYSED resources on the use of the NYSESLAT within SLOs:* <http://www.engageny.org/resource/using-the-nyseslat-in-the-development-of-slos>. 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), districts/BOCES may decide to have teachers consider the results from the Language Assessment Battery-Revised (LAB-R) as students' baseline data for purposes of meeting the pre-assessment requirement for 2013-14, or the New York State Identification Test for English Language Learners (NYSITELL) for 2014-15 and beyond, along with other evidence of student achievement and language learning. Please see: <http://www.p12.nysed.gov/assessment/nysitell/nysitellmemo13.pdf>.

**D64. What assessment can be used for State Growth or Other Comparable Measures SLOs and/or for locally selected measures for teachers of Native Language Arts (NLA) classes?**

For NLA classes with students in grades kindergarten, first, and/or second grade, districts/BOCES may use locally-determined assessments (third-party or vendor developed that are not traditional standardized assessments as defined by NYSED, and that meet the requirements in guidance prescribed by the Commissioner) or district, regional, or BOCES-developed assessments provided that the district/BOCES verifies that the assessment is rigorous and comparable across classrooms, among other options. Please see Questions F7 and F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs.

For all other grades, districts/BOCES may visit the State's approved third-party assessment list to see if additional assessments for NLA classes have been approved: <http://usny.nysed.gov/rttt/teachers-leaders/assessments/> or use a district-, regional-, or BOCES-developed assessments, provided that the district/BOCES verifies that the assessment is rigorous and comparable across classrooms, among other options (see pages 9-10 for the complete list of options).

**D65. Where can I find more examples of SLOs?**

NYSED now has field sample SLOs posted on EngageNY, from both the Pilot Year (2011-12) and well as the first year of implementation (2012-13). These SLOs include all major subject areas, all grade ranges (elementary, middle, high), ESL, SWD, Regents, and mixed grade levels. These models are posted online at <http://www.engageny.org/resource/student-learning-objectives/>.

**Questions added to July 2013 Guidance**

***Student Learning Objectives***

**D66. If a teacher has an SLO for their State Growth or Other Comparable Measures subcomponent 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 teacher will review relevant student data and set appropriate student growth targets. For example, a teacher may review and set targets using raw score data from a summative assessment. Another possibility for this SLO would be for the district to set a minimum rigor expectation for growth for the percentage of students to pass.

**D67. 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 “Purple Memo” for all available options: <http://engageny.org/resource/summary-of-revised-appr-provisions-2012-13-the-purple-memo>) in order to cover those students who do not take the Regents.

**D68. Can we use the same pre- and post-assessment in an SLO?**

Yes, districts may choose to use the same assessment for determining progress from baseline to target in an SLO. However, it is not necessary to use identical assessments, as it is possible to use a collection of evidence from different assessments and measures to establish a baseline. 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.

**D69. 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. Please see NYSED’s resource on “Assessments in Annual Professional Performance Review (APPR)”:  
<http://www.engageny.org/resource/assessments-in-annual-professional-performance-review-appr>. 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 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 see the webinar “SLO 103 for teachers” at <http://engageny.org/resource/slo-103-for-teachers>, which covers how to develop an SLO using past performance trends and student historical data in order to inform and determine appropriate targets and to inform instructional decisions and approaches.

**D70. 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 State Education Department (SED) 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. SED cannot contemplate every possible circumstance, so the determinations regarding (1) the 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 NYSED 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 State Growth or Other Comparable Measures subcomponent score portion of the teacher's APPR score. 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 local district, may require that 80% of the 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). Below is an example that illustrates how this might look.

<b>Target: 80% of students will demonstrate growth to proficiency of NYS MST Standards Commencement Level as evidenced by a score of 65 or higher on the Living Environment Regents Exam</b>		<b>BASELINE ASSESSMENT</b>					<b>FINAL ASSESSMENT</b>													
												<b>% WHO MEET TARGET</b>					<b>80% Met Target</b>			
Student Name	Class Period	Living Environment Baseline Scores					Living Environment Regents Exam Scores					Met SLO Target (YES/NO)								
Student 1	2	47					65					Yes								
Student 2	2	60					75					Yes								
Student 3**	2	48					No Score					No								
Student 4	2	40					65					Yes								
Student 5	2	60					71					Yes								
Student 6	2	30					60					No								
Student 7	2	58					68					Yes								
Student 8	2	50					70					Yes								
Student 9	2	51					65					Yes								
Student 10	2	53					80					Yes								
<p>** Student 3 did not qualify to take the Regents assessment because she did not meet the minimum number of lab minutes. The term "no score" is used here instead of a zero (0) to indicate that the student is included in the denominator and not the numerator for the purposes of calculating the percentage of students who have met their SLO targets.</p>																				
<b>HIGHLY EFFECTIVE</b>			<b>EFFECTIVE</b>							<b>DEVELOPING</b>					<b>INEFFECTIVE</b>					
20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	1	0
97-100	93-96	90-92	88-89	86-87	84-85	82-83	80-81	78-79	76-77	74-75	72-73	70-71	68-69	66-67	64-65	62-63	60-61	40-59	20-39	0-19

*State-Provided Growth Measures: Teachers*

**D71. 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 (please see Questions B2 and B3) for the same students' learning, then yes, a district should use the same State-provided growth score for both teachers.

**D72. 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 State Growth or Other Comparable Measures subcomponent score 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.

Please see the SLO Results Analysis webinar for an SLO calculator tool that will help in this weighted calculation: <http://www.engageny.org/resource/slo-results-analysis-webinar>.

**D73. How is NYSED calculating whether a student meets the 60% minimum enrollment requirement, and where are you getting the attendance “duration” information?**

NYSED received teacher-student-course linkage information (aka, staff student course records) from every district in the State in 2012-13 (and will collect these data yearly) 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: Principals***

**D74. 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 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.

**D75. Which students are included in the calculation of a grades 4-8 principal's MGP?**

All students who are attributed to the school using NYSED's rule for inclusion in institutional accountability (please see NYSED Student Information Repository (SIRS) Manual for details: <http://www.p12.nysed.gov/irs/sirs/home.html>) 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.

**D76. What are the measures that are used to calculate a State-provided growth score and rating for a high school principal?**

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 State Growth or Other Comparable Measures subcomponent score and rating for a principal's evaluation. Please see Question D1 for additional information.

**D77. Which high school principals will receive a State-provided growth score and rating?**

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. (Please see Question D51 for details about the minimum "n" size.)

**D78. 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 5<sup>th</sup> through 8<sup>th</sup> year after entering high school, the student will be included in the principal's State-provided growth score calculation.

**D79. 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.

**D80. 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.

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.

**D81. 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. The result will be a score from 0-20 and a corresponding growth rating category (HEDI).

**D82. 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.
- **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.

**D83. 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.

Note that for the 2013-14 school year and in January 2015, some students may take the new Common Core Algebra I or ELA Regents exams. These exams will also be used in the MGP measure for principals of grades 9-12. Students will only be compared to similar students who take the same Regents exam. For additional details about the transition to Common Core Regents exams, please see: <http://www.p12.nysed.gov/assessment/commoncore/transitionccregents1113rev.pdf>.

**D84. 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 1<sup>st</sup> 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 5<sup>th</sup> through 8<sup>th</sup> year after entering high school, the student will be included in the principal’s State-provided growth score calculation.

**D85. 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.

**D86. 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 1<sup>st</sup> 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 5<sup>th</sup> through 8<sup>th</sup> 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.

**D87. 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.

**D88. 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 and Value-Added 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.

**D89. 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. Please see question D78 for information about which students are included in a high school principal's State-provided growth score.

Students who take the grade 8 math State assessment would have only the scores from the grade 8 math State assessment count for the State-Provided Growth or Other Comparable Measures subcomponent score 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. For information and FAQs about NYSED's waiver of the 'double-testing' requirement of accelerated math students, please see: <http://www.p12.nysed.gov/accountability/memos.html> and <http://www.engageny.org/resource/guidance-on-recently-approved-elementary-and-secondary-education-act-waiver>.

**D90. How do you account for students on alternative pathways, like in their 5<sup>th</sup> 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 5<sup>th</sup> through 8<sup>th</sup> 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). 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.

**D91. 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: <http://www.p12.nysed.gov/irs/sirs/home.html> 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 4<sup>th</sup> year since entering grade 9.

**D92. 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.

**D93. 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 score and rating that is weighted by the number of student results included in each measure and will be used as the principal’s State Growth or Other Comparable Measures subcomponent score.

**D94. 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 State Growth or Other Comparable Measures subcomponent score will be based on the single measure that can be calculated for her or him.

**D95. How do high school principals get a State-provided growth score?**

High school principals will receive State-provided growth scores 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 (please see Question D51).
- 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.

**D96. Does NYSED account for the Regents exam safety net for our special needs students?**

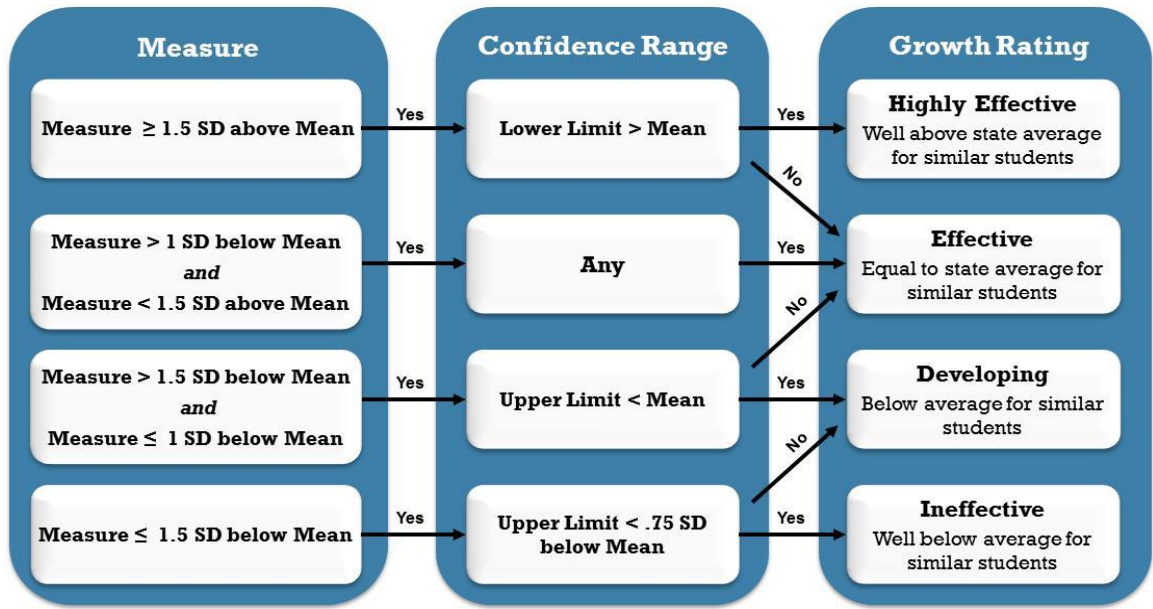
Alternate proficiency cuts on certain Regents exams are taken into account for students with disabilities in the high school principal Comparative Growth in Regents Exams Passed measure. In addition, three indicators for special education characteristics are included in the calculation of each of the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

**Questions added to July 2014 Guidance**

**D97. How are educator State-provided growth measures translated into State Growth or Comparable Measures subcomponent 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 (please see Question D1 for details about this calculation). 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.



**D98. Can we use a school-wide measure for 6-7 science and/or 6-8 social studies teachers for the State Growth or Other Comparable Measures subcomponent? Are these subjects no longer considered a core part of the curriculum or does this just have to do with APPR?**

Effective February 11, 2014, the definition of core subjects no longer includes science grades 6-7 and social studies grades 6-8. However, Part 100 of the Regulations of the Commissioner of Education continue to support instruction designed to facilitate student achievement of the State intermediate learning standards in science and social studies. These courses are still an integral part of student learning.

The removal of 6-8 grade social studies and 6-7 grade science from the definition of core subject areas only means that districts/BOCES now also have the option to request a material change to their APPR plan for the 2014-15 school year and thereafter to utilize a school-wide, group, or team measure based on one or more State or Regents assessments for these courses in the State Growth or Other Comparable Measures subcomponent in their APPR plan. Districts/BOCES may still continue to utilize State-approved third-party assessments and district, regional, or BOCES-developed assessments in science and/or social studies.

However, teachers in science grade 8 and high school courses in ELA, math, science, and social studies that lead to a Regents examination in the 2010-11 school year or a State assessment in the 2012-13 school year or thereafter, may not use SLOs with school- or BOCES-wide, group, or team results.

## E. Locally Selected Measures of Student Achievement

### Use of State Assessments and Student Learning Objectives Within Locally Selected Measures

#### **E1. Do the regulations require that 40% of a teacher's or principal's evaluation be based on State assessments?**

No. The regulations do not require that 40% of a teacher's or principal's evaluation be based on State assessments.

Education Law §3012-c requires that 20% of a teacher's or principal's evaluation (increases to 25% with a Regents-approved Value-Added model) be based on student growth on State assessments or other comparable measures. The statute also requires that 20% be based on other locally selected measures of student achievement (decreases to 15% with the approved Value-Added model). The law and regulations provide several local options for the 20% based on locally selected measures of student achievement, including the use of State assessments.

However, the law requires districts/BOCES to ensure that the measures used for the Locally Selected Measures subcomponent are different from the measure used for the State Growth and Other Comparable Measures subcomponent. The choice of whether to use State assessments for the Locally Selected Measures subcomponent of the evaluation is a decision determined through collective bargaining.

