

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: August 13, 2012

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.

Section 3012-c, as amended by Chapter 21 of the Laws of 2012, can be found at:

[http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAW+&QUERYDATA=\\$\\$EDN3012-C\\$\\$@TXEDN03012-C+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=49865177+&TARGET=VIEW](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAW+&QUERYDATA=$$EDN3012-C$$@TXEDN03012-C+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=49865177+&TARGET=VIEW).

The revised regulations can be found at:

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

The New York State Education Department will provide additional or updated guidance as necessary on its website, 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-teamsntes/>
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/TSDL-and-RosterVerification-final3-15-12.pdf>
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/pdf/teachingstandards9122011.pdf>
 - 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
 - c. The New York State Mentoring Standards. Web. 2011.
<http://www.highered.nysed.gov/tcert/pdf/mentoringstds10032011.pdf>

If you have further questions that are not answered here, please email 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 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 the 2011-2012 school year and thereafter, 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 the 2012-2013 school year and thereafter, 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 or 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 and 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 and BOCES must comply with the requirements in Subpart 30-2 of the Rules of the Board of Regents. However, the Department recommends that, to the extent possible, districts and BOCES begin the process of rolling this system out for the evaluation of all classroom teachers and building principals in the 2011-2012 school year so that New York can quickly move to a comprehensive teacher and principal evaluation system. 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 or 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.

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

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

Section 30-2.4 provides that, for the 2011-2012 school year, only classroom teachers in the common branch subjects who teach English language arts and/or mathematics 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 assessments 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)

Student Achievement Measures: Teachers 2012-13 and beyond		
	ELA/Math 4-8	All Other Classroom Teachers
<p>Growth on State Assessments</p> <p>20 points</p> <p>(25 points with approved Value-Added measure)</p>	<ul style="list-style-type: none"> • State-provided student scores comparing student growth to those with similar past test scores and which may include consideration of poverty, ELL, SWD status • Value-Added measure with additional controls when approved, which can be no earlier than 2012-2013 • Policies on Teacher of Record and linked students 	<ul style="list-style-type: none"> • 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"> ○ All Math Regents ○ PARCC as available ○ If approved: 6-8 science, social studies, 9-10 ELA and related Regents ○ If approved: progress monitoring in K-3 English Language Arts, Math
<p>Growth Using Comparable Measure</p> <p>20 points</p> <p>(when there is no State assessment with an approved growth/Value-Added measure)</p>	N/A	<p>For all applicable grades/subjects: State-determined district-wide student growth goal-setting process (Student Learning Objectives) used with:</p> <p>For core subjects: 6-8 Science and Social Studies, 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:</p> <ul style="list-style-type: none"> • State assessment if one exists (or Regents exam or Regent equivalents) <i>If no State assessment or Regents exam exists:</i> • District-determined assessment from list of State-approved 3rd party assessments; or • District, regional or BOCES-developed assessments provided that the District or BOCES verifies comparability and rigor <p>For other grades/subjects: District-determined assessments from options below:</p> <ul style="list-style-type: none"> • State assessment • List of State-approved 3rd party assessments • District, regional, or BOCES-developed assessments provided that the District or BOCES verifies comparability and rigor • School- or BOCES-wide, group or team results based on State assessments

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

<p>Locally-selected Measures of Student Achievement</p> <p>20 points</p> <p>(15 points with approved Value-Added measure)</p>	<p>Locally comparable means: The same locally-selected measures of student achievement or growth across all classrooms in same grade/subject in District or 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>Growth or achievement measure(s) from these options. <i>Locally-selected and points assigned to teachers in manner determined locally, through collective bargaining, using regulatory standards and scoring bands.</i></p> <p>Measures based on:</p> <ul style="list-style-type: none"> ● State assessments, Regents examination and/or Regent-equivalent assessments provided that they are <u>different than</u> the measure used for the Growth subcomponent above. These include: <ul style="list-style-type: none"> ○ 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 7th grade State Math test compared to those same students' performance on the 6th grade State Math test</i>) ○ 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>) ○ Other teacher-specific growth or achievement measure using State assessments, Regents examinations and/or department approved alternative examinations computed in a manner determined locally ● State-approved list of 3rd party assessments ● District, regional or BOCES-developed assessments provided that the District or BOCES verifies comparability and rigor vs. Testing Standards to the extent practicable. ● School-wide growth or achievement results based on: <ul style="list-style-type: none"> ○ State-provided school-wide growth score for all students in a school taking the State ELA or Math assessment in grades 4-8. ○ Locally-computed measure based on State assessment, State approved 3rd party assessment or a District, regional or BOCES-developed assessment for which the district or BOCES verifies comparability and rigor. ● 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"> ○ Used with any State, State-approved 3rd party, or District, regional, or BOCES-developed assessment, provided that the District or BOCES verifies comparability and rigor. ○ These measures must be <u>different than</u> the measures used with Student Learning Objectives as a Comparable Growth measure in the Growth Subcomponent.
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Student Achievement Measures Principals 2012-13 and beyond		
Growth on State Assessments	Elementary/Middle	High Schools
	20 points (25 points with approved Value-Added measure)	<ul style="list-style-type: none"> Result of student growth/Value-Added measure as applied to State assessments in 4-8, ELA/Math Add grades and/or subjects as growth/Value-Added measure applies
Other Comparable measures 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"> State assessment List of State-approved 3rd party assessments District, regional, or BOCES-developed assessments provided that the District or BOCES verifies comparability and rigor 	
Locally-Selected measures of Student Achievement 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 or BOCES.	
	Locally-selected and points assigned to principals in manner determined locally, through collective bargaining, using regulatory standards and scoring bands.	
	Growth or achievement measures from these options (must be different than measures used for growth subcomponent): <ul style="list-style-type: none"> Achievement levels on state tests (% proficient or advanced) in ELA and math grades 4 to 8 Growth or achievement for student subgroups (SWD, ELL) on State Assessments in ELA and math grades 4 to 8 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 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 Student performance on any District-wide locally-selected assessments approved for use in teacher evaluations 	Growth or achievement measures from these options (must be different than measures used for growth subcomponent): <ul style="list-style-type: none"> Percent of cohort achieving specified scores on Regents exams or other Regents-equivalents Graduation rates (4,5,6 years) and/or drop-out rates Graduation % with Advanced designation and/or honors Credit accumulation (e.g. 9th and 10th grade) or other strong predictor of progress toward graduation 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 Student performance on any District-wide locally-selected assessments approved for use in teacher evaluations