#### **E2. What are the ways in which State assessments may be used for purposes of a Locally Selected Measures subcomponent? When will the information be available from the State to use these measures?**

If a district agrees in collective bargaining to use State assessments, Regents exams or Regent equivalents for its locally selected measure(s), the following options are allowable:

- 1) The change in percentage of a teacher's students who achieve a specific level of performance as determined locally, on such assessments/examinations compared to those students' level of performance on such assessments/examinations in the previous school year (e.g., a three percentage point increase in students earning the proficient level (three) or better performance level on the grade 7 math State assessment compared to those same students' performance levels on the grade 6 math State assessment, or an increase in the percentage of a teacher's students earning the advanced performance level (four) on the grade 4 ELA or math State assessments compared to those students' performance levels on the grade 3 ELA or math State assessments).

- 2) Teacher-specific growth score computed by the Department based on the percent of the teacher's students earning a State determined level of growth. The

methodology to translate such growth into the State-established sub-component scoring ranges shall be determined locally.

3) Teacher-specific achievement or growth score computed in a manner determined locally based on a measure of student performance on the State assessments, Regents examinations and/or Department approved alternative examinations other than the measure described in subclause 1) or 2) of this clause.

When the State provides student-level State test results to districts/BOCES, information about the first and second items above will be available to districts/BOCES.

The State will provide teacher and principal growth scores to districts/BOCES as soon as possible after student-level State test results are released. These results will include information about the percentage of students who achieve a State-determined level of growth as well as growth information the district/BOCES may need to construct “other” different measures as determined locally.

**E3. Can SLOs be used as a locally selected measure for all teachers?**

No. SLOs cannot be used within the Locally Selected Measures subcomponent for a teacher in any grade or subject where there is a growth or Value-Added model approved by the Board of Regents at that grade level or in that subject.

**E4. Can a teacher's scores from his/her SLO for the State Growth or Other Comparable Measures subcomponent be used for his/her local 20% measure as well? That is, can the SLO scores cover 40% of the evaluation?**

No, measures used for the Locally Selected Measures subcomponent must be different from the growth measures used in the State Growth or Other Comparable Measures subcomponent.

However, the locally selected measure may be based on the same State assessment, State-approved third-party assessment<sup>10</sup>, or district/BOCES-developed assessment as long as the SLO used for the State Growth or Other Comparable Measures subcomponent is a different measure of growth than that used for the Locally Selected Measures subcomponent.

Therefore, if districts use SLOs as a locally selected measure for teachers who do not have a State-provided growth measure, the SLO must measure something different from the teacher’s SLOs used as comparable growth measures. This would include, but not be limited to, measuring results from different courses or students, using different assessments and/or using a different measures on the same assessment (achievement instead of growth or a subgroup of students, for example).

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<sup>10</sup> Effective March 2, 2014, all standardized assessments for students in K-2 were removed from the list of State-approved third-party assessments for use in plans in the 2014-15 school year and thereafter. Please see Questions F7 and F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs.

Please note: districts/BOCES have a number of options for measuring achievement and/or growth within the locally selected measures. Please see NYSED's resource on "Assessments in Annual Professional Performance Review (APPR)": <http://www.engageny.org/resource/assessments-in-annual-professional-performance-review-appr> and the "Purple Memo" found here: <http://engageny.org/resource/summary-of-revised-appr-provisions-2012-13-the-purple-memo>. SLOs are one of the options available for locally selected measures of student achievement for a teacher who does not have a State-provided growth or Value-Added measure for the subject or grade he or she is teaching.

### **Comparability**

**E5. In our small district, we only have one teacher per grade/subject. Are the locally selected measures we collectively bargain "comparable across classrooms" if we only have one classroom?**

Yes. The use of a locally selected measure from the allowable list of options would be considered "comparable" across classrooms even if you only have one classroom in that grade/subject.

### **Adjustments and Controls**

**E6. Can districts/BOCES use student-growth percentile or Value-Added statistical methodologies to calculate growth in connection with assessments used for the Locally Selected Measures subcomponent?**

This is a local decision. Districts may choose to use locally-developed student growth or Value-Added methodologies in assigning evaluation points based on assessments other than the State assessments for the Locally Selected Measures subcomponent if the district/BOCES has the capacity to ensure that the assessments they have selected are suitable for these kinds of measures.

**E7. Are any adjustments allowed (for example, for student demographic characteristics, attendance, etc.) in setting targets or measuring results as part of locally selected measures for any grades and subjects?**

Yes, adjustments are permitted in the Locally Selected Measures subcomponent provided that any such adjustment will not have a disparate impact on underrepresented student subgroups in accordance with civil rights laws. In addition, the rationale for including adjustment factors and processes that will be used to mitigate potentially problematic incentives associated with the control or adjustment must be described in the district/BOCES' APPR plan. Assurances must be made that enrolled students in accordance with teacher of record policies are included and may not be excluded. For any adjustment factors selected, there must also be assurances by the district/BOCES in the APPR agreement that the application of locally-developed controls will be rigorous, fair,

and transparent and that procedures for ensuring data accuracy and integrity are being used. However, the maximum amount of points allowable for an adjustment in the Locally Selected Measures subcomponent is two; any additional points would make it impossible to receive a rating of Ineffective.

It is important to note that research shows that by far the best predictor of a student's result on an assessment is his or her prior academic history. Therefore, districts/BOCES and their collective bargaining agents may want to put the strongest emphasis on how to construct locally selected measures that use growth from baselines based on past academic history.

### **Questions added to August 2012 Guidance**

**E8. Can a district/BOCES use a measure of student growth or achievement based on a student subgroup's performance (e.g., teacher's score would be computed based on students with disabilities' achievement of a certain level on the grade 4 math State assessment)?**

Yes. Education Law §3012-c(2)(g)(2)(i)(C) authorizes a school district/BOCES to use a teacher-specific achievement or growth score computed in a manner determined locally based on a measure of student performance on the State assessments, Regents examinations and/or Department-approved alternative examinations, provided that such measure is different than that used for the State Growth or Other Comparable Measures subcomponent. A district/BOCES could negotiate to use performance by student subgroups on State assessments as a locally selected measure. However, any locally selected measure must be rigorous and comparable across classrooms. For teachers, the same measure must be used across a subject and/or grade level within the school district/BOCES. For principals, the same measure must be used for all principals in the same or similar program or grade configuration in that school district/BOCES.

NYSED will determine a minimum number of SGPs required to generate a reliable State-provided growth score for evaluation purposes. Depending on the subgroup and grade(s) selected, it is possible that some classrooms will not have enough students in the subgroup to use the State assessments with a local measure. If subgroup achievement (instead of growth) is selected, minimum "n" size may be less of a concern. School-wide growth of a subgroup is another option to consider. The district/BOCES must also ensure that any subgroup populations used for this measure would not disparately impact underrepresented students.

It should be noted that the process for assigning points to a teacher for locally selected measures 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 HEDI ratings and evaluation points for these subgroups.

**E9. If students do not take the 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 growth or local measures, and should also not be included in the targets for any SLOs.

Districts must make their own decisions as to whether students who are absent may re-take 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 of the SLO. If, however, there is not an option to re-take an assessment (e.g. a student does not take the State summative assessment and there is no opportunity to re-take it) then the student should be flagged in the class roster, but not count in the SLO 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.

**E10. 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. Districts/BOCES may want teachers to set 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 districts/BOCES 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 school- or BOCES-wide, group, or team results based on State assessments.

**E11. If we decide to use an adjustment factor for teachers or principals that provides for automatically adding points in the State Growth or Other Comparable Measures subcomponent or Locally Selected Measures subcomponent based on certain school or classroom characteristics e.g., whether the school or classroom contains students with disabilities, English language learners, or students in poverty, is that allowable?**

Yes, one allowable option is to assign additional points to a teacher's or principal's performance in the State Growth or Other Comparable Measures subcomponent and Locally Selected Measures subcomponent based on certain control variables. Please see Questions D22, E6, and E7 for an explanation of which control variables may be used for each subcomponent. If a school district/BOCES decides to assign additional points to certain teachers and principals based on control variables, the assignment of points must still effectively differentiate teacher or principal performance in each of these



subcomponents and in their overall ratings to improve student learning and instruction in accordance with Education Law §3012-c(2)(j)(3). Therefore, the maximum additional points allowable under the State Growth or Other Comparable Measures subcomponent or Locally Selected Measures subcomponent is two points; any additional points would make it impossible to receive a rating of Ineffective.

Please keep in mind that for all adjustment factors, the following must be included in the district's APPR plan when submitted for approval:

- The rationale for including adjustment factors.
- The processes that will be used to mitigate potentially problematic incentives associated with the control or adjustment.
- Assurances must be made that enrolled students in accordance with teacher of record policies are included and may not be excluded, and that use of locally-developed controls will not have a disparate impact on underrepresented students in accordance with any civil rights laws.

For adjustment factors selected, there must also be assurances by the district that the application of locally developed controls will be rigorous, fair, and transparent and that procedures for ensuring data accuracy and integrity are being used.

## **F. Third-Party and District, Regional, or BOCES Developed Assessments for Growth and Locally Selected Measures**

### **Rigor and Comparability**

#### **F1. Please define “rigorous and comparable” in the context of locally developed district, regional, or BOCES-developed assessments and for SLOs?**

**Rigorous** means that the locally selected measure is aligned to the New York State learning standards or, in instances where there are no such learning standards that apply to a subject/grade level, evidence of alignment to research-based learning standards and, to the extent practicable, the assessment must be valid and reliable as defined by the Standards of Educational and Psychological Testing.

**Comparable** across classrooms means that the same locally selected measures of student achievement or growth are used across all classrooms in the same grade/subject in the district/BOCES. A district may use more than one type of locally selected measure for different groups of teachers within a grade/subject if the district/BOCES verifies comparability in accordance with the Standards of Educational and Psychological testing. For principals, the same locally selected measure(s) must be used for all principals in the same or similar program or grade configuration in that school district/BOCES.

**F2. If a district/BOCES develops assessments, what are best practices for determining the rigor?**

Rigor can be established by assuring that the assessments are appropriate to the grade level and subject for which the assessment will be used and that assessments are aligned to the New York State Learning Standards, including the Common Core Standards, as appropriate, or in instances where there are no such standards that apply to a subject/grade level, evidence of alignment to research-based learning standards. Assessments must be valid and reliable as defined by the Standards of Educational and Psychological Testing, to the extent practicable. NYSED encourages districts/BOCES to look to their professional associations or other assessment experts for assistance.

**District, Regional, BOCES Developed Assessments**

**F3. If a district/BOCES develops its own assessments, do the assessments have to be reviewed by the State for inclusion on the *Approved Assessment List*?**

No, district-, regional-, or BOCES-developed assessments will not be reviewed by the State. Instead, a district/BOCES that develops its own assessments will be required to include in its APPR plan a certification that the district- or BOCES-developed assessment is rigorous and comparable across classrooms, in accordance with the Commissioner's regulations.

**F4. If districts hired a provider who currently provides commercially available assessments on the State's third-party list, but asks the provider to develop new assessments for the district/BOCES, do those assessments have to be submitted for inclusion in the *State-Approved Assessment List*?**

No, if a school district/BOCES contracts with a third-party provider to develop a new assessment for the district/BOCES, this would be considered a district- or BOCES-developed assessment. Therefore, a district/BOCES could use the assessment for the Locally Selected Measures subcomponent or for the State Growth or Other Comparable Measures subcomponent to the extent permitted by the regulation. The district/BOCES would need to provide assurances, in its APPR plan, that the district- or BOCES-developed assessment is rigorous and comparable across classrooms in accordance with the Commissioner's regulations.

**F5. Can a district/BOCES use a locally-developed performance task with a scoring rubric?**

Yes, locally-developed performance-based or performance task assessments may be used with a scoring rubric as a district, regional, or BOCES developed assessment. Please see NYSED's resource on "Assessments in Annual Professional Performance Review (APPR)": <http://www.engageny.org/resource/assessments-in-annual-professional-performance-review-appr>.

**F6. Can we use the assessments we have developed for Data-Driven Instruction (DDI) cycles as our district developed assessments for use with SLOs?**

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. 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.

**State-Approved Third-Party Assessments**

**F7. 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 issues a Request for Qualification (RFQ) for Student Assessments to be used by New York State districts/BOCES for a portion of teachers' and principals' evaluations yearly, soliciting applications for assessments that may be used as measures of student achievement or growth (<http://usny.nysed.gov/rttt/rfq/assessment.html>). Submitted assessments that meet the criteria in the Commissioner's regulations and the RFQ are periodically added to the State's *Approved Assessment List* at <http://usny.nysed.gov/rttt/teachers-leaders/assessments/>.

Another RFQ was issued in 2013 in order to update the list prior to the 2013-14 school year. The Department will update the *Approved Assessment List* at least annually.

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.

Effective March 2, 2014, all standardized assessments for students in K-2 were removed from the list of State-approved third-party assessments for use in plans in the 2014-15 school year and thereafter. Please see Question F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs.

**F8. Are the assessments on the State's approved third-party list aligned with the New York State learning standards, including the Common Core?**

Assessments included on the *Approved Assessment List* 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 will be based on the New York State P-12 Common Core Learning Standards for English language arts & literacy and math. The

Department's *Approved Assessment List* will be updated annually to reflect each assessment's status regarding alignment with the P-12 Common Core Learning Standards.

**F9. Is there a variance process to use a third-party assessment that is not on the *Approved Assessment List*?**

There is no variance process in place to use a non-approved third-party assessment for the purposes of APPR. If a district/BOCES would like to use a third-party assessment that is not on the *Approved Assessment List*, please contact the vendor and ask that they apply during our next RFQ review period. A third-party assessment that is not on the NYSED approved list may not be used for the purposes of APPR even if a district is willing to certify to its comparability and rigor. Please see Questions F7 and F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs.