OTHER 60 POINTS TEACHER		OTHER 60 POINTS PRINCIPAL (BOTH 2012-13)
Standards	NYS Teaching Standards	ISLLC 2008
Choice of Rubrics (through collective bargaining)	Menu of state-approved rubrics to assess performance based on standards. <i>Also district variance process available for district or BOCES that seeks to use a rubric not on State-approved list.</i>	
Requirements and options based on practice rubric: Options selected locally, and points assigned based on standards in regulation in a manner determined locally, through collective bargaining.		
<p>Requirements:</p> <ul style="list-style-type: none"> • Multiple measures • 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"> ○ Observations may be conducted in-person or using video • Any remaining points shall be allocated to one or more of the following: <ul style="list-style-type: none"> ○ One or more observation(s) by trained evaluators independent of school ○ Observations by trained in-school peer teachers ○ Feedback from students and/or parents using State-approved survey tools ○ Structured review of lesson plans, student portfolios and/or other teacher artifacts • Any remaining teaching standards not addressed in classroom observation must be assessed at least once a year 	<p>Requirements:</p> <ul style="list-style-type: none"> • Multiple measures • 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"> ○ 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 <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"> • 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"> ○ Improved retention of high performing teachers; ○ Correlation of student growth scores to teachers granted vs. denied tenure; or ○ Improvements in proficiency rating of the principal on specific teacher effectiveness standards in the principal practice rubric • Any other goals shall address quantifiable and verifiable improvements in academic results or the school's learning environment (e.g. student or teacher attendance) • Goals shall include at least two other sources of evidence from the following options: <ul style="list-style-type: none"> ○ structured feedback from teachers, students, and/or families using a State-approved tool (each constituency is one source); ○ school visits by other trained evaluators ○ review of school documents, records, and/or State accountability processes. (all documents are one source) <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” 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.

Standards for Rating Categories	Growth or Comparable Measures	Locally-selected Measures of growth or achievement	Other Measures of Effectiveness (Teacher and Leader Standards)
Highly Effective	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.
Effective	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.
Developing	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.
Ineffective	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 the 2013-2014 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.

For 2012-13 for educators for whom there is no approved Value-Added measure of student growth the scoring ranges will be:

2012-13 where there is no Value-Added measure	Growth or Comparable Measures	Locally-selected Measures of growth or achievement	Other Measures of Effectiveness (60 points)	Overall Composite Score
Highly Effective	18-20	18-20	Ranges determined locally	91-100
Effective	9-17	9-17		75-90
Developing	3-8	3-8		65-74
Ineffective	0-2	0-2		0-64

For 2012-13 for educators for whom there is an approved Value-Added measure for student growth the scoring ranges will be:

2012-13 where Value-Added growth measure applies	Growth or Comparable Measures	Locally-selected Measures of growth or achievement	Other Measures of Effectiveness (60 points)	Overall Composite Score
Highly Effective	22-25	14-15	Ranges determined locally	91-100
Effective	10-21	8-13		75-90
Developing	3-9	3-7		65-74
Ineffective	0-2	0-2		0-64

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 SED 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 SED 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 or 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.
- 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” 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” 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” 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 D or I 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 or 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 or 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” 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.
- SED 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 or 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 or 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.

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 2011-2012 school year, the new evaluation system includes teachers of English language arts (ELA) and/or mathematics in grades 4-8 (including common branch teachers who teach ELA or mathematics) and the building principals of the schools in which those teachers are employed. Beginning in the 2012-2013 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 2011-2012? What is a “teacher of record” in 2012-2013?

Generally, a “teacher of record” is defined as an individual (or individuals, such as in co-teaching assignments) who has been assigned responsibility for a student’s learning in a subject/course with aligned performance measures.

Making teacher of record determinations is complicated by the fact that effective instruction is often the outcome of a complex set of instructional relationships that change over time among multiple teachers and students. NYSED’s teacher of record policy guidance advises on how to approach these complexities for evaluation purposes.

For the 2011-2012 school year, 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. Beginning with data from the 2011-12 school year and school years thereafter, NYSED will collect additional data elements to support teacher of record determinations for evaluation purposes. These data elements will allow for identification of additional teachers of record for a course, if applicable, and will allow for the adjustment of the weighting of a student-learning result on a teacher evaluation (for example, based on partial-course student enrollment or teacher assignment). SED will work with its growth/value-added measures provider, the Regents Task Force, and industry-standards groups to determine when and how these additional data will affect the way students, teachers, courses, and assessments are connected for evaluation purposes.

In 2012-13 and subsequent years, the definition of teacher of record remains the same.

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.

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.

This section also excludes supplemental school personnel (e.g., teacher aides and teaching assistants) and **teachers of adult, community, and continuing education** from the definition of classroom teaching service.

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.

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 2012-2013 school year.

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.

Substitute Teachers

Substitutes, long-term or otherwise, are not covered by 3012-c.

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 or 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 or 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 or 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 2011-2012 school year?

No. The intent of the statute was to require BOCES to implement the APPR beginning in the 2012-2013 school year, since they do not operate schools that provide core academic instruction in grades 4-8 ELA or math. In Chapter 21 of the Laws of 2012, language was inadvertently added to Education Law §3012-c (2)(b)(1) that indicates that BOCES may be required to conduct APPRs in 2011-12, but there was no intent to impose a new mandate on BOCES. In any case, it is unlikely that any BOCES will have classroom teachers with a sufficient number of students taking grade 4-8 ELA or math assessments to trigger implementation of the new APPR law for those teachers/principals in the 2011-12 school year.

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 Growth subcomponent whether it is a State-provided growth measure or a Student Learning Objective. The district or 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 or BOCES must determine locally whether both co-teachers will receive the same scores for Local and/or Other Measures, 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 (even if they teach ELA or mathematics to students in grades 4-8).

NYSED and districts are developing 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 Growth subcomponent (see Section D for further information on the use of SLOs).

Addendum

B9. Are Article 81 schools, Special Act districts, 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 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?

Only 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. For the 2012-2013 school year, teacher of record is defined as a teacher who is primarily and

directly responsible for a student's learning activities that are aligned to the performance measures of a course, consistent with guidance.

Therefore, 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. However, if a certified librarian is a teacher of record, he/she would be considered a "classroom teacher" and therefore must be evaluated under Education Law § 3012-c.

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 2012-2013 APPR plan approval process?

- The form for the APPR plan will be available on or about May 2, 2012.
- The review of submitted APPR plans will begin on or about May 21, 2012.
- The statutory deadline for school districts and BOCES to adopt and submit their APPR plans for approval is July 1, 2012. Only a complete APPR plan may be submitted.
- The statutory deadline for NYSED to approve or reject APPR plans is September 1, 2012.
- NYSED will make every effort to review and provide feedback on APPR plans as promptly as possible. The timeline for review of plans is contingent on the date of receipt and volume. It is estimated that review of the APPR plan will take 4 – 6 weeks from the date the plan is submitted online. NYSED will consider plans on a rolling basis.
- NYSED will continue to review plans received after July 1 on a rolling basis but can not guarantee a response by September 1.
- If a district does not have an approved plan by January 17, 2013, that district will not be eligible to receive an increase in state aid for the 2012-2013 school year.
- If a submitted plan is not approved based on NYSED's review, the district or BOCES will have the opportunity to resolve deficiencies and resubmit the plan (see Question C2 regarding grant and award APPR submission timelines). It is strongly recommended that districts and BOCES submit their APPR plans for approval as soon as possible, to maximize the opportunity to resolve any deficiencies identified during the Department's review and ensure that the APPR plan is approved by the Commissioner by the statutory deadline of September 1, 2012 (or as soon as practicable thereafter). If districts do not have an approved APPR plan by January 17, 2013 they will jeopardize receipt of any State aid increases.

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

Be aware that various grant programs may have different APPR requirements or deadlines. Such programs include, but are not limited to: School Improvement Grants, Teacher Incentive Fund, School District Performance Management Grants, Strengthening Teacher and Leader Effectiveness, Undergraduate Clinically Rich Teacher Preparation Pilot Programs, Model Induction Programs, Systemic Supports for District and School Turnaround, and School Innovation Fund. In addition, School District Efficiency Grant applications receive bonus points for districts that have APPR plans by September 1, 2012.

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

The Department will review each school district's or BOCES' APPR plan to determine if it rigorously complies with Education Law Section 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 1. If the plan is not approved, the email will describe any deficiencies and direct the district or 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 SED's documents posted on EngageNY at <http://engageny.org/> such as the teacher and principal evaluation road maps, 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.

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 SED 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 and BOCES required to post its APPR plan on the Internet?

NYSED will post the approved plans on its website. NYSED will post lists of those districts and BOCES whose plans are still under review as well as those that have not been approved as a result of identified deficiencies. In addition, after an APPR plan is approved, the district or BOCES is required to post the APPR plan online by September 10th or within 10 days of the approval, whichever is later.

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

If any material changes are made to an approved APPR plan, the school district or 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; change in allocation of points for "Other Measures."

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 2012-2013 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, 2012 (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.

C10. What will happen if a district does not have an approved plan by January 17, 2013 due to lack of agreement with its represented employees on one or more required plan element?

Districts in this situation risk having State aid increases withheld if they do not have an APPR plan approved by the Commissioner by this date.

See Section C Addendum for additional questions related to Approval Process, Plan and State-Required APPR Form.

Terminating Probationary Teachers and/or Principals

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

No. Education Law §3012-c has always required 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. 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 or BOCES may terminate a probationary teacher or principal for constitutionally and statutorily permissible reasons, as described in Question C12, C13, and C15 below.

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

Yes. The new, revised APPR law clarifies that the significant factor requirement does not preclude a school district or 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. Permissible reasons include but are not limited to: misconduct, insubordination, time and attendance issues, or conduct inappropriate for a teaching professional.

C13. May a school district or BOCES terminate a probationary teacher or principal during the middle of a school year or before the composite evaluation score becomes available?

It depends on the circumstances. Prior to completion of the APPR in the first year of the probationary term, a probationary teacher or principal may be summarily dismissed for constitutionally and statutorily permissible reasons other than classroom performance without regard to the APPR. Thereafter, the school district or BOCES would have to consider the APPR that has been completed if it seeks to terminate the probationary teacher based on the performance measured by the APPR, but would not be required to consider the APPR if termination is based on constitutionally and statutorily permissible reasons other than performance, including but not limited to misconduct.

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

No. If the termination determination is based solely upon performance and rating that is the subject of a pending rating appeal, the school district or BOCES must await completion of the appeal process before making that determination.

C15. May a school district or 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 or 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 (the subject of the appeal). An appeal relates solely to evaluation of the performance of the teacher or principal in a single year.

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 performance.

However, if the performance measured by the APPR 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-generated scores based on student growth or value-added measures, this means that a composite score will not be available until the state assessment 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 or 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 or 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.

See Section C Addendum for additional questions related to **Teacher and Principal Improvement Plans.**

Addendum

- 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 or 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 or 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 or 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 or 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 Review Room?**

Districts or 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 7th grade Social Studies assessment would be written as the following within Review Room: [INSERT SPECIFIC NAME OF REGION]-developed 7th grade Social Studies assessment.

- C21. Is the department going to review each TIP and PIP that is submitted as part of the APPR form?**

No, the department will not review each TIP and/or PIP that is uploaded by districts. The department will, however, review whether or not the district has assured that the TIPs/PIPs include: identified 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/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 the elements of the plan comply, 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.

C23. If we want to use a different 3rd party assessment than what is listed on the Approved Assessment List, do we have to wait to submit our APPR plan until the current round of the Assessment RFQ is completed?

Districts and BOCES do not need to wait for the results of the current round of the Assessment RFQ before submitting their APPR plans. To complete Task 2 and Task 3 in Review Room, the district or BOCES must decide what measure they will use if their preferred 3rd 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 or BOCES must enter the name of the corresponding assessment that will be used, followed by the words “unless [OFFICIAL NAME OF 3RD PARTY ASSESSMENT] is an approved 3rd party assessment”.

C24. What should a district enter in Review Room 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 Review Room the assessments they will use for those principals who do not have $\geq 30\%$ of students covered by State-provided growth measures (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 4th and 5th grade ELA/Math, as applicable. Additional SLOs will then be set based on the 3rd grade 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 3rd party assessments and/or district-, regional-, or BOCES-developed assessments.

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-appr.myreviewroom.com/>. For example, the task forms in Review Room 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 other documents that you wish to include with your APPR plan for informational purposes must be uploaded using the ‘Add Document’ button in Review Room.

The materials you submit—once they are approved—will constitute the district’s or BOCES’ complete APPR plan for the 2012-13 school year. 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 or BOCES website and referred to by the teachers and principals who are being evaluated. 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.

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 or BOCES does not have a website, it must make the plan publicly available at the district or BOCES office by September 10th 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 or 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 Review Room, 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.

D. Student Growth on State Assessments or Other Comparable Measures

State-Provided Growth Measures

D1. What is the State providing for 11-12 for the Teacher or Principal Growth scores?