**F10. If a third-party assessment is used as part of an SLO is there a required number of times that it must be administered?**

All SLOs must measure two points in time for the same students; the SLO must have a baseline (starting point) and a final, summative rating. Please check with your assessment provider for specifics as to how the vendor's assessment should be administered.

**F11. If an approved third-party assessment program 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 will use the third-party assessment as evidence of student learning during the interval of instruction time for purposes of the SLO.

**Questions added to August 2012 Guidance**

**F12. Can districts/BOCES submit a third-party assessment to be approved through the RFQ?**

LEAs (LEAs as defined per the RFQ: <http://usny.nysed.gov/rttt/rfq/>) may submit an application on behalf of the Copyright Owner/Assessment Representative of the assessment, with prior approval from the Copyright Owner/Assessment Representative. Also, a district/BOCES may submit an application on behalf of the Copyright Owner/Assessment Representative of the assessment if the district/BOCES receives prior approval from the Copyright Owner/Assessment Representative. Please see Question C23 for information about how to include third-party assessments in an APPR plan submission. For information about the timeline for submission to the RFQ, please see Question F7. Please see Questions F7 and F15 for additional guidance on selecting third-party assessments for use with students in grades K-2 for the purposes of teacher and principal APPRs.

Questions added to July 2013 Guidance

**F13. Can a district/BOCES use another district, region, and/or BOCES' developed assessment(s) for the purposes of APPR?**

Yes, the regulations provide the option for a district-, BOCES- or regionally-developed assessment. There is nothing in the regulations that prohibits a district/BOCES from using another district, region, or BOCES' developed assessment, provided that the superintendent of the district/BOCES using the assessment certifies that the assessment is rigorous and comparable across classrooms.

**F14. Are teacher-created assessments allowable as a district, regional, or BOCES-developed assessment option?**

No, teacher-created assessments are not an allowable option under the Commissioner's regulations, and may therefore not be used for APPR purposes. However, district, regional, or BOCES-developed assessments can be created by teacher teams. School districts/BOCES that use these assessments must have the superintendent, district superintendent, or chancellor certify in the APPR plan that the measure is rigorous and comparable across classrooms (see Subpart 30-2.5(c)(3)(ii) of the regulations).

Questions added to February 2014 Guidance

**F15. Will my district be allowed to use traditional standardized third-party assessments for students in kindergarten through grade two in its APPR plan for the 2014-15 school year or thereafter? What is the definition of traditional standardized assessment for the purposes of determining if my third-party assessment meets these criteria? If my plan already uses a traditional standardized third-party assessment for students in these grades for the 2013-14 school year, do we need to re-submit our plan to eliminate the use of these assessments?**

Effective March 2, 2014, the Department has removed all third-party assessments for use in kindergarten through grade two from its posted list. In addition, the APPR portal has been updated to remove the dropdown, "3<sup>rd</sup> party assessment" from kindergarten through grade two. The dropdown has been replaced with "3<sup>rd</sup> party non-'traditional standardized' assessment that meets NYSED guidance requirements." Districts/BOCES are also no longer required to list the specific name of the third-party assessment they are using in the APPR portal. Pursuant to the regulatory amendments made by the Board of Regents at the March 2014 meeting, the Department no longer requires a district/BOCES to use the RFQ process when selecting any third-party assessment for use in kindergarten, first, or second grade for APPR purposes. The Department will consider a third-party assessment for kindergarten through grade two that is not a traditional standardized assessment, as defined by NYSED, that meets the requirements set forth in the Department's K-2 APPR Assessment Guidance. This guidance document provides districts/BOCES with the minimum criteria that a third-party assessment must meet in grades K-2 to ensure the third-party assessment is consistent with Education Law §3012-

c and Subpart 30-2 of the Rules of the Board of Regents, including the prohibition against the administration of traditional standardized assessments to these students for APPR purposes. Please see the [Removal of Traditional Standardized Third Party Assessments in K-2 FAQ](#) and [Annual Professional Performance Review \(APPR\) Assessment Guidance Document](#) for further information.

Traditional standardized assessments are defined in section 30-2.2(v) 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).

Please see [K-2 APPR Assessment Guidance](#) for information on how to evaluate and identify existing third-party assessments that may be used to assess students in grades K-2 and [Removal of Traditional Standardized Third Party Assessments in K-2](#) for information on the removal of K-2 traditional standardized third-party assessments from the State-approved list.

Please also note that school districts/BOCES with an APPR plan that was approved or determined by the Commissioner for use in the 2013-14 school year which remains in effect in the 2014-15 school year or thereafter in accordance with Education Law §3012-c(2)(l) may continue to use a traditional standardized assessment that was on the State-approved list for students in grades K-2 prior to March 2, 2014, until a material change is made to their APPR plan and approved by the Commissioner to eliminate such use. Please see: <http://www.engageny.org/resource/guidance-on-the-approved-regulatory-amendments-to-appr-to-help-reduce-local-testing> for further information.

When a material change is made for the 2014-15 school year and thereafter, the superintendent, district superintendent, or chancellor will certify in their APPR plan that any third-party assessment being used for APPR purposes for students in kindergarten, first, or second grade meets the minimum requirements set forth in the State's K-2 APPR Assessment Guidance and is not a traditional standardized assessment, as defined by NYSED. Please see: <http://www.engageny.org/resource/guidance-on-the-approved-regulatory-amendments-to-appr-to-help-reduce-local-testing>.

## 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., in K-2 when administering a reading inventory or 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 in the following document: <http://www.p12.nysed.gov/assessment/sam/ei-samcc13rev.pdf>. The 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 local portion 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., in K-2 when administering a reading inventory or 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 locally selected assessments or assessments used as part of growth SLOs 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, including those used for performance-based or performance task assessments 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, such as in certain cases when using a performance-based or performance task assessment, 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 principal and/or supervisor 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.).

**Questions added to July 2013 Guidance**

**G6. How does vested interest work for a district that is using school-wide measures for its growth and/or local measures?**

When using the school-wide measure in Task 2 (State Growth or Other Comparable Measures) and/or 3 (Locally Selected Measures), 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, 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 new 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. To the extent that a locally-developed assessment is being used for non-APPR purposes, it becomes a locally-determined decision as to the test's scoring procedures.

However, 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 (as described in <http://www.p12.nysed.gov/assessment/sam/ei-samcc13rev.pdf>), to the greatest extent practicable.

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

Question G1, above, states that the security procedures used for the locally-developed measures should be comparable to the security protocol for the 3-8 State assessments, to the greatest extent practicable. Please see the security rules for the 3-8 State assessments in the following document: <http://www.p12.nysed.gov/assessment/sam/ei-samcc13rev.pdf>.

The State Education Department's Test Security Unit (TSU) recommends that instances of educator cheating on approved third-party assessments and locally-developed 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 subcomponent/overall scores 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 (0) 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 State Growth or Other Comparable Measures subcomponent.

**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 at: [www.highered.nysed.gov/tsei](http://www.highered.nysed.gov/tsei). The TSU will review the allegations and coordinate any necessary investigation with the district.

## **H. 60% Other Measures for Teachers and Principals**

### **Observations and Goals**

**H1. What are the requirements for teacher observations? Who may conduct teacher observations for evaluation purposes?**

At least a majority (31) of the 60 points must be based on multiple classroom observations – meaning 2 or more – by a principal or other trained administrator. Classroom observations may be performed in person or via video. At least one observation by a principal or other trained administrator must be unannounced.

Please see: <http://engageny.org/resource/summary-of-revised-appr-provisions-2012-13-the-purple-memo> for more specific details regarding the use of classroom observations as the basis of any remaining points and who may conduct observations for these points.

**H2. Can we allocate the full 60 points of the Other Measures of Effectiveness subcomponent to a teacher's classroom observations?**

Yes. The full 60 points of the Other Measures of Effectiveness subcomponent may be based on a teacher's classroom observations using a State-approved teacher practice rubric(s).

**H3. What are the requirements for assessment of a principal's leadership and management actions? Are school visits required as part of the evaluation of principals?**

At least a majority (31) of the 60 points must be based on a broad assessment of principal leadership and management actions based on the principal practice rubric, by the principal's supervisor, a trained administrator, or a trained independent evaluator. The assessment must incorporate multiple school visits by a supervisor, a trained administrator, or other trained evaluator, where at least one visit must be from a supervisor, and at least one visit must be unannounced.

A district/BOCES may allocate the full 60 points of a principal's evaluation to the broad assessment of principal leadership and management actions based on the State-approved principal practice rubric.

Please see: <http://engageny.org/resource/summary-of-revised-appr-provisions-2012-13-the-purple-memo> for more specific details regarding the basis of any remaining points.

**H4. For both teachers and principals, it states that “any remaining teaching/leadership standards not addressed...must be assessed at least once a year.” It does not, however, state whether any points need to be assigned. Can you please clarify this?**

All 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.

Beyond the requirements in the regulations, the specific assignment of points based on the rubric is a locally determined decision.

**H5. What are the requirements for goal setting for principals? Can you provide an example of what a goal for principals using other sources of evidence could look like?**

Any remaining points not assigned to the broad assessment of a principal's leadership and management actions may be assigned to goals. Ambitious and measurable goals are set collaboratively with principals and their superintendents or district superintendents. At least one goal must address the principal's contribution to improving teacher effectiveness based on one of the following:

1. Improved retention of high performing teachers;
2. Correlation of student growth scores to teachers granted vs. denied tenure;
3. Improvements in proficiency rating of the principal on specific teacher effectiveness standards in the principal practice rubric.

Goals must include at least two other sources of evidence from the following sources of evidence:

- Structured feedback from teachers, students, and/or families using a State-approved tool (each constituency is one source) (please see Question H13 below);
- School visits by trained evaluators;

- Review of school documents, records, and/or State accountability processes (all documents are one source).

The following are examples of goals: to improve the community and family engagement of the school as measured by a State-approved survey tool and related family survey; for districts who exceed the State average, to lower unnecessary special education referral rates as measured by school documents/records and structured feedback from special education staff members, families, and students using a State-approved tool; to improve school safety as measured by review of school documents/records and school visits by trained evaluators.

### **Rubrics**

#### **H6. 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 issued a Request for Qualification (RFQ) for Teacher and Principal Practice Rubrics (<http://usny.nysed.gov/rtt/rfq/rubric.html>). Submitted rubrics that meet the criteria in the Commissioner’s regulations and the RFQ are periodically added to the State’s *List of Approved Teacher and Principal Practice Rubrics* at <http://usny.nysed.gov/rtt/teachers-leaders/practicrubrics/home.html>.

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.

#### **H7. 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 at <http://usny.nysed.gov/rtt/teachers-leaders/rubrics/rubricvariance.html>. 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 §30-2.7 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 §30-2.7 of the Rules of the Board of Regents. 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.

**H8. 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.

**H9. 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
- Maintaining all components of the rubric but choosing to emphasize certain components of the rubric over others; including emphasizing some elements

or performance indicators over others. (It is not required to assess annually each element or performance indicator as long as each of the seven New York State standards is assessed annually.)

However, districts may not make changes to a State-approved rubric. Districts/BOCES may agree to emphasize parts of the rubric over others, in terms of point allocations, or to focus on certain elements in classroom observation but they may not make changes to the rubric.

**H10. There are two rubrics on NYSED’s approved list that are observation-only rubrics. How should we use the rubrics when all 60 points must be assessed through the lens of the rubric?**

Both CLASS and NYSTCE are observation-only based rubrics. Therefore, if a district/BOCES decides to use the CLASS or NYSTCE rubric, then it will also need to select a second rubric to assess NYS Teaching Standards 1, 2, 5, and 6.

**H11. Can points be awarded to teachers who effectively coach and mentor student teachers or new colleagues?**

Yes, subject to local negotiation, this is an allowable way to award points under certain Domains in rubrics on the State-approved list (also see Standard VI of the NYS Teaching Standards: Professional Responsibilities and Collaboration). Districts should decide whether to consider the learning achieved by the student teacher or new colleague when determining if the cooperating or mentor teacher deserves maximum points.

**H12. Please provide some examples of allowable approaches to the requirements for “other measures” for principals.**

*The following are all examples (among many others) of allowable configurations of the principal 60 points:*

1. **60 points on “broad assessment of principal leadership and management actions” based on the principal rubric**
  - a. includes multiple school visits by supervisor, (etc.) at least one unannounced;
2. **50 points on “broad assessment” and 10 points on 2 goals:** (this example incorporates the required 2 sources of evidence and the required teacher effectiveness goal. Many other examples are possible.)
  - a. One goal for 5 points: improve retention of effective teachers (using school documents and records).
  - b. One goal for 5 points: improve ratings from students on student survey (overall or index of key questions).
3. **31 points of “broad assessment” and other 29 points as follows:** (example

includes required two sources of evidence, at least one goal relates to teacher effectiveness and other goal relates to quantifiable and verifiable results in the school's learning environment.)

- a. Goal of 10 points on improvement in “use of multiple sources of data on teacher evaluation” rating from State-approved rubric vs. year before. This goal satisfies requirement for a teacher effectiveness goal based on improvements in a related principal rubric area.
- b. Goal of 10 points on improvements in student attendance. This goal uses school documents and attendance records.
- c. Goals of 9 points on improvements on parent survey feedback (overall or key questions). The goal uses second of two required sources of evidence and goal is quantifiable and verifiable.