The State-provided teacher and principal growth scores will be provided for all teachers and principals in grades 4-8 ELA and/or Math. Detailed documentation and training

materials will be available on EngageNY in May. Briefly, the growth scores will be calculated as follows:

- For each student in grade 4-8, a student growth percentile (SGP) will be calculated based on his or her ELA and Math State assessment results. The calculated SGP will compare each student's 2011-12 results with his/her 2010-11 results to determine how much growth has occurred. Each student's growth will then be compared to the growth of students with similar academic test history. Student test history will include up to three years of assessment data, with adjustments made to account for test measurement error.
- Before determining teacher or principal evaluation ratings based on the SGPs, the results will be adjusted for whether a student lives in poverty, is an English Language Learner or has a disability.
- Students will be assigned to teachers and schools based on linkage information provided by districts and attribution rules established by SED. (See <http://www.p12.nysed.gov/irs/sirs/documentation/Teacher-CourseDataCollection-final-5-2-11-2.pdf> for detailed guidance on teacher-student data linkage).
- For 2011-12, students will have to be linked to teachers for a minimum time period to be included in the teacher's review. This is defined as the number of calendar days (exclusive) between "BEDS Day" (October 5, 2011) and the first day of the elementary/middle-level ELA or math assessment administration window (April 17 and 25, 2012, respectively) or 195 calendar days for teachers of grades 4-8 ELA and 203 calendar days for teachers of grades 4-8 math. And they will have to meet the definition of "continuous enrollment" for State accountability purposes to be included in the principal growth score.
- The mean student growth percentile (MGP) score will then be determined for each applicable teacher and principal—the MGP is simply the average of the student SGPs for that teacher or school.
- Subject to meeting the minimum number of students required for an evaluation score (number TBD in spring 2012), the MGP adjusted for the student demographics noted above, will be combined across all grades and subjects for the teacher or principal and will then be used 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 Growth subcomponent.

D2. When will the State-provided teacher or principal growth scores be provided to Districts, schools, and teachers?

In 2011-12, the State assessment results for students will be provided to districts in July and teacher and principal growth scores will be provided to districts to incorporate into educator evaluations within three weeks of that date.

The State will 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 growth scores to districts.

Online reporting that will be accessible to teachers, principals, and other district staff, will be available in the Fall of 2012. The online reports will include detailed information about the calculation of the growth scores for each teacher and principal.

D3. What is a “value-added score” and how is it different from the Teacher or Principal Mean Student Growth Percentile Score?

When the Board of Regents approves the use of a “value-added model” for use with particular grades and subjects for 2012-13 or later years, educators who teach these courses will receive from 0-25 points on their evaluations based on their teacher or principal value-added (VA) score, for the Growth Subcomponent. As with the “growth score”, the State plans to calculate a student growth percentile (SGP) for each student, comparing the progress that each individual student makes each year on the applicable State assessments to the progress of other students in that grade/subject with similar past achievement on New York State assessments.

To determine the teacher or principal value-added score, the State will assign students to their teacher of record according to rules in effect at that time (see Question B2 above), and to their principal. The value-added score provider will then take into account any of a wide range of student, classroom, and/or school characteristics that the provider, with approval from the Board of Regents, determines are necessary, for empirical and policy reasons, to compare the growth performance of classes and schools to those with similar characteristics.

As with the growth scores for 2011-12, the State’s growth and value-added model provider will make a recommendation to the State regarding how to account for test measurement error and statistical uncertainty in determining scores for individual educators in 12-13 and beyond. The provider will begin by making recommendations for value-added models covering teachers of grades 4-8 ELA and/or 4-8 Mathematics and their building principals, and will recommend models for additional grades/subjects in future years.

The provider will also be asked to provide analyses in support of policy decisions. For example, the provider will be asked to ensure that small changes in student learning do not result in extreme positive or negative results for educators because of students clustered at either the high or low end of achievement scales or other statistical anomalies. The result of these analyses will be teacher or principal value-added scores, and will lead to the assignment of 0-25 points for the Growth Subcomponent for evaluation purposes

Teacher and principal value-added results for all grades and subjects applicable to that educator will be aggregated into a single result from which one of the four rating

categories (Highly Effective, Effective, Developing, Ineffective or HEDI) and a score from 0-25 will be assigned according to the narrative descriptions and scoring bands in regulation.

D4. How will the teacher and principal growth score be determined if there is no value-added or growth model based on State assessments?

Beginning in the 2012-13 school year, it is expected that the State will have approved value-added measures for teachers and principals in ELA and/or Mathematics for grades 4-8. However, if a value-added model is not approved for any of these educators, the State will continue to use the growth model used for the 2011-12 school year to calculate student growth, and the Growth Subcomponent of these teachers' and principals' evaluations will count for 20 points until such time that the State is able to calculate a value-added model for these subjects in these grades. For High School principals, the State expects to have an approved value-added growth score for this subcomponent in 2012-13. If that does not happen, High School principals will construct SLOs for 2012-13.

In all other grades and subjects (i.e., those for which the State does not have an approved growth or value-added model), Education Law §3012-c requires that teachers' and principals' evaluations be based in part on comparable measures of student learning 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/wp-content/uploads/2012/03/slo-guidance.pdf>). 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 Growth Subcomponent increase from 20 to 25 points?

In school year 2012-13 and beyond, if a value-added scoring methodology has been approved by the Board of Regents for use in a grade/subject, it will be the basis for the teacher or principal's score on the student growth subcomponent and the State will determine the score for each educator based on a 0-25 point scale.

For teachers who have a mix of SLOs and State-provided growth measures, the Growth subcomponent will *not* increase from 20 to 25 points if 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 value-added measure.

For principals, the State-provided growth measures are only applicable if 30% of their students are included in the applicable assessments. Most elementary and middle school principals will therefore be covered by State value-added measures in 2012-13 and all High School principals will be covered when the High School value-added measure is approved by the Board of Regents. The High School Principal value-added measure will

be based on student growth in passing Regents exams each year compared to similar students. We expect this approval for the 2012-13 school year. Principals with SLOs will include those with only early-childhood grade configurations (K-3); or principals of programs for Career and Technical Education or programs for students with disabilities where less than 30% of students take the State assessments.

D6. Which subjects besides ELA/mathematics in grades 4-8 will have value-added models and when? Will there be any new State tests because of this?

If resources become available, the State will 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, along with the Regents exams that exist in 2010-11, could be the basis of value-added scores. The exact schedule depends on whether and when NYSED determines, with its value-added score provider, that a valid and reliable methodology can be constructed for existing State assessments.

D7. What characteristics of students, classrooms, and schools will be considered in constructing the value-added scores for the 2012-2013 school year and beyond?

All of the data necessary to research the impact of the factors suggested by the Regents Task Force (see Table 1) has been provided to the value-added score vendor by NYSED. Other factors may be researched as the work progresses. Policy considerations and empirical results will determine the final specifications of the State’s value-added model, which could differ for teachers and principals. The specifics of the recommendations will be determined before the 2012-13 school year begins after consultation with representatives of the Regents Task Force and approval by the Board of Regents.

Table 1. Student Characteristics and Data Elements that may be Utilized for Value-Added Model

<u>Student Characteristics</u>	<u>Other Characteristics</u>
<ul style="list-style-type: none"> ● Student State assessment history 	<u>Classroom characteristics</u>
<ul style="list-style-type: none"> ● Poverty indicators 	<ul style="list-style-type: none"> ● Class size
<ul style="list-style-type: none"> ● Disability indicators (disaggregated indicators) 	<ul style="list-style-type: none"> ● % with each demographic characteristic in a class
<ul style="list-style-type: none"> ● English language learner indicators (disaggregated indicators) 	<u>School characteristics</u>
<ul style="list-style-type: none"> ● Ethnicity/race 	<ul style="list-style-type: none"> ● % with each demographic characteristic
<ul style="list-style-type: none"> ● Gender 	<ul style="list-style-type: none"> ● Average class size
<ul style="list-style-type: none"> ● % daily student attendance 	<ul style="list-style-type: none"> ● Grade configuration
<ul style="list-style-type: none"> ● Student suspension data 	
<ul style="list-style-type: none"> ● Retained in grade 	<u>Educator experience level in role</u>
<ul style="list-style-type: none"> ● Summer school participation 	
<ul style="list-style-type: none"> ● Student new to school in a non-articulation year 	
<ul style="list-style-type: none"> ● Student age (especially overage for grade) 	

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

Currently NYSED collects data that may be able to account for whether students are homeless or living in transitional housing or shelter. We have provided the data to our growth/value-added vendor to determine empirically if these characteristics should be factored into value-added scores for teachers and/or principals.

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.html 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 provider for the growth and value-added 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 provider 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 mathematics to have a growth score?

A student must have at least 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, there will be minimum numbers of students required for a growth score to be generated by the State. The specific number will be determined by NYSED in consultation with the provider of the growth and/or value-added model based on empirical analysis and policy considerations in spring 2012. 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.

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 or Math (*please see NYSED SLO Guidance Document for further details as to the rules of SLOs: <http://engageny.org/wp-content/uploads/2012/03/slo-guidance.pdf>*). At this time, the NYSESLAT will not be used to generate the State-provided growth score. NYSED will work with its value-added provider to determine whether and how the NYSESLAT score may be used in a value-added measure for students who are English language learners. 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.

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 measure or VA score for students who take the current NYSAA test and do not take a State assessment with a growth/VA model. If enough students in a teacher's class take State assessments to generate State-provided measures for the teacher, 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. Additional SLOs are also set based on the subject area taught. Please see NYSED SLO Guidance Document for further details as to the rules of SLOs for teachers who have students who take the NYSAA: <http://engageny.org/wp-content/uploads/2012/03/slo-guidance.pdf>

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.

See Section D Addendum for additional questions related to State-Provided Growth Measures.

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 and BOCES to implement the SLO process. Please see: <http://engageny.org/news/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 must set their expectations for the HEDI ratings and scoring: HEDI criteria can be determined at the time of target-setting or districts can choose to let principal judgment apply.
- **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 measures and principals with 0 – 29% of students covered by State-provided growth measures. Principals with 30 – 100% of students covered by State-provided growth measures will receive a growth score from the State for the full Growth subcomponent score of their evaluation. Principals with 0 – 29% of students covered by State-provided growth measures must have SLOs for the other comparable measures subcomponent.

The principal’s SLOs for growth will be built around school-wide student results, using assessments discussed below, until at least 30% of students are covered. This rule matches the 30% minimum student coverage of state-provided measures for principals. Generally, very few principals will have SLOs. Principals of elementary and middle schools will have value-added measures based on State assessments in grades 4-8 ELA/Math. High School principals will have a value-added measure based on student growth in passing Regents exams each year compared to similar students. Principals who typically will have SLOs are principals of schools with grade configurations of K-3, PK-3, or similar configurations, as well as principals of certain specialized programs and settings such as CTE or students with severe disabilities.

SLOs for principals must use the school-wide student growth results on State assessments for ELA and Mathematics (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. 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 3rd party assessments or district-, regional-, or BOCES-developed assessments that are rigorous and comparable across classrooms.

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

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 4th grade results from the State-provided growth measures for ELA and Mathematics. Additional SLOs will then be set based on the 3rd grade ELA and Mathematics 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 3rd party assessments or district, regional, or BOCES-developed assessments provided the district or BOCES verifies comparability and rigor.

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 measures and teachers with 0 – 49% of students covered by State-provided growth measures. Teachers with 50 – 100% of students covered by State-provided growth measures will receive a growth score from the State for the full Growth subcomponent score of their evaluation. Teachers with 0 – 49% of students covered by State-provided growth measures must have SLOs for the Growth 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 7th grade Math and 4 sections of 7th grade 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 measure, the State assessment must be used as evidence in the SLO.

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 measure 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 measure; 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/wp-content/uploads/2012/03/slo-guidance.pdf>.

D21. If we choose an SLO with a school-wide measure for Growth, 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 and for the purposes of APPR, group measures can never be based on any other assessment. (Please keep in mind that locally-selected measures have different rules for the use of group, team, or school- or BOCES-wide measures: <http://engageny.org/wp-content/uploads/2012/03/nys-evaluation-plans-guidance-memo.pdf>).

District and BOCES leaders may decide that all Kindergarten teachers, for example, will have a school-wide measure based on 4-8 Math and ELA assessment results, while all health teachers will have a team measure based on 8th grade ELA and Math assessment results. Please see the SLO Guidance Document for other examples: <http://engageny.org/resource/student-learning-objective-guidance-document/>.

Keep in mind that teachers who teach core subjects, which are defined in the regulation as science and social studies in grades 6-8 and high school courses in ELA, math, science and social studies that lead to a Regents examination in the 2010-2011 school year, or a State assessment in the 2012-2013 school year or thereafter may not use SLOs with school- or BOCES-wide, group, or team results.

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 State Growth and locally-selected measures).

The only adjustments that a district or BOCES can consider for SLOs for Growth are those also used in State Growth measures, which include students with disabilities, English language learners, students in poverty, and, in the future, any other student-, classroom-, and school-level characteristics approved by the Board of Regents.

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.

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 component 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 and 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 and 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.

*See Section D Addendum for additional questions related to **Student Learning Objectives**.*

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.

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.

- 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.

D30. If our district has developed an assessment for 8th grade Science, can we have our 8th grade 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 8th grade Science teachers to use the 8th grade 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 subcomponent.

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. Generally, SLOs will be set for 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, and there will be instances where each will be correct: 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 student 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 measure for his or her entire Growth subcomponent score, he or she does not have to have SLOs for the Growth subcomponent. Districts and 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 measure for the entire Growth subcomponent, then the teacher cannot use an SLO for the locally-selected measure (please see the summary of the Regulations: <http://engageny.org/wp-content/uploads/2012/03/nys-evaluation-plans-guidance-memo.pdf>).

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 Growth 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 Student Growth Percentile Model/Value-Added (SGP/VA) score for that SLO (see Example Model 1(B) of the SLO Guidance Document for a similar example: <http://engageny.org/wp-content/uploads/2012/03/slo-guidance.pdf>). 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?

Student Learning Objectives (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?

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 or 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.