### **Survey Tools and Structured Review of Portfolios, Lesson Plans, or Other Teacher Artifacts**

#### **H13. When will there be an approved list of other kinds of assessment tools, such as student/parent/teacher surveys?**

Submitted survey instruments that meet the criteria in the Commissioner's regulations and the Request for Qualification (RFQ) can be found on the State's *Approved Surveys of P-12 Students or Families for Use in Teacher Evaluations* at <http://usny.nysed.gov/rttt/teachers-leaders/approved-surveys/home.html>.

Applications are being accepted on a continuous and ongoing basis. The Department will review submissions and update the approved list on a quarterly basis.

The Department does not plan to create an approved list for tools to assess student work/teacher artifact portfolios.

#### **H14. What is meant by structured review of student portfolios, teacher lesson plans, or other teacher artifacts?**

Structured reviews should utilize the State-approved teacher practice rubric the district has selected and use student work, teacher lesson plans, and/or other teacher artifacts as sources of evidence of teacher proficiency on the relevant teacher skills in the rubric (please see: <http://www.nbpts.org/> for one type of model for portfolio submission districts/BOCES may wish to consider; please see: <http://www.lauragoe.com/LauraGoe/Publications.html> for a concept paper on evidence binders of student work by Laura Goe).

Examples of relevant teacher practice could include but are not limited to:

- What evidence does the student work or teacher artifacts give about the alignment of lessons to State learning standards?
- Is there evidence of a teacher's use of assessment data in designing lessons that address the needs of all students?



- Is there evidence of high quality feedback from the teacher to the students?
- Is there evidence that instruction is leading to student learning progress?

Specifically for reviews of student work:

- Reviewing work from all students is preferred, if possible.
- If not all students, then students should be selected randomly by principal at each review point.

**H15. Will the State create an approved list of tools to use as a structured review of student work/teacher artifacts and portfolios?**

The Department does not anticipate creating an additional list of State-approved tools. If a district negotiates use of “structured reviews” as part of the Other Measures of Teacher Effectiveness subcomponent, the reviews are another way of gathering evidence about teacher practice and should be assessed using the district’s choice of teacher practice rubric.

**Questions added to July 2013 Guidance**

**H16. What happens if a teacher or principal only receives one observation during the school year?**

Regardless of circumstance, an educator needs to have multiple observations throughout the school year in order to comply with the requirements of Education Law §3012-c. The process for ensuring multiple observations occur, even for an unexpected leave (e.g. sudden medical issues), will need to be determined locally.

All observations must be completed in the school year in which the teacher or principal is being evaluated.

**I. Scoring and Rating of Evaluations**

**Scoring Bands and 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 a single composite effectiveness score that is calculated based on the scores received by the teacher or principal in each of the three subcomponents.

**I2. How are points assigned to each subcomponent of the evaluation? How are the scoring bands determined?**

The law requires that the superintendent, the district superintendent or chancellor (in the case of NYC), and the president of the collective bargaining representative (where one exists) certify in its APPR plan that its process will use the narrative descriptions for the rating categories to effectively differentiate educators’ performance in each of the subcomponents and the overall rating categories to improve student learning and instruction.

*Table 2. Educator Evaluation Rating Categories*

<b>Standards for Rating Categories</b>	<b>Growth or Other Comparable Measures</b>	<b>Locally Selected Measures of Growth or Achievement</b>	<b>Other Measures of Effectiveness (Teacher and Leader standards)</b>
<b>Highly Effective</b>	Results are well-above State average for similar students (or district goals if no State test).	Results are well-above district or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results exceed standards.
<b>Effective</b>	Results meet State average for similar students (or district goals if no State test).	Results meet district or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results meet standards.
<b>Developing</b>	Results are below State average for similar students (or district goals if no State test).	Results are below district or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results need improvement in order to meet standards.
<b>Ineffective</b>	Results are well-below State average for similar students (or district goals if no State test).	Results are well-below district or BOCES-adopted expectations for growth or achievement of student learning standards for grade/subject.	Overall performance and results do not meet standards.

In addition to the text-based standards for the rating categories above, the State establishes scoring ranges for the HEDI rating categories for the overall composite rating, the State Growth or Other Comparable Measures subcomponent, and the Locally Selected Measures subcomponent. The scoring ranges for the Other Measures of Effectiveness subcomponent shall be established locally through negotiations conducted under Article XIV of the Civil Service Law. The following scoring ranges will apply:

*Table 2-A. Subcomponent and composite scoring ranges for educators for whom there is no approved Value-Added measure of student growth*

<b>Where no Value-Added growth measure applies</b>	<b>Growth or Other Comparable Measures</b>	<b>Locally Selected Measures of Growth or Achievement</b>	<b>Other Measures of Effectiveness (60 points)</b>	<b>Overall Composite Score</b>

<b>Highly Effective</b>	<b>18-20</b>	<b>18-20</b>	<b>Ranges determined locally</b>		<b>91-100</b>
<b>Effective</b>	<b>9-17</b>	<b>9-17</b>			<b>75-90</b>
<b>Developing</b>	<b>3-8</b>	<b>3-8</b>			<b>65-74</b>
<b>Ineffective</b>	<b>0-2</b>	<b>0-2</b>			<b>0-64</b>

*Table 2-B. Subcomponent and composite scoring ranges for educators for whom there is an approved Value-Added Model for student growth*

<b>Where Value-Added growth measure applies</b>	<b>Growth or Other Comparable Measures</b>	<b>Locally Selected Measures of Growth or Achievement</b>	<b>Other Measures of Effectiveness (60 points)</b>	<b>Overall Composite Score</b>
<b>Highly Effective</b>	<b>22-25</b>	<b>14-15</b>	<b>Ranges determined locally</b>	<b>91-100</b>
<b>Effective</b>	<b>10-21</b>	<b>8-13</b>		<b>75-90</b>
<b>Developing</b>	<b>3-9</b>	<b>3-7</b>		<b>65-74</b>
<b>Ineffective</b>	<b>0-2</b>	<b>0-2</b>		<b>0-64</b>

*For the 2013-14 school year and beyond, the Commissioner will review the scoring ranges annually before the start of each school year and recommend any changes to the Board of Regents<sup>11</sup>.*

The State determines the process for assigning points to educators for the State Growth or Other Comparable Measures subcomponent. Districts must determine the points assigned to educators with SLOs in this subcomponent, following State guidance.

The following elements are locally determined through negotiations:

- The process by which points are assigned in subcomponents and the scoring ranges for the subcomponents must be transparent and available to those being rated before the beginning of each school year.
- The assignment of points in each subcomponent must ensure it is possible for an educator to obtain any of the available points (including 0) in the State Growth or Other Comparable Measures and Locally Selected Measures subcomponents.

**I3. If districts are given the autonomy to determine the point allocation for the Locally Selected Measures subcomponent and the Other Measures of Effectiveness subcomponent, how does the State plan to explain comparisons that will inevitably result?**

Some of the elements of the evaluation system are determined by the State, but the statute and regulation provide districts/BOCES with flexibility in other areas, subject to collective bargaining to the extent required by law or regulations. NYSED will conduct ongoing monitoring and reporting to analyze trends and patterns in evaluation results to identify districts whose evaluation results appear to have low correlation results with

<sup>11</sup> Based on the arguments presented in the NYC arbitration proceeding held on May 30 and 31 and pursuant to his authority in Education Law §3012-c(2)(a), the Commissioner imposed new proportional scoring ranges for use in NYC for the 2013-14, 2014-15, 2015-16 and 2016-17 school years. Please see the link below for a description of these scoring ranges: <http://usny.nysed.gov/rttt/teachers-leaders/plans/docs/new-york-city-appr-plan.pdf>.

other evidence of student learning. NYSED may require corrective action if a district's implementation appears to be insufficiently rigorous.

### **Adjustments, Controls, and Final Distribution of Educator Scores**

#### **I4. Will NYSED provide guidance on whether to take into account teacher experience in a teacher's evaluation?**

NYSED does not expect to consider educator experience level in calculating teacher or principal growth or Value-Added scores and recommends that districts not do so either for Locally Selected Measures subcomponent or the Other Measures of Effectiveness subcomponent.

While it is true that teachers tend to have worse results in their first year and improve rapidly in their early-career years, the overall evaluation rating should reflect an educator's performance on an absolute scale. Feedback and development, however, should be targeted to the needs of the educator and will likely differ based on career stage. An early-career teacher rated Developing needs different support than a seasoned teacher whose results have not yet reached the Effective level or who has fallen from it.

#### **I5. 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 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 all 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.

### **Scoring: Growth on State Assessments and Comparable Measures**

#### **I6. Will common branch teachers receive two scores, one each for ELA and math?**

Common branch teachers will receive a State-provided growth score for ELA and another one for math. NYSED, through its vendor, will combine these scores into a single measure to determine a HEDI rating and a State-provided growth score for this subcomponent of the educator's evaluation.

#### **I7. How are weights determined when there is more than one score being collected for SLOs? Do the SLOs have to be proportionate or can one be weighted more heavily than the others?**

Each SLO must be weighted proportionately based on the number of students included in both SLOs. The scores from the two SLOs will combine into one overall Growth subcomponent score (0-20 points). Please see: <http://engageny.org/resource/student->

[learning-objectives/](#) for the SLO Guidance document, road map, webinar series, and other tools and resources.

**I8. For teachers with a mix of sections/courses with/ without State-provided growth measures, the Guidance states “if <50% covered by SGP/VA, then a mix of SGP/VA and SLOs will be used.” How will the State Growth or Other Comparable Measures subcomponent score be determined?**

For educators who have multiple SLOs, the SLOs are weighted proportionately based on the number of students in each SLO. The State will provide a score for the SLO that uses the State-provided growth measure; however, this score must then be weighted proportionately with the scores from the other SLO(s) in order to determine one overall HEDI score for the educator. Please see Example Model 1(B) in the SLO Guidance document: <http://engageny.org/resource/student-learning-objectives-guidance-document>

**Scoring: Locally Selected Measures**

**I9. How will the locally selected measures be converted into a point system?**

The statute and regulations provide guidance for scoring the locally selected measures by way of the text descriptions provided for each of the four rating categories for this subcomponent. However, districts must determine the process for assigning points to educators for this subcomponent of the evaluation, within the scoring ranges and text descriptions provided by the Commissioner for each rating category for this subcomponent. The assignment of points for the Locally Selected Measures subcomponent is subject to collective bargaining.

**Scoring: 60 Points**

**I10. Can you provide some concrete examples of scoring for the 60 points?**

NYSED has provided guidance for scoring the 60 points attributed to the Other Measures of Effectiveness subcomponent by way of the text descriptions of the four levels of performance (please see I2 above). Districts must determine locally the details of their approach to assigning 0-60 points to educators for this subcomponent of the evaluation, within the scoring ranges and text descriptions for each rating category for this subcomponent, as prescribed in §30-2.6 of the Commissioner's regulations.

Here is one of many possible examples of an approach to negotiating procedures for assigning points around 60 point “other measures” that could help others think about how to reach their own policy goals.

1. The district negotiates procedures for conducting and scoring classroom observations and assessing other aspects of the rubric.
2. The district also negotiates the level of performance against the rubric that “meets standards” (for Effective: Overall performance and results meet standards) and the other HEDI categories (for Highly Effective: Overall performance exceeds standards; for Developing: Overall performance and results need improvement in

order to meet standards; for Ineffective: Overall performance and results do not meet standards.).

3. Based on all the evidence gathered, a “rubric score” and its corresponding HEDI rating category is determined for each educator.
4. The rubric score is then converted into a score on a scale of 0-60 according to the 60 point scoring bands negotiated by the district.
5. The chart below illustrates one potential result:

<b>Overall Rubric Score (Must be negotiated)</b>	<b>Rating Category</b>	<b>0-60 point distribution by rating category (must be negotiated)</b>
<b>1.0</b>	<b>INEFFECTIVE</b>	<b>0</b>
<b>1.1-1.2</b>		<b>15</b>
<b>1.3-1.4</b>		<b>30</b>
<b>1.5-1.6</b>		<b>40</b>
<b>1.7-1.8</b>		<b>49</b>
<b>1.9</b>	<b>DEVELOPING</b>	<b>50</b>
<b>2.0</b>		<b>51</b>
<b>2.1</b>		<b>52</b>
<b>2.2</b>		<b>53</b>
<b>2.3-2.4</b>		<b>54</b>
<b>2.5-2.6</b>		<b>55</b>
<b>2.7-2.8</b>		<b>56</b>
<b>2.9-3.3</b>	<b>EFFECTIVE</b>	<b>57</b>
<b>3.4-3.6</b>		<b>58</b>
<b>3.7-3.8</b>	<b>HIGHLY EFFECTIVE</b>	<b>59</b>
<b>3.9-4.0</b>		<b>60</b>

**I11. How will the teacher evaluation rubric be converted into a point system?**

The process by which points are assigned and the scoring range is determined locally and must be transparent and provided in advance to those who will be rated. Each district/BOCES must describe its process for assigning the other 0-60 points in its APPR plan, which must be published on its web site.

Districts and collective bargaining units must certify that the process for assigning points will use the narrative descriptions in the regulations to effectively differentiate educators’ performance in ways that improve student learning and instruction.

**Timing for Evaluations**

**I12. 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 Locally Selected Measures subcomponent (if available) and on the Other Measures of Effectiveness subcomponent must be computed and provided to the teacher or principal in writing no later than the last day of the school year.

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.

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. All information will be transmitted electronically via secure protocol to the districts. Upon receipt of such scores, districts must then determine the final composite score for each teacher and/or principal in accordance with the Commissioner's regulations.

### **Questions added to August 2012 Guidance**

#### **I13. How can you ensure that every point is used when there are classes with small numbers of students? Do we have to explain how educators will get each point within the APPR Review Portal?**

The requirement to ensure that it is mathematically possible for educators to earn all points in a HEDI range applies to the district/BOCES-level assignment of points within the State Growth or Other Comparable Measures subcomponent and the Locally Selected Measures subcomponent. Districts/BOCES do not have to ensure that this criterion applies the same way for every single SLO for every single teacher. It may not be mathematically possible for the same HEDI criteria to work for teachers of different class sizes in the same grade/subject.

The following assurances are required: assure that it is possible for an educator to earn each point, including 0, for SLOs in the State Growth or Other Comparable Measures subcomponent scoring range, and assure that the process for assigning points for SLOs for the State Growth subcomponent will use the narrative HEDI descriptions described in the Commissioner's regulations to effectively differentiate educators in ways that improve student learning and instruction.

For more information on SLOs for classes with small 'n' sizes that may use an alternative point assignment in their HEDIs, please see the NYSAA webinar on EngageNY called "Alternative Target Setting Models within SLOs" found here: <http://www.engageny.org/resource/alternative-target-setting-models-within-student-learning-objectives-slos#overlay-context=resource/leading-the-student-learning-objective-slo-process-within-your-school>. In addition, please reference the NYSAA resources found on EngageNY at: <http://www.engageny.org/resource/using-the-nysaa-in-the-development-of-slos>.

## **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 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 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 or a trained independent evaluator or a trained administrator.

### **J2. Are there different training requirements for an evaluator and a lead evaluator? Which evaluators must be certified?**

All evaluators must be appropriately trained before conducting an evaluation, but only lead evaluators need to 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 the Commissioner’s regulations. Lead evaluators must also be periodically recertified to ensure inter-rater reliability.

Any individual who fails to achieve required training or certification or re-certification, as applicable, by a school district/BOCES shall not conduct or complete an evaluation.



**J3. What is the timeline of evaluator training roll-out from the State?**

NYSED offered a model for training lead evaluators, beginning in August 2011 which will be extended through the 2013-14 school year, to network teams and other district/BOCES-level stakeholders. These staff will be able to “turn-key” the training and oversee the certification of district staff. Districts may choose to take advantage of this training program or they may develop or contract for their own training and evaluator certification programs. Districts/BOCES that opt to have evaluators trained by another provider associated with selected teacher and leader practice rubrics may determine the rollout of training, provided all evaluators are fully trained prior to conducting an evaluation. It is important to keep in mind, however, that districts are responsible for lead evaluator certification.

**J4. What are the requirements of the training course for certification as a lead evaluator?**

Section 30-2.9 of the Rules of the Board of Regents provides that, in order to be certified as lead evaluators, administrators must be trained in the following nine elements:

1. NYS Teaching Standards, and their related elements and performance indicators or ISLLC standards and their related functions;
2. Evidence-based observation techniques grounded in research;
3. Application and use of the SGP model and the Value-Added growth model;
4. Application and use of approved teacher or principal practice rubric(s) selected by the district/BOCES for use in evaluations, including training on the effective application of such rubrics to observe a teacher’s or principal’s practice;
5. Application and use of any assessment tools that the school district/BOCES utilizes to evaluate its classroom teachers or building principals, including but not limited to, structured portfolio reviews; student, parent, teacher and/or community surveys; professional growth goals and school improvement goals, etc.;
6. Application and use of any State-approved locally selected measures of student achievement used by the school district/BOCES to evaluate its teachers or principals;
7. Use of the Statewide Instructional Reporting System;
8. Scoring methodology utilized by the Department and/or the district/BOCES to evaluate a teacher or principal under this Subpart, including how scores are generated for each subcomponent and the composite effectiveness score and application and use of the scoring ranges prescribed by the Commissioner for the four designated rating categories used for the teacher’s or principals’ overall rating and their subcomponent ratings; and
9. Specific considerations in evaluating teachers and principals of English language learners and students with disabilities.

- J5. When will NYSED adopt training guidelines for evaluators training in: (1) use of the Statewide Instructional Reporting System; (2) how to consider evaluating teachers and principals of English language learners and students with disabilities; and (3) Application and use of the SGP model and the Value-Added Model?**

Districts and BOCES have a variety of training opportunities available, through trained Network Team members, rubrics vendors, and other specialists.

- J6. How is the State providing training on SLOs?**

The State has provided training for district/BOCES leaders on the SLO process via webinars since December 2011. The State has also provided training to Network Team members on SLOs. Many of these members have begun training back in their districts/BOCES. Also, please continue to check EngageNY for further resources including NYSED's webinar series: <http://engageny.org/resource/student-learning-objectives/> which provides support for district/BOCES leaders in the critical decisions they must make around SLOs for growth.

- J7. 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**

- J8. If a building principal receives a composite rating of Developing or Ineffective, how does that impact the teacher evaluations completed by that principal? Will the scores for that year be invalid?**

No, if a building principal was certified by his or her district/BOCES as a lead evaluator (meaning that he or she was properly trained to be an evaluator), his or her evaluations of teachers will not be declared invalid if the principal receives a Developing or Ineffective rating.

- J9. May a principal who receives a composite 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.

### Questions added to August 2012 Guidance

- J10. The regulations require that to qualify for certification as a lead evaluator, individuals shall successfully complete a training course that provides training on, among other things, use of the Statewide Instructional Reporting System (SIRS). How can the training course provide instruction on this system, when the system is not ready for implementation?**

The Statewide Instructional Reporting System (SIRS) was available beginning in the 2013-14 school year. Therefore, training courses currently being conducted are required to cover the use of the system. Districts/BOCES will be required to include this in their training to evaluators and in the training for the certification and periodic recertification of lead evaluators.

## **K. Collective Bargaining**

QUESTIONS AND ANSWERS RELATED TO COLLECTIVE BARGAINING AND THE REQUIREMENTS OF EDUCATION LAW §3012-c, AS ADDED BY CHAPTER 103 OF THE LAWS OF 2010 AND AMENDED BY CHAPTER 21 OF THE LAWS OF 2012)

**Disclaimer:** This document constitutes the position of the Department relating to its interpretation of Education Law §3012-c 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. 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-c requires that all collective bargaining agreements for teachers and building principals entered into after July 1, 2010 be consistent with its provisions. It further provides that any conflicting provisions of collective bargaining agreements in effect on July 1, 2010 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-c apply and the successor agreement must be consistent with the provisions of this section. Under Education Law §3012-c(2)(k), as added by Chapter 21 of the Laws of 2012, by July 1, 2012, the governing body of each school district/BOCES is required to adopt a complete plan for the annual performance review of all of its classroom teachers and building principals and to submit the plan to the Commissioner for approval. If all of the terms of the APPR plan have not been finalized by July 1 as a result of unresolved collective bargaining negotiations, the entire APPR plan shall be

submitted upon resolution of all of its terms consistent with Article 14 of the Civil Service Law.

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 standards and procedures for conducting APPRs of its classroom teachers and building principals.

- (b) **If we have entered into a new contract, must we have an APPR plan completed by July 1? If not, how long do we have before we have to show teachers the document upon which they will be evaluated in the current school year?**

Education Law §3012-c(2)(k) requires that by July 1, 2012, the governing body of each school district/BOCES shall adopt a complete plan for the annual professional performance review of all of its classroom teachers and building principals and shall submit the plan to the Commissioner for approval. A district/BOCES whose plan has not been finalized by July 1, 2012 (or by July 1 of any subsequent year) as a result of unresolved collective bargaining negotiations must submit the entire plan to the Commissioner upon resolution of all its terms, consistent with Article 14 of the Civil Service Law. Therefore, the intent of Education Law §3012-c(2)(k) is that the governing board of the school district submit its APPR plan for approval of the Commissioner by July first of each year except where its terms have not been finalized as a result of ongoing collective negotiations. However, Education Law §3012-c(2)(l) provides that if an APPR for the applicable year (2013-14 and each year thereafter) has not been negotiated as of September 1, the collectively bargained APPR most recently approved, or the APPR determined by the Commissioner in arbitration shall remain in effect until a subsequent APPR is agreed to by the parties and approved by the Commissioner.

- (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/BOCES is at impasse or is otherwise unable to complete collective negotiations on portions of the plan by the July 1 deadline?**

To the extent that by July 1 of any year, 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 at the July 1 deadline 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, Education Law §3012-c(2)(l) provides that if an APPR for the applicable year (2013-14 and each year thereafter) has not been negotiated as of September 1, the collectively bargained APPR most recently approved, or the APPR determined by the Commissioner in arbitration shall remain in effect until a subsequent APPR is agreed to by the parties and approved by the Commissioner.

## **K2. INCORPORATING THE PROVISIONS OF THE LAW INTO AGREEMENTS**

### **(a) Do new contracts need to reference all the provisions of the law, i.e., percentages relating to teacher and principal effectiveness and student growth?**

No. New collective bargaining agreements do not need to reference all the provisions of the law. However, new agreements and any evaluation system for teachers and principals shall not be inconsistent with the provisions of Education Law §3012-c.

### **(b) Must agreements negotiated after July 1, 2010, include provisions linking teacher and principal evaluations and ratings to supplemental compensation?**

Pursuant to Education Law §3012-c, all collective bargaining agreements applicable to classroom teachers and building principals entered into after July 1, 2010 shall be consistent with the law. The law requires that the new evaluations be a significant factor 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, in accordance with the phase in schedule required by the law.

### **(c) What happens if a CBA is silent on evaluations? Would it be a violation of the Taylor Law to enforce?**

Education Law §3012-c provides as follows:

Nothing in this section shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on July 1, 2010

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, this section further provides that "nothing in this section or in any rule or regulation promulgated hereunder shall in any way, alter, impair or diminish the rights of a local collective bargaining representative to negotiate evaluation procedures in accordance with article 14 of the Civil Service Law with the school district or board of cooperative educational services."

The New York State Court of Appeals has held that "[w]here [a collective bargaining agreement] is silent respecting the matter in dispute, unilateral action by a public employer changing terms and conditions of employment violates the statutory duty to bargain and constitutes an improper practice" (Roma, et al. v. Ruffo, et al., 92 NY2d 489 [1998]). At that point, the district and the union have a duty to bargain these issues. However, to the extent that the collective bargaining agreement is silent on issues that are not considered terms and conditions of employment or evaluation procedures (i.e., evaluation criteria or the standards of evaluation) in Education Law §3012-c, it appears a district could unilaterally impose these requirements. A district should consult with its school attorney to determine what aspects of the law the district must comply with in light of the Taylor Law.

- (d) **The law and regulations provide that "an improvement plan shall be developed locally through negotiations pursuant to article 14 of the Civil Service Law and 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." Does this mean that each plan must be negotiated individually or can the plans be negotiated collectively?**

Education Law §3012-c(4) explicitly requires that teacher improvement plans be developed locally through collective negotiations. The Department interprets this provision to mean that teacher improvement plans may be negotiated collectively and need not be negotiated individually with every teacher. The specifics of the required elements, such as the areas in need of improvement and the activities to support the teacher's improvement, will vary, but there is no language in Education Law §3012-c(4) indicating that those elements must be individually negotiated. However, we recognize that the scope of collective negotiations must ultimately be decided by the Public Employment Relations Board. Therefore, we recommend that you consult with your local school district/BOCES attorney on this issue.

### **K3. 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-c?**

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.

- (b) **It appears that it will be difficult to successfully negotiate the necessary components of the APPR plan prior to the mandated implementation date. That said we would then be out of compliance with the statute. We don't want to be out of compliance but could be forced into non-compliance if negotiations are unsuccessful. What are the potential ramifications of this, and do you have any advice moving forward?**

Education Law §3012-c requires that all collective bargaining agreements for teachers and building principals entered into after July 1, 2010 be consistent with its provisions. It further provides that any conflicting provisions of collective bargaining agreements in effect on July 1, 2010 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-c apply and the successor agreement must be consistent with the provisions of this section.

However, 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” and 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.

#### **K4. OTHER LOCALLY SELECTED MEASURES SUBCOMPONENT**

- (a) **Sections 3012-c(2)(e)(ii) and (f)(ii) require that 20% of an APPR be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms in accordance with the Commissioner's regulations. Does this mean that a school district/BOCES is required to negotiate what assessments or locally selected measures the school district/BOCES uses for the evaluation of its classroom teachers and building principals?**

Education Law §3012-c provides that the selection of the local measure or measure to be used by a school district/BOCES shall be determined through collective bargaining.

#### **K5. APPEAL PROCEDURES**

- (a) **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. Education Law §3012-c and §30-2.11 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 other than the teacher's or principal's performance that is the subject of the appeal. **Section 30-2.1(d) of the Rules of the Board of Regents defines performance for this purpose as the teacher's or principal's overall composite APPR rating.** This language allows a board of education or BOCES to make a tenure determination or termination decision during an APPR appeal as long as it does not rely upon the performance that is being appealed (the subject of the appeal), which is defined as the overall composite rating.

This means that the board of education or BOCES may base a tenure determination or termination decision made during the pendency of an APPR appeal on prior year APPRs that measure the teacher's or principal's performance in prior years and are not the subject of the pending APPR appeal. In addition, probationary teachers and principals



may be terminated or denied tenure during an APPR appeal for constitutionally and statutorily reasons other than the teacher's or principal's **overall composite rating on the APPR**.

However, if the **APPR overall composite rating** that is the subject of the appeal forms the sole basis for the board of education's or BOCES determination to terminate or deny tenure to a probationary teacher or principal, the pendency of the appeal would effectively stay the board of education's or BOCES' ability to make such a determination until the appeal process is completed.