One special note with Regents exams: it is important that districts and BOCES not create incentives to discourage students from taking the Regents (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 Ineffective. Example Model 1(a) of the SLO Guidance Document includes an example of a teacher with a Regents section where the target is set based on the percentage taking the assessment.

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 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?

If it is a non-Regents course, then the SLO does not have to use the Regents exam.

D40. Does a 9th grade Global Studies teacher need an SLO? What assessment will be used as evidence if the Regents is not actually taken until 10th grade?

Keep in mind that core subjects are defined in the regulation as science and social studies in grades 6-8 and high school courses in ELA, math, science and social studies that lead to a Regents examination in the 2010-2011 school year, or a State assessment in the 2012-2013 school year or thereafter. Since the Grade 9 Global Studies course does not lead to a State assessment in 2012-13, 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 3rd 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.

Non-Grade Specific Teachers

D42. May student learning objectives for teachers of students in Career and Technical Education programs use assessments previously approved by the NYSED as elements of the approved CTE educational program?

No. At this time, student learning objectives for teachers of students in CTE programs may only use one of the following options as evidence of student learning within the SLO:

1. List of State-approved 3rd party assessments (<http://usny.nysed.gov/rttt/teachers-leaders/assessments/>);
2. District, regional, or BOCES-developed assessments, provided the district or BOCES verifies comparability and rigor;
3. School- or BOCES-wide, group, or team results based on State assessment.

NYSED encourages district and BOCES leaders to ask vendors they work with to submit their assessments to the RFQ for 3rd party assessments for potential inclusion on the State-approved list. No 3rd party assessment that is not on the State-approved list may be used for APPR purposes. Assessments previously approved by NYSED as elements of the approved CTE educational program ARE NOT at this point on the State-approved list

of 3rd party assessments and are therefore not allowable as a district, regional, or BOCES-developed assessment.

D43. How are SLOs for Library/Media Specialists established if these teachers do not have regular classes scheduled and only schedule 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 in this example.

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 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

NYSED SLO Guidance Document for further details as to the rules of SLOs for teachers such as those you mention here: <http://engageny.org/wp-content/uploads/2012/03/slo-guidance.pdf>

AIS teachers may eventually have State-provided growth scores, depending on teacher of record rules for dosage; until then, 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, 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 Guidance: <http://engageny.org/wp-content/uploads/2012/03/slo-guidance.pdf>. 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 student learning objectives. 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.

See Section D Addendum for additional questions related to SLO Rules for Specific Teachers: What Assessments Must be Used as Evidence?.

Addendum

D50. When will the State-provided Growth Subcomponent scores be provided to districts?

For the 2011-12 school year, the State assessment results for students will be provided to districts in July, and Growth Subcomponent scores will be provided to districts for incorporation into educator evaluations in August.

During the same data delivery, the State will provide the information needed by districts who have selected, through collective bargaining, to use different locally-selected measures based on State assessments.

Online reporting that will be accessible to teachers, principals, and other district staff will be available in the Fall of 2012. The online reports will include detailed information regarding the calculation of 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 generated a minimum number (“N”) of student scores required for a growth score for a teacher/principal?

Yes. The minimum number of student-level 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.

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 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 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 comparable growth measures, in case there are not enough students to generate a State-provided growth/value-added measure.

D53. How is the principal State-provided growth score calculated?

A mean growth percentile (MGP) will be calculated for a principal based on the student growth percentiles (SGPs) of students enrolled in his or her building. For a principal, the MGP is the average of the SGPs of students in the school. This MGP will be used to classify the principal into one of four rating categories (Highly Effective, Effective, Developing or Ineffective). A Growth Subcomponent score from 0- 20 points (until such time that the Board of Regents approves the use of a value-added model for these grades/subjects and this subcomponent score becomes 0-25 points) will be assigned to each principal, and it will be possible for a principal to earn each point, including 0.

D54. 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 includes SGPs for all students assigned to the teacher, an MGP will be calculated for ELA and Math at each applicable grade level taught if the teacher has at least 16 student-level SGPs 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 16 student-level SGPs in that grade/subject.

D55. Which students are included in the calculation of a teacher or principal's MGP for 2011-2012?

In order to be included in the calculation of a teacher or principal's MGP, a student must have test scores from at least 2011-2012 and the previous year (2010-2011) and must meet the continuous enrollment standard used for school accountability (At the elementary/middle level, continuously enrolled students are those enrolled in the school or district on BEDS day of the school year until the test administration period. At the secondary level, all students who meet the criteria for inclusion in the accountability cohort are considered to be continuously enrolled. See: Guidance on Reporting Student Data in SIRS--page 33: <http://www.p12.nysed.gov/irs/sirs/>). If the student meets those two standards, then he/she is included in teacher or principal scores. Any students who meet those two criteria but, for whatever reason, cannot be linked to an individual teacher will be attributed to the school.

Beginning with data from the 2011-12 school year and school years thereafter, NYSED will collect additional data elements to support teacher of record determinations for evaluation purposes. These data elements will allow for identification of additional teachers of record for a course, if applicable, and will allow for the adjustment of the weighting of a student-learning result on a teacher evaluation (for example, based on

partial-course student enrollment or teacher assignment). NYSED will work with its growth/value-added measures provider, the Regents Task Force, and technical experts to determine when and how these additional data will affect the way students, teachers, courses, and assessments are connected for evaluation purposes.

D56. Which educators will receive a State-provided growth score in 2011-12 and beyond?

In order for a teacher to receive a State-provided growth score based on his or her linked students, the teacher must have at least 16 student-level SGPs in ELA and Math across all grades he or she teaches. In order for a principal to receive a State-provided growth score based on his or her linked students (i.e., students linked to his or her assigned school), the principal must have at least 16 student-level SGPs in ELA and Math across all grades in the school. In 2011-12, students must also meet the appropriate continuous enrollment standard (see D1, D55) in order to be included in the educator's growth score.

D57. 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 in a school for teachers in which the State-provided growth/value-added measures apply.

NYSED will also provide disaggregated growth or value-added results for State assessments in any grade or subject in a school for which there is an approved growth/value-added measure (e.g., 4th grade ELA, 5th grade ELA, 4th grade Math, 5th grade 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.

D58. Are graduation rates an allowable option for the State Growth or Locally-Selected subcomponents for teachers?

Graduation rates are NOT an allowable option for the State Growth or Locally-Selected measures subcomponents for teachers under section 30-2.5(b)(1) of the Regents Rules. However, see question D59 for examples of allowable alternatives. The Regents Rules are posted on EngageNY at the following link: <http://engageny.org/resource/the-commissioners-regulations-on-annual-professional-performance-review/>

D59. 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 assessment (please also refer to Section D21 of the APPR Guidance document).