**(b) May a probationary teacher or principal acquire tenure by estoppel as a result of a pending APPR appeal?**

The memorandum in support of S.6732/A. 9554, which was enacted as Chapter 21 of the Laws of 2012, indicates that the language in the new, revised APPR statute 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. In the limited circumstance in which a board of education or BOCES needs to rely upon the **APPR overall composite rating** of a probationary teacher or principal that is the subject of a pending appeal as the sole basis for termination or denial of tenure and delays in the appeal process cause such determinations to be delayed past the end of the teacher's or principal's probationary period, tenure by estoppel still may be possible. The courts have not yet addressed tenure by estoppel in this situation, however, and school districts/BOCES are advised to consult with their school attorneys regarding their available options should they find themselves in this position.

**(c) When does the right to appeal commence?**

The new APPR law provides that teachers or principals are not authorized to trigger the appeal process until they receive their composite score. For teachers and principals receiving State-provided growth scores, this means that a composite score will not be available until the State-provided growth score is generated by the State. Teachers and principals must receive their composite score no later than September 1 of the school year next following the school year for which the teacher or principal is being evaluated.

**(d) Education Law §3012-c 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?**

No. A school district/BOCES shall factor in any annual professional reviews that have been conducted at the time the employment decision is made. However, it need not wait until all three annual professional reviews are conducted (if an employee has a three year probationary appointment) to make a tenure determination.

**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, then 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 Appeal Procedures<sup>12</sup>**

Section 3012-c of the Education Law establishes a comprehensive annual evaluation system for classroom teachers and building principals, as well as the issuance and implementation of improvement plans for teachers and principals whose **APPR overall composite rating** is assessed as either Developing or Ineffective.

To the extent that a teacher/principal wishes to challenge a performance review and/or improvement plan under the new evaluation system, the law requires the establishment of an appeals procedure, the specifics of which are to be locally negotiated pursuant to article XIV of the Civil Service Law.

To assist the field in developing these procedures, the Department is sharing the following model appeal procedure with school districts/BOCES for use in their negotiations.

This model appeal procedure addresses a teacher's or principal's due process rights while ensuring that appeals are resolved in an expeditious manner.

### **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-c to the following subjects:

- (1) 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-c;
- (2) the adherence to the Commissioner's regulations, as applicable to such reviews;
- (3) compliance with any applicable locally negotiated procedures applicable to annual professional performance reviews or improvement plans; and

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<sup>12</sup> The appeals procedures for NYC teachers and principals have been determined by the Commissioner through arbitration pursuant to Education Law §3012-c(2)(m), consistent with the requirements for appeals in Education Law §3012-c(5) for NYC principals and (5-a) for NYC teachers. To view New York City's appeal procedures, see the following link: <http://usny.nysed.gov/rttt/teachers-leaders/plans/docs/new-york-city-appr-plan.pdf>.

- (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-c.

### **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-C APPEAL PROCEDURE**

The 3012-c 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?**

“Teacher of record” is defined in Question B2. 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.

Please see Question M30 for information on reporting BOCES itinerant teachers.

**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 (please see Question D51) a State-provided growth score will not be calculated for her/him and the educator must be evaluated by comparable growth measures (SLOs) according to the employer’s APPR plan. Please see Questions D17 and D19 for additional information about educators who are evaluated using SLOs.

**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:

- <http://www.p12.nysed.gov/irs/teacher/Reporting-and-VerifyingLinkageInformation-Final2-26-13.pdf>
- <http://www.p12.nysed.gov/irs/teacher/TSDL-and-RosterVerification-final3-15-12.pdf>
- [http://www.p12.nysed.gov/irs/memos/2014/2013-14-DataVerificationCertificationMemo\\_Final\\_033114.pdf](http://www.p12.nysed.gov/irs/memos/2014/2013-14-DataVerificationCertificationMemo_Final_033114.pdf)

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 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<sup>13</sup>.

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) at <http://edp.nysed.gov>. Reports will be refreshed at least weekly to reflect updates or corrections made prior to the verification deadline. Please see <http://www.p12.nysed.gov/irs/teacher> for a description of how

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<sup>13</sup> 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](mailto:AdvanceSupport@schools.nyc.gov) with questions.

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 are districts required to report on teacher and student data for APPR purposes?**

Beginning with the 2012-13 school year, 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 at: <http://www.p12.nysed.gov/irs/courseCatalog/home.html> .

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.

<i>Data Elements to be Reported for Teacher/Principal Evaluation, by Year Required</i> Data Element	<i>2012-13 and beyond</i>
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1	Unique statewide identifier for all teachers assigned to reported courses	Yes
2	Student enrollment in all courses using the statewide standardized course codes located online at: <a href="http://www.p12.nysed.gov/irs/courseCatalog/home.html">http://www.p12.nysed.gov/irs/courseCatalog/home.html</a>	Yes
3	Duration of reported course section ^	Yes
4	Teacher-student linkage start/end dates for reported course section	Yes
5	Duration of the student enrollment - teacher assignment linkage for the reported course section (“enrollment linkage”) ^	Yes
6	Duration of student attendance – teacher assignment linkage for the course section (“attendance linkage”) ^	Yes
7	Teacher-student linkage duration adjustments for reported course section	Yes
8	Student exclusion-from-evaluation flag for reported course section **	Yes
9++	Evaluation rating category (Highly Effective, Effective, Developing, Ineffective)	Yes
10NC	Evaluation sub-component scores (Growth or Other Comparable Measures, Locally Selected Measures, Other Measures of Teacher Effectiveness)	Yes
11NC	Tenure Status	Yes

^ 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.

++ Charter schools that are not required to implement the §3012-c 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.

**M6. What do districts/BOCES/charter schools 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 listed at <http://www.p12.nysed.gov/irs/sirs/ricbig5.pdf>.

**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. Please reference: <http://www.p12.nysed.gov/irs/TSDL/>.
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. For the 2012-13 school year and beyond, 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 (please see Question D1). 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  $0.90 \times 0.90$  or 0.81.

Please see also Questions D1, D54, and D73.

**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?**

Beginning in the 2012-13 school year, there is not a minimum amount of time that a teacher must spend with a student to be considered the teacher of record (please see Question B2 for the definition of 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 (please see Questions D1, D54, and D73). 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. Please see Question M8.

**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?**

For the 2012-13 school year and beyond, it will be 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 comparable growth measures (SLOs) according to the employer's APPR plan. Please see Questions D17 and D19 for additional information about educators who are evaluated using SLOs. 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 (please see question D1); 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.

**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 on the State Growth or Other Comparable Measure or Locally Selected Measures subcomponents of evaluation. Districts will be responsible for all calculations made on locally selected assessments. However, the State will collect the resulting Locally Selected Measures subcomponent score for each educator (i.e., the score between 0 and 20, or 0 and 15 when there is an approved growth model used in a particular grade and subject). Local assessment results may be reported to the State for instructional reporting purposes.

**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).

**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)<sup>14</sup>, 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).

**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

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<sup>14</sup> “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.”

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.

Please see Question M31 for additional information.

**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 (please see Question M18).

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.



Please see Question D51.

**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 their comparable growth measure. 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-c, 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. Please see NYSED resources for "Using the NYSAA in the Development of SLOs": <http://www.engageny.org/resource/using-the-nysaa-in-the-development-of-slos>. NYSED recommends that all teachers with 16-22 students who take ELA or math State assessments—and all teachers with 8-11 students who take both ELA and math State assessments—also set SLOs for growth, in case there are not enough students to generate a State-provided growth score. Please see Questions D14 and D52.

**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.

**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. Please see Assistant Commissioner Ira Schwartz's memo (<http://www.p12.nysed.gov/accountability/memos.html>) for additional details.

However, the district/BOCES may choose the Regents exam as one of the choices for the Locally Selected Measures subcomponent. 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.

### Questions added to August 2012 Guidance

#### **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.

#### **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: <http://www.p12.nysed.gov/irs/sirs/home.html>), 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. Please see Question B2 for additional guidance and application of the "teacher of record" policy. 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.

**Questions added to July 2013 Guidance**

**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). Please see Question M5 for further information.

**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-c 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-c and the district's/BOCES' approved APPR plan. Please note that substitutes, long-term or otherwise, are not covered by §3012-c, unless they are also teachers of record (please see Question B3).

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 Education Law §3012-c(9)(a), 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, section 1 of Part A of Chapter 57 of the Laws of 2013 is a provision of permanent law that links State aid increases to Commissioner's approval of documentation of full implementation by September 1 of each year, commencing with September 1, 2013.

**M32. May districts/BOCES report subcomponent scores and/or overall composite scores as decimals?**

No, districts/BOCES may not report subcomponent scores as decimals. Districts/BOCES must report subcomponent scores and overall composite scores as whole numbers (as prescribed in the Commissioner's regulations). For ease of practice, NYSED recommends that any calculations that may result in decimals be rounded to the nearest whole number.

Districts must also ensure that rounding will not result in an educator moving from one HEDI rating category to another. If rounding up would result in the educator moving from one HEDI rating category to a higher rating category, the number must be rounded down.

**M33. 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 following link to Regulations of the Commissioner of Education

for further detail regarding how the teacher needs to be associated to the district:  
<http://www.p12.nysed.gov/part100/pages/1005.html#Credit>

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.

**M34. 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.

**M35. 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. Please see Question M36 for additional, related details.

**M36. 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. Please see Question M33 for additional, related details.

**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  
(<http://www.p12.nysed.gov/part100/pages/1002.html#o>).

**M37. 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.

**M38. Do courses that do not end in a State assessment need to be broken out by grade?**

- Art, PE, music, etc.
- Multigrade elementary K-2 classes
- NYSSA and Special Education self-contained classes

If a multigrade 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.

**M39. 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 then 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: <http://www.p12.nysed.gov/irs/courseCatalog/FAQs.pdf>. Please refer to New York State Comprehensive Course Catalog home page for a list of State course codes: <http://www.p12.nysed.gov/irs/courseCatalog/home.html>.

**M40. 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. For BOCES itinerant teachers, please see Question M30.

**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. Please see Question D73 for additional information about how these data elements are used in State-provided growth scores.

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 following memo: <http://www.p12.nysed.gov/irs/teacher/TSDL-and-RosterVerification-final3-15-12.pdf>, for instructional and classroom reporting purposes. District personnel should be sure to review the SIRS Manual to ensure data accuracy.

### **Questions added to July 2014 Guidance**

#### **Data Submission**

*All public school districts, BOCES, and applicable charters are required to annually submit school year data to SIRS that includes the Student Growth on State Assessments or Other Comparable Measures subcomponent, the Locally Selected Measures subcomponent, the Other Measures of Effectiveness subcomponent, the overall composite score, and rating categories, for all teachers and principals. Please see Section Q for further information regarding the submission of data for teachers/principals who receive a safety net calculation in addition to their evaluation score and rating calculated pursuant to Education Law §3012-c. Further*



*guidance on the processes and forms for submitting such data will be provided by NYSED at a future date.*

**M44. How must the data for subcomponent and composite 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 in regards to data submission. For questions regarding loading staff evaluation data into SIRS, please contact your RIC/Big 5 City School District data center. For a list of Level 1 data center contacts, see <http://www.p12.nysed.gov/irs/nystart/tips.html#contax>

**M45. What format should be used to enter APPR data on subcomponent and composite 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 in regards to 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 and composite 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 State Growth or Other Comparable Measures subcomponent, Locally Selected Measures subcomponent, Other Measures of Effectiveness subcomponent, and final composite rating, **for all teachers and principals employed by the district or BOCES**, for the prior school year. Please also see Question C49-C50.

**M47. What educator ID should be used when submitting the data on subcomponent and composite 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?**

The table below summarizes the data elements that are required to be submitted via the Staff Evaluation Rating Template, exported from your local data systems for each teacher and principal.

Evaluation Category	Description
<b>Overall Evaluation Rating Category</b>	<p>Reported as a number, using the following codes: OC04 = highly effective, OC03 = effective, OC02 = developing, OC01 = ineffective.</p> <p>Code reported here must match the Total Composite Effectiveness Score reported.</p>
<b>Total Composite Effectiveness Score</b>	<p>Reported as a whole number from 0-100, using the following codes: OC04 = value from 91-100, OC03 = value from 75-90, OC02 = value from 65-74, OC01 = value from 0-64.</p> <p>Score reported here must match code reported for Overall Evaluation Rating Category.</p>
<b>Subcomponent Scores</b>	<ul style="list-style-type: none"> <li>• <u>State-growth or other comparable measures subcomponent score</u> <ul style="list-style-type: none"> <li>◦ Reported as a whole number from 0-20, using code STATE20</li> </ul> </li> <li>• <u>Locally selected measures subcomponent</u> <ul style="list-style-type: none"> <li>◦ Reported as a whole number from 0-20, using code LOCAL20</li> </ul> </li> <li>• <u>Other measures subcomponent</u> <ul style="list-style-type: none"> <li>◦ Reported as a whole number from 0-60, using the following codes OTHER 04= highly effective, OTHER 03= effective, OTHER 02= developing, and OTHER 01= ineffective</li> </ul> </li> </ul>

**M49. What are charter schools required to report?**

Charter schools that are not required to implement the Education Law §3012-c 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-c 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](mailto:CSsupport@schools.nyc.gov) for support and guidance on submitting and verifying this data.

**M50. Can the reported numerical scores contain decimals?**

No, per Question M32, districts/BOCES may not report subcomponent scores as decimals. Districts/BOCES must report subcomponent scores and overall composite scores as whole numbers, consistent with the scoring ranges in Subpart 30-2.6 of the Rules of the Board of Regents and Education Law §3012-c(2)(a). For ease of practice, NYSED recommends that any calculations that may result in decimals be rounded to the nearest whole number.

Districts must also ensure that rounding will not result in a teacher moving from one HEDI rating category to another.

**M51. How do I find out if our data on subcomponent and composite 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 317 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. In addition, each district will receive a refreshed summary report each Monday via the IRSP titled *School Year Staff Evaluation Rating Data in SIRS*. This report will reflect a summary of the data that has been submitted to the Department by Friday of the previous week, and will include information to help you estimate the number of outstanding records still in need of submission.

*Please note:* Staff Evaluation Rating Records can only be verified in the - SIRS 317 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.

Please see Question M52 for guidance regarding what to do if incorrect data are found during your review of submitted data.

**M52. What should I do if there are incorrect data on subcomponent and composite 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). In addition, each district will receive a refreshed summary report each Monday via the IRSP titled *School Year Staff Evaluation Rating Data in SIRS*. This report will reflect a summary of the data that has

been submitted to the Department by Friday of the previous week, and will include the number of outstanding records still in need of submission.

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.

**M53. We do not have full and complete data on subcomponent and composite ratings for all of our educators. What data do we submit to the Department for those educators with incomplete subcomponent scores? Should a zero be used for an incomplete subcomponent?**

Full and complete data, including composite scores, subcomponent scores, and applicable evaluation rating categories are due to the Department no later than the October deadline (please see Question C31). If for some reason, districts and BOCES have one or more educator(s) who are missing a subcomponent evaluation score, districts/BOCES should **not** report for any missing or incomplete subcomponent(s) and should **not** report an overall composite score or 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.

**M54. Should a Total Composite Effectiveness Score be reported for an educator who is missing a subcomponent?**

No, districts/BOCES should **not** report an overall composite score or rating for those educator(s) who are missing one or more subcomponent score(s).

**M55. 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 (please see Questions M57 and M58). However, an overall composite score should not be submitted for an educator who is missing one or more subcomponent score(s).

**M56. How do I report an educator who was subject to evaluation under Education Law §3012-c, but for whom which there are no staff evaluation data? (i.e. missing all three subcomponents)**

In the rare instance whereby an educator was subject to evaluation under Education Law §3012-c but is missing all three subcomponents (state, local, other), report this information within the Statement of Confirmation of Staff Evaluation Rating Certification Report Form located on the IRSP at <http://portal.nysed.gov>.

This reporting will require the following information:

- Educator's Teach ID
- The name of the educator
- A selection from the drop down menu indicating that there was no staff evaluation data reported for this individual

**M57. What if an educator's score 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 score 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 (<http://www.p12.nysed.gov/irs/level0historical/>):

- For accounts/access to Level 0 Historical, LEAs must contact their organization's SEDDAS Administrator (please see: <http://www.p12.nysed.gov/seddas/seddashome.html> to determine who this is).
- For instruction on use and navigation of the Level 0 Historical application, visit the NYSED Longitudinal Data System Technical Assistance Center website at [http://www.nysldstac.org/category/training-tools/training-units/data-verification-tools/?post\\_name=level-0-historical](http://www.nysldstac.org/category/training-tools/training-units/data-verification-tools/?post_name=level-0-historical) 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 and composite 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 IRS Portal (IRSP).*

**M58. 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 IRSP, <http://portal.nysed.gov>. Information about the IRSP can be found here: <http://www.p12.nysed.gov/irs/irs-portal/>.

**M59. 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 IRSP, <http://portal.nysed.gov>. Information about the IRSP can be found here: <http://www.p12.nysed.gov/irs/irs-portal/>.

**M60. 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. Please see Question D17.
- A teacher has less than 50% of his or her students covered by the State-provided growth measure. Please see Question D20.
- A State-provided growth measure may have been provided for an educator who is not subject to Education Law §3012-c. Please see Section B.
- Final determination of a local appeal. Please see Question 14 of the [State-provided Growth Score FAQ](#) document.

**M61. 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 on the IRSP at <http://portal.nysed.gov>, requires the educator’s Teach ID, the name of the educator, and a selection from the drop down menu indicating the reason for the modification of the State-provided growth score.

**M62. My district has more than 100 educators who have a modified State-provided growth score. This form only has room for 100 educators to be listed. What do I do?**

The Statement of Confirmation of Staff Evaluation Rating Certification Report form includes space for 100 educators to be noted who have had a State-provided growth score modified and replaced by a locally-derived score. In the rare instances where more than 100 educator scores have been changed (e.g., in large city school districts), an additional form, “*Staff Eval Rating Confirmation Form (extended).pdf*”, is located on the IRSP at <http://portal.nysed.gov>.

## O. Charter Schools

### O1. How does Education Law §3012-c apply to charter schools?

Public charter schools are not subject to the requirements of Education Law §3012-c regarding the annual professional performance review of classroom teachers and building principals.

However, for purposes of participation in the State's RTTT plan and receiving allocated funds to implement Section D activities, charter schools must evaluate all classroom teachers and building principals using a comprehensive annual evaluation system that is consistent with the following elements of Education Law §3012-c:

- (1) is based on multiple measures of effectiveness, including 40% student achievement measures, which would result in a single composite effectiveness score for every teacher and principal;
- (2) differentiates effectiveness for teachers and principals using the following four rating categories: Highly Effective, Effective, Developing, and Ineffective; and use such annual evaluations as a significant factor for employment decisions including promotion, retention, supplemental compensation, and professional development; and
- (3) provides for the development and implementation of improvement plans for teachers or principals rated Developing or Ineffective.

If a charter school's teachers are represented by a collective bargaining unit, the teacher evaluation system must conform to the provisions of the collective bargaining agreement.

### O2. What data must charter schools submit?

All charter schools, regardless of whether they are participating in Race to the Top, 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 (<http://www.p12.nysed.gov/irs/sirs/RICBIG5.pdf>) 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 at <http://www.p12.nysed.gov/irs/sirs/>.

## **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. 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), each school district/BOCES shall fully disclose and release to the parents and legal guardians of a student the final quality rating and composite effectiveness score 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 the 2013-14 and 2014-15 school year, where a teacher and/or principal receives a safety net calculation that is higher than his/her rating under Education Law §3012-c, a district/BOCES must report the teacher's or principal's rating calculated pursuant to Education Law §3012-c and his/her safety net calculation with an additional explanation of the safety net calculation. Parents and legal guardians must be provided with both the safety net calculation and the rating pursuant to Education Law §3012-c. Please also see Section Q.

#### **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) 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 and composite effectiveness score 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 or composite scores for teachers their child was assigned in the prior year or for other teachers in their child's school or district/BOCES.



For the 2013-14 and 2014-15 school year, where a teacher and/or principal receives a safety net calculation that is higher than his/her rating under Education Law §3012-c, a district/BOCES must report the teacher's or principal's rating calculated pursuant to Education Law §3012-c and his/her safety net calculation with an additional explanation of the safety net calculation. Parents and legal guardians must be provided with both the safety net calculation and the rating pursuant to Education Law §3012-c. Please also see Section Q.

**P3. Do I have to make a request for my child's teacher's rating in writing or can I get his/her rating and score over the phone?**

Education Law §3012-c(10)(b) 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 composite effectiveness scoring ranges for final quality ratings; and that they be offered opportunities to understand such scores in the context of teacher evaluation and student performance. For the 2013-14 and 2014-15 school year, where a teacher and/or principal receives a safety net calculation that is higher than his/her rating under Education Law §3012-c, a district/BOCES must report the teacher's or principal's rating calculated pursuant to Education Law §3012-c and his/her safety net calculation with an additional explanation of the safety net calculation. Parents and legal guardians must be provided with both the safety net calculation and the rating pursuant to Education Law §3012-c. Please also see Section Q.

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 and composite effectiveness score?**

Education Law §3012-c(10)(b) 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 and/or score?**

The new 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 and composite effectiveness score, of individual teachers to whom their child is assigned for the current school year, and of the principal of their child's current school. For the 2013-14 and 2014-15 school year, where a teacher and/or principal receives a safety net calculation that is higher than his/her rating under Education Law §3012-c, a district/BOCES must report the teacher's or principal's rating calculated pursuant to Education Law §3012-c and his/her safety net calculation with an additional explanation of the safety net calculation. Parents and legal guardians must be provided with both the safety net calculation and the rating pursuant to Education Law §3012-c. Please also see Section Q.

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). 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 rating and composite effectiveness scores 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 and composite effectiveness scores 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 and composite effectiveness scores 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<sup>15</sup>. The Department will also be releasing subcomponent scores by school district for principals and by school building for teachers.

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.

**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)?**

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<sup>15</sup> The Department will post this information on its website where the data are available.

No, pursuant to Education Law §3012-c(10)(c), 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) 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) 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, composite effectiveness score 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) 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 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 and composite effectiveness score 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.

## Q. APPR Safety Net Calculations (Chapter XX of the Laws of 2014)

In anticipation of the enactment of Governor's Program Bill 56, the following guidance has been prepared to address some of the concerns arising out of the Bill.

### *Eligibility and Usage*

#### **Q1. Which teachers/principals in my district/BOCES must have a safety net calculation under the new law in addition to the evaluation score and rating calculated pursuant to Education Law §3012-c?**

For the 2013-14 and 2014-15 school years, the following rules apply:

- Districts/BOCES must calculate all educators' APPR scores and ratings based on their currently approved APPR plan.
- In order for a teacher/principal to be eligible for a safety net calculation, the following must apply:
  1. A teacher/principal must receive an **overall rating** of either Ineffective or Developing based on their performance on the district's/BOCES' currently approved APPR plan **AND**
  2. The teacher's/principal's State Growth or Other Comparable Measures subcomponent relies on one or more grades 3-8 ELA/math State assessments aligned to the Common Core, **AND/OR**
  3. The teacher's/principal's Locally Selected Measures subcomponent relies on one or more grades 3-8 ELA/math State assessments aligned to the Common Core.

Please see the subsection, *Safety Net Calculation*, and the Appendix for more information about the safety net calculation.

#### **Q2. Is this safety net calculation a permanent change to teacher/principal evaluations?**

No. The safety net calculation provisions take effect July 1, 2014 and will only apply to a specific subset of employment decisions based on APPR ratings received by a specific subset of classroom teachers and building principals for the 2013-14 and 2014-15 school years.

**Q3. What happens if the safety net calculation is the same or lower than the evaluation rating calculated pursuant to Education Law §3012-c?**

If the safety net calculation is the same or lower than the evaluation rating calculated pursuant to Education Law §3012-c, the evaluation rating calculated pursuant to Education Law §3012-c is used for employment and evaluation decisions related to tenure, retention, termination, and teacher/principal improvement plans.

**Q4. What happens if the safety net calculation is higher than the evaluation rating calculated pursuant to Education Law §3012-c?**

If the safety net calculation is higher than the evaluation rating calculated pursuant to Education Law §3012-c, the evaluation rating calculated pursuant to Education Law §3012-c will not be used for the following specific employment related decisions:

- A termination pursuant to sections 2509, 2573, 3012, 3014, 3020, 3020-a, or 3031 of the Education Law;
- A granting or denial of tenure pursuant to sections 2509, 2573, 3012, 3014, or 3031 of the Education Law;
- Expedited hearings pursuant to section 3020-a of the Education Law;
- Decisions related to retention; and
- The requirement for teacher or principal improvement plans pursuant to §3012-c of the Education Law

For TIPs and PIPs **only**, the safety net calculation is to be used in place of the actual evaluation rating – e.g., if a teacher/principal is rated Ineffective but his/her safety net calculation would be Developing, the teacher/principal will be required to have a teacher/principal improvement plan. Concordantly, if a teacher/principal is rated Developing but his/her safety net calculation would be Effective or Highly Effective, the teacher/principal will not be required to have a teacher/principal improvement plan. **Other than for TIPs and PIPs, the safety net calculation shall not be substituted for the rating calculated pursuant to Education Law §3012-c.**

**Q5. Does this safety net calculation affect a district's/BOCES' right to make employment decisions related to tenure, retention, or termination?**

Districts/BOCES continue to have broad discretion to make employment decisions related to tenure, retention, or termination regardless of the safety net calculation. Education Law §3012-c 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, only that the APPR be considered in making such determinations. When making such employment decisions related to tenure, retention, or termination, please note that districts/BOCES cannot use the evaluation rating of Ineffective or Developing calculated pursuant to Education Law §3012-c if the safety net calculation is

higher than the rating calculated pursuant to Education Law §3012-c. Such rating also cannot be used for expedited hearings pursuant to Education Law §3020-a for the 2013-14 and 2014-15 school years if the safety net calculation is higher than the rating calculated pursuant to Education Law §3012-c.

For further information on employment decisions related to probationary teachers and principals, please see Sections C11-C15.

**Q6. May the safety net calculation be used by a district/BOCES when considering career ladder opportunities and supplemental compensation?**

No, the safety net calculation may not be used for decisions regarding supplemental compensation, placement for career ladders opportunities, or career pathways: this includes Race to the Top grants, such as Strengthening Teacher Leader Effectiveness (STLE), and other federal grants, such as the Teacher Incentive Fund (TIF) grants.

***Safety Net Calculation***

**Q7. How is the safety net calculated?**

This calculation is only to be made for teachers or principals who receive an overall composite rating of Developing or Ineffective. For eligible teachers/principals:

If grades 3-8 ELA/math State assessments aligned to the Common Core are the only assessments used to calculate the State Growth or Other Comparable Measures subcomponent score and the Locally Selected Measures subcomponent does not use any 3-8 ELA/math State assessments, then the Locally Selected Measures subcomponent score will be doubled in order to derive a new score from 0-40 points. This score, from 0-40, will then be added to the 0-60 score obtained from the Other Measures of Effectiveness subcomponent to derive the safety net calculation.