There are a number of ways that a school-wide measure based on one or more Regent(s) assessments 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 “student growth on State assessments 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 or 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 2012-13:

Baseline at start of school year:

- 100 9th graders begin the school year with 500 Regents left to pass by 2015-16
- 100 10th graders begin the year with 350 Regents left to pass by 2014-15
- 100 11th graders begin with 160 Regents left to pass by 2013-14
- 100 12th graders begin with 60 Regents left to pass by the end of the 2012-13 school year

At the beginning of the 2012-13 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 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 8th grade 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 Integrated Algebra Regents: 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 Mathematics into their regular teaching, regardless of the content area.

The district or BOCES needs to determine the process for assigning points in each of the rating categories. For example, the district or BOCES could use the target percentage of students scoring at particular levels on the English and Integrated Algebra Regents assessments as its process for assigning points with 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 Integrated Algebra 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 Integrated Algebra Regents teacher(s).
- The HEDI results from the English Regents teacher(s) and the Integrated Algebra 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.

D60. Can you please provide more specific examples of how school-wide measures for high school teachers work for Locally-Selected Measures?

Districts/BOCES have a number of options to select from for the Locally-Selected subcomponent. School-wide growth or achievement results are one such option (please see the “Purple Memo” for all available options: <http://engageny.org/wp-content/uploads/2012/03/nys-evaluation-plans-guidance-memo.pdf>).

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 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 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 US 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 Regents Exam (Capped at 4 Points)

Conversion Chart for Points Scored Based on Percentage Increase in Students Scoring at Proficiency (minimum score of 65)				
Percent Increase	0 - 2.1%	2.2 - 2.4%	2.5 - 3%	3.1 - 3.3+%
Points Earned (% increased x 1.2)	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):

Ineffective	Developing	Effective	Highly Effective
0 - 2	3 - 8	9 - 17	18 - 20

D61. Can teachers in a K-2 building use SLOs with the 3rd grade ELA assessment from another school in the district for State Growth?

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.

D62. 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.

D63. 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 3rd grade 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 assessment, 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 State-approved 3rd party assessment or a district-, regional-, or BOCES-developed assessment that is rigorous and comparable across classrooms.

D64. Do 9th and 10th grade ELA teachers need SLOs? What assessment must be used as evidence if the Regents exam is taken in 11th grade?

If there is no Regents assessment 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 3rd party assessment from the State-approved list (<http://usny.nysed.gov/rttt/teachers-leaders/assessments/>); 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.

D65. For those teachers creating an SLO for State Growth 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 State Growth. For example, districts may decide in setting SLOs for State Growth that teachers may use the NYSESLAT scores from the previous year's test administration as students' baseline data, along with other evidence of student achievement and language learning, in order to more broadly assess the students' skills that may impact instruction for the year. For those students who do not have a previous year's NYSESLAT scores (e.g., newly identified students who have not yet taken the NYSESLAT), districts 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, along with other evidence of student achievement and language learning.

D66. What assessment can be used for State Growth SLOs and/or for Locally-Selected Measures for teachers of Native Language Arts (NLA) classes?

The State has currently approved the use of one 3rd party NLA assessment for Spanish, Grades K-1 (<http://usny.nysed.gov/rttt/teachers-leaders/assessments/>). Other 3rd party assessments may be approved during future Requests for Qualifications (see F7 and F9 for additional information). For other grades and languages, the regulations permit the use of district-, regional-, or BOCES-developed assessments, provided that the district or BOCES verifies that the assessment is rigorous and comparable across classrooms, among other options (see pages 9-10 for the complete list of options).

D67. Where can I find more examples of SLOS?

NYSED now has 22 SLO models posted on EngageNY, including all major subject areas, all grade ranges (elementary, middle, high), ESL, SWD, Regents, and mixed grade levels.

These models are posted online at <http://engageny.org/news/student-learning-objective-exemplars-from-new-york-state-teachers-are-now-available/>.

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 and BOCES to ensure that the measures used for the locally-selected measures subcomponent are different from the measure used for the Growth 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 developed 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:

Measures based on:

- 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 7th grade math State assessment compared to those same students' performance levels on the 6th grade math State assessment, or an

increase in the percentage of a teacher's students earning the advanced performance level (four) on the 4th grade ELA or math State assessments compared to those students' performance levels on the 3rd grade 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, information about the first and second items above will be available to districts.

The State will provide teacher and principal growth scores to districts 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 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 under Growth 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 growth subcomponent.

However, the locally-selected measure may be based on the same state assessment, State-approved 3rd party assessment, or district/BOCES-developed assessment as the SLO used for the State growth or other comparable measures subcomponent as long as a different measure of growth is used for each 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).

Please note: districts and BOCES have a number of options for measuring achievement and/or growth within the locally-selected measures (see: <http://engageny.org/wp-content/uploads/2012/03/nys-evaluation-plans-guidance-memo.pdf>). 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.

See Section E Addendum for additional questions related to Use of State Assessments and Student Learning Objectives Within Locally-selected Measures.

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 or 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 percentile 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 or 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?

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 student subgroups in accordance with 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.

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 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.

Addendum

E8. Can a district or 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 4th grade Math State assessment)?

Yes. Education Law section 3012-(g)(2)(i)(C), as revised, 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/other comparable measures subcomponent. A district 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 or 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 or BOCES.

For the State-provided Growth subcomponent score in grades 4-8 ELA/Math, NYSED has determined that 16 or more assessment scores are required to generate a reliable State-provided Growth subcomponent 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 or 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/principal for Locally-Selected measures must also be negotiated locally. NYSED will provide average student growth percentiles for various subgroups of students at the classroom and school level, but will not provide HEDI ratings and evaluation points.

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. All students who are on the classroom roster for the course/section must, however, be included in the SLO and the final, summative rating.

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 Locally-Selected subcomponents 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, for the 2012-2013 school year, one allowable option is to assign additional points to a teacher's or principal's performance in the State Growth and Locally-Selected subcomponents based on certain control variables. See Guidance D22, E6, and E7 for an explanation of which control variables may be used for each subcomponent. If a school district or BOCES decides to assign additional points to certain teachers and principals based on the 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 Locally-Selected subcomponents 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. 3rd Party and District, Regional, or BOCES Developed Assessments for Growth and Locally-selected

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.

Locally-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 or 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 or BOCES.

F2. If a district or 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 and BOCES to look to their professional associations or other assessment experts for assistance.

District, Regional, BOCES Developed Assessments

F3. If a district or 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 or 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 3rd party list, but asks the provider to develop new assessments for the district or BOCES, do those assessments have to be submitted for inclusion in the state *Approved Assessment List*?

No, if a school district or BOCES contracts with a third-party provider to develop a new assessment for the district or 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 assessment 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. We want to use locally-developed performance tasks for a variety of grades and subjects that would be assessed using a rubric. Is that allowable?