For example, Mrs. Smith is a grade 3 teacher in District X. Her State Growth or Other Comparable Measures subcomponent score is based on an SLO that uses the grade 3 ELA and math State assessments. Her Locally Selected Measures subcomponent score is based on a BOCES-developed assessment. At the end of the school year, Mrs. Smith's State Growth or Other Comparable Measures subcomponent score is 6, her Locally Selected Measures subcomponent score is 8, and her Other Measures of Effectiveness subcomponent score is 50. Using the above calculation and the chart in the Appendix, Mrs. Smith's safety net calculation would exclude her State Growth or Other Comparable Measures subcomponent score (since it relies on grades 3-8 ELA/math State assessments), her Locally Selected Measures subcomponent score would be scaled up to 16 points (8 points x 2), and her final composite safety net calculation would be 66 points (16 points + 50 points) out of 100 points.

However, if the Locally Selected Measures subcomponent does rely in whole or in part on grades 3-8 ELA/math State assessments aligned to the Common Core, there are two

possibilities. First, if the Locally Selected Measures subcomponent is based on a combination of grades 3-8 ELA/math State assessments aligned to the Common Core and any other assessments, then that score will be recalculated based only on the results of the non-Common Core aligned assessments. This new score from 0-20 will be doubled in order to derive a new score from 0-40 points. This score, from 0-40, will then be added to the 0-60 score obtained from the Other Measures of Effectiveness subcomponent to derive the safety net calculation.

For example, Mr. Jones is a grade 8 math teacher in District Y. His State Growth or Other Comparable Measures subcomponent score is based on the grade 8 math State assessment. His Locally Selected Measures subcomponent score is based on two measures weighted equally: students reaching proficiency on a district-developed assessment and the lowest performing subset of students reaching proficiency on the grade 8 math State assessment. At the end of the school year, Mr. Jones' State-provided growth score is 9, his Locally Selected Measures subcomponent score is 12 (11 from the first measure using district-developed assessments and 13 from the second measure using the grade 8 math State assessment, which are averaged together), and his Other Measures of Effectiveness subcomponent score is 52. Using the above calculation and the chart in the Appendix, Mr. Jones' safety net calculation would exclude his State Growth or Other Comparable Measures subcomponent score (since it relies on a grade 3-8 ELA/math State assessment), his Locally Selected Measures subcomponent score would first exclude the portion that relies on the grade 8 math State assessment and then be scaled up to 22 (11 points from the district-developed assessment x 2), and his final safety net calculation would be 74 points (22 points + 52 points) out of 100 points.

If, however, the State Growth or Other Comparable Measures subcomponent is based entirely on the grades 3-8 ELA/math State assessments aligned to the Common Core and the Locally Selected Measures subcomponent is based entirely on the grades 3-8 ELA/math State assessments aligned to the Common Core, then the 0-60 score obtained from the Other Measures of Effectiveness subcomponent will be scaled up so that the final safety net calculation is out of 100 possible points.

For example, Ms. White is a middle school principal in District Z and both her State Growth or Other Comparable Measures and Locally Selected Measures subcomponent scores are based on the grades 6-8 ELA and math State assessments used in different ways. At the end of the school year, her State Growth or Other Comparable Measures subcomponent score is 5, her Locally Selected Measures subcomponent score is 2, and her Other Measures of Effectiveness subcomponent score is 45. Using the above calculation and the chart in the Appendix, Ms. White's safety net calculation would exclude her State Growth or Other Comparable Measures and Locally Selected Measures subcomponent scores, and her Other Measures of Effectiveness subcomponent score, which represents 75% of the available points for that subcomponent (45 points / 60 points), would be scaled up to 75 points (100 points x 75%) and would represent her final safety net calculation.

If grades 3-8 ELA/math State assessments aligned to the Common Core are used entirely to calculate the Locally Selected Measures subcomponent score and the State Growth or Other Comparable Measures subcomponent does not use any 3-8 ELA/math State assessments, then the State Growth or Other Comparable Measures subcomponent score will be doubled in order to derive a new score from 0-40 points. This score, from 0-40, will then be added to the 0-60 score obtained from the Other Measures of Effectiveness subcomponent to derive the safety net calculation.

For example, Mr. Cane is a gym teacher in District Q whose State Growth or Other Comparable Measures subcomponent score is based on a district-developed performance assessment. His Locally Selected Measures subcomponent score is based on a school-wide measure using the grades 4-5 ELA and math State assessments. At the end of the school year, Mr. Cane's State Growth or Other Comparable Measures subcomponent score is 7, his Locally Selected Measures subcomponent score is 6, and his Other Measures of Effectiveness subcomponent score is 53. Using the above calculation and the chart in the Appendix, the State Growth or Other Comparable Measures subcomponent score would be scaled up to 14 (7 points x 2) and his Locally Selected Measures subcomponent score would be excluded (since it relies on grades 3-8 ELA/math State assessments), and his final safety net calculation would be 67 points (14 points + 53 points) out of 100 points.

If, however, the State Growth or Other Comparable Measures subcomponent does rely in part, but not entirely, on 3-8 ELA/math State assessments aligned to the Common Core and the Locally Selected Measures subcomponent does rely in part, but not entirely, on 3-8 ELA/math State assessments aligned to the Common Core, then the scores for the State Growth or Other Comparable Measures and Locally Selected Measures subcomponents will be recalculated based only on the results of the non-Common Core aligned State assessments in each subcomponent. These new scores from 0-20 will be summed in order to derive a new score from 0-40 points. This score, from 0-40, will then be added to the 0-60 score obtained from the Other Measures of Effectiveness subcomponent to derive the safety net calculation.

For example, Ms. Adams is a grade 7 science and math teacher in District W with less than 50% of her students covered in the math sections. Her State Growth or Other Comparable Measures subcomponent score is based on a regionally-developed science assessment for her science sections and a State-provided growth score for her math sections. Her Locally Selected Measures subcomponent score is based on two measures weighted equally: a school-wide measure using the grades 6-8 math State assessments and a school-wide measure using a State-approved third party assessment. At the end of the school year, Ms. Adams' combined and weighted State Growth or Other Comparable Measures subcomponent score is 9 (10 points from the regionally-developed science assessment and 8 points from the State-provided growth score, which are then weighted proportionately and combined), her Locally Selected Measures subcomponent score is 9 (8 points from the first measure and 10 points from the second measure, which are then averaged together), and her Other Measures of Effectiveness subcomponent score is 49. Using the above calculation and the chart in the Appendix, Ms. Adams' safety net



calculation would exclude the State-provided growth score for her math sections from the State Growth or Other Comparable Measures subcomponent score (8 points), resulting in a recalculated subcomponent score of 10 points. Additionally, her Locally Selected Measures subcomponent score would exclude the measure based on the grades 6-8 math State assessments (8 points) resulting in a recalculated subcomponent score of 10 points. Her final safety net calculation would be 69 points (10 points + 10 points + 49 points) out of 100 points.

Please see the Appendix for a diagram of the safety net calculation process.

### ***Data Submission to SED***

**Q8. What data must districts/BOCES submit to NYSED for teachers/principals who receive a safety net calculation under the new law in addition to the evaluation score and rating calculated pursuant to Education Law §3012-c? What data must districts/BOCES disclose?**

Districts/BOCES are required to submit two sets of data to NYSED for teachers/principals with safety net calculations under the new law:

1. The first data set must include the original subcomponent and composite scores and ratings calculated according to the district's/BOCES' approved APPR plan pursuant to Education Law §3012-c.
2. The second data set must include the safety net calculation. Further guidance on the processes and forms for submitting such data will be provided by NYSED at a future date.

Districts/BOCES must submit both data sets to the Department, regardless of whether the safety net calculation is the same or lower than the evaluation rating calculated pursuant to Education Law §3012-c.

### ***Disclosure of Ratings and Employment Records and Decisions***

**Q9. What information must districts/BOCES disclose to parents and legal guardians for teachers/principals who receive a safety net calculation under the new law in addition to the evaluation score and rating calculated pursuant to Education Law §3012-c?**

Please note that pursuant to Education Law §3012-c(10)(b), each school district and BOCES shall fully disclose and release to the parents and legal guardians of a student the final quality rating and composite effectiveness score for each of his/her child's teachers, and for the principal of the school building, to which the child is assigned for the current school year upon the request of such parents and legal guardians.

For the 2013-14 and 2014-15 school year, where a teacher/principal receives a safety net calculation that is higher than his/her rating under Education Law §3012-c, a

district/BOCES must report the teacher's or principal's rating calculated pursuant to Education Law §3012-c and his/her safety net calculation with an additional explanation of the safety net calculation. Parents and legal guardians must be provided with both the safety net calculation and the rating pursuant to Education Law §3012-c. Please also see Section P.

For the 2013-14 and 2014-15 school years, where a teacher/principal receives a safety net calculation that is the same or lower than his/her evaluation rating under Education Law §3012-c, a district/BOCES must disclose to the parents and legal guardians the teacher's or principal's evaluation rating calculated pursuant to Education Law §3012-c only.

**Q10. What rating goes on an educators' employment record when they have a safety net calculation under the new law in addition to the evaluation score and rating calculated pursuant to Education Law §3012-c?**

For the 2013-14 and 2014-15 school years, where a teacher/principal receives a safety net calculation that is higher than his/her evaluation rating under Education Law §3012-c, a district/BOCES must report the teacher's or principal's rating calculated pursuant to Education Law §3012-c and his/her safety net calculation with an additional explanation of the safety net calculation. However, for such teachers/principals, the evaluation rating under Education Law §3012-c should not be included in an employment record relating to:

- A termination pursuant to sections 2509, 2573, 3012, 3014, 3020, 3020-a, or 3031 of the Education Law;
- A granting or denial of tenure pursuant to sections 2509, 2573, 3012, 3014, or 3031 of the Education Law;
- Expedited hearings pursuant to section 3020-a of the Education Law; and
- Decisions related to retention.

For the 2013-14 and 2014-15 school years, where a teacher/principal receives a safety net calculation that is the same or lower than his/her evaluation rating under Education Law §3012-c, a district/BOCES must report the teacher's or principal's evaluation rating calculated pursuant to Education Law §3012-c only.

**Q11. What factors may be used for employment-related decisions when the educator has a safety net calculation under the new law in addition to the evaluation score and rating calculated pursuant to Education Law §3012-c?**

If the safety net calculation is higher than the evaluation rating calculated pursuant to Education Law §3012-c, only certain employment-related decisions can stem from the overall composite ratings under §3012-c. Provided, however, districts and BOCES may still use observations, local assessments, or other measures of the performance of the teacher or principal, other than their rating or a state 3-8 assessment aligned with the Common Core, whether or not they were included in the APPR. Please see Q5 for further

information on probationary teachers. Please see Q4 for further information as to the specific employment related decisions that are impacted.

If the safety net calculation is the same or lower than the original rating calculated pursuant to Education Law §3012-c, any employment-related decisions that stem from the ratings will be based on the original evaluation rating calculated pursuant to Education Law §3012-c.

Other than for TIPs and PIPs, the safety net calculation shall not be substituted for the rating calculated pursuant to Education Law §3012-c.

### ***Personal Professional Development Plans (PPDPs) and Improvement Plans (TIPs and PIPs)***

**Q12. If the safety net calculation is the same or lower than the evaluation rating calculated pursuant to Education Law §3012-c, is the district/BOCES required to develop a TIP/PIP for the impacted teachers/principals?**

Yes. If the safety net calculation would not have raised the educator's rating out of the Ineffective or Developing category, the district/BOCES is required to develop a TIP/PIP within 10 school days from the opening of classes in the school year following the performance year for the impacted educator(s).

**Q13. Should districts/BOCES still develop TIPs/PIPs for their educators even if their safety net calculation would have raised the educator(s) out of the Ineffective and Developing categories?**

Education Law §3012-c requires that the actual evaluation rating (not the safety net calculation) be used as a significant factor in professional development decisions.

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, or safety net calculation.

A school district or 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 annual professional performance review, consistent with article 14 of the Civil Service Law.

**Q14. Why does the Department recommend that ALL teachers and principals have a Personal Professional Development 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.<sup>16</sup>

Information gained around a teacher or principal's practice through New York State's Annual Professional Performance Review (APPR) should be used to help teachers 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.<sup>17</sup> Collectively, our primary goal should be to help all teachers improve their teaching practice through an integrated strategy for advancing teacher growth and development.<sup>18</sup>

#### **Q15. What are some potential elements of the recommended PPD Plan?**

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 teachers may improve by simply making adjustments, while there will be other educators who may require more intensive supports and structures.<sup>19</sup>

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.

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<sup>16</sup> [Professional Learning in the Learning Profession: A Status Report on Teacher Development in the United States and Abroad](#)

<sup>17</sup> [Teacher Evaluation 2.0, A Continuous Improvement Model for Teacher Development and Evaluation](#)

<sup>18</sup> [NYSUT Teacher Evaluation and Development](#)

<sup>19</sup> [Evaluating Teaching with Multiple Measures](#)

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 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.

## Appendix: Safety Net Calculation Flowchart

Please note: State tests are defined as state administered standardized assessments aligned with the Common Core for English Language Arts and/or math in grades 3-8.

Please note: The “safety net calculations” only apply to those teachers and/or principals with an overall composite rating of Ineffective or Developing and whose State Growth or Other Comparable Measures and/or Locally Selected Measures subcomponent is based on grades 3-8 ELA and/or math State assessments.