Subject to local negotiation, locally-developed performance tasks scored by a rubric could be used as a district, regional, or BOCES developed assessment wherever locally-developed assessments are allowed as either a comparable growth measure or a locally-selected measure provided that such assessments are rigorous and comparable as described above.

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 3rd Party Assessments

F7. What is the process and timeline for the Department to review and approve 3rd-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 and BOCES for a portion of Teachers' and Principals' Evaluations at least yearly, soliciting applications for assessments that will 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/>, with the most recent update occurring on April 4, 2012.

Another RFQ will be issued in late Spring 2012 in order to update the list prior to the 2012-13 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.

F8. Are the assessments on the State's approved 3rd party list aligned with the NY 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 mathematics for grades 3-8 will be based on the New York State P-12 Common Core Learning Standards for English Language Arts & Literacy and Mathematics. Prior to the 2012-13 school year, assessments in ELA and mathematics for grades 3-8 had to be aligned to the 2005 New York State Learning Standards for ELA and mathematics. Vendors who have assessments on the Department's *Approved Assessment List* for school year 2011-12 were required in early 2012 to submit alignment charts (if they had not done so already) that show the assessment is aligned to the standards that are in effect for the applicable grade/subject for the 2012-13 school year (including the Common Core for ELA and Mathematics grades 3-8). These alignment charts for ELA and Mathematics assessments for grades 3-8 are all located in the "Service Summary" PDFs on the Assessment RFQ website: <http://usny.nysed.gov/rttt/teachers-leaders/assessments/>. 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 3rd party assessment that is not on the Approved Assessment List?

There is no variance process in place to use a non-Approved 3rd party assessment for the purposes of APPR. If a district or BOCES would like to use a 3rd 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 3rd party assessment that is not on the SED approved list may not be used for the purposes of APPR even if a District is willing to certify to its comparability and rigor.

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 3rd 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 3rd party assessment as evidence of student learning during the interval of instruction time for purposes of the SLO.

Addendum

F12. Can districts and BOCES submit a 3rd 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 or BOCES may submit an application on behalf of the Copyright Owner/Assessment Representative of the assessment if the district or BOCES receives prior approval from the Copyright Owner/Assessment Representative. See Question C23 for information about how to include 3rd party assessments in an APPR plan submission. For information about the timeline for submission to the RFQ, please see Question F7.

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 or 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. The security rules for the 3-8 State assessments are located in the following document: <http://www.p12.nysed.gov/apda/sam/ei/ei-sam-12w.pdf>.

The security procedures for assessments used for the locally developed measures should be comparable to the security protocol for the 3-8 assessments as described in the document at the link above, to the greatest extent practicable.

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?

No. 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, even in cases where the teacher is the only one in the district with the specific content expertise. Teachers should not score their own students' assessments, and a principal should not score the assessments that are part of their own evaluations.

Teachers and principals may only view students' assessments after the assessment scores have been finalized. Each district and 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.

G3. Can the district release test items from locally-selected assessments or assessments used as part of comparable 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 and 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 vested interest rule apply to pre-tests given to establish a baseline for a SLO?

To the extent practicable, districts or 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.

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 or 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 through local decisions any 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.

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/wp-content/uploads/2012/03/nys-evaluation-plans-guidance-memo.pdf> 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” subcomponent to a teacher’s classroom observations?

Yes. The full 60 points of the “other measures” 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?

For the 2012-13 school year, 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 or 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/wp-content/uploads/2012/03/nys-evaluation-plans-guidance-memo.pdf> 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)[see 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/rttt/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/rttt/teachers-leaders/practicrubrics/home.html>.

The Department still considers applications. 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/rttt/teachers-leaders/rubricvariance/home.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 3rd 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 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 Pearson are observation-only based rubrics. Therefore, if a district or BOCES decides to use the CLASS or Pearson 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” based on the principal rubric**

- a. includes multiple school visits by supervisor, (etc.) at least one unannounced;
 - b. may include but DOES NOT have to: evidence from student, family or teacher surveys and/or school documents and/or school visits by other trained evaluators.
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?

The Department will issue a Request for Qualification (RFQ) for student/parent/teacher survey instruments, and a district or BOCES will only be permitted to use a survey instrument if it is on the *Approved Survey List*. The Department expects to have an *Approved Survey List* by late Spring/early Summer 2012.

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 (see: <http://www.nbpts.org/> for one type of model for portfolio submission districts/BOCES may wish to consider; 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”, the reviews are another way of gathering evidence about teacher practice and should be assessed using the district’s choice of teacher practice rubric.

I. Scoring and Rating of Evaluations

Scoring Bands and HEDI Ratings

I1. How is each teacher and principal rated? 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 2A. Educator Evaluation Rating Categories

Standards for Rating Categories	Growth or Comparable Measures	Locally-selected Measures of growth or achievement	Other Measures of Effectiveness (Teacher and Leader standards)
Highly Effective	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.
Effective	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.
Developing	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.
Ineffective	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 (scoring bands) for the HEDI rating categories for the overall composite rating, the State assessment or other comparable measures subcomponent, and the locally-selected measures subcomponent. The scoring ranges for the other measures of teacher and principal effectiveness subcomponent shall be established locally through negotiations conducted under Article XIV of the Civil Service Law. The following scoring bands will apply:

Table 2-A. Subcomponent and composite scoring ranges for SY 2011-12, and thereafter for educators for whom there is no approved value-added measure of student growth

2011-12 and 2012-13 where No Value-added growth measure	Growth or Comparable Measures	Locally-selected Measures of growth or achievement	Other Measures of Effectiveness (60 points)	Overall Composite Score
Highly Effective	18-20	18-20	Ranges determined locally	91-100
Effective	9-17	9-17		75-90
Developing	3-8	3-8		65-74
Ineffective	0-2	0-2		0-64

Table 2-B. Subcomponent and composite scoring ranges for SY 2012-13 for educators for whom there is an approved value-added model for student growth

2012-13 where Value-added growth measure applies	Growth or Comparable Measures	Locally-selected Measures of growth or achievement	Other Measures of Effectiveness (60 points)	Overall Composite Score
Highly Effective	22-25	14-15	Ranges determined locally	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 2013-2014 school year and thereafter, the Commissioner will review the scoring ranges annually before the start of each school year and recommend any changes to the Board of Regents.

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 Student Learning Objectives 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 subcomponents.

I3. If districts are given the autonomy to determine the point allocation for the locally-selected measures and the other 60 points, 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 and 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 other evidence of student learning. NYSED may require corrective action if a District’s implementation appears to be insufficiently rigorous.

See Section I Addendum for additional questions related to Scoring Bands and HEDI Ratings.

Adjustments, Controls, and Final Distribution of Educator Scores

14. Will NYSED provide guidance on whether to take into account teacher experience in a teacher’s evaluation?

SED 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 of student achievement or the other 60 point measures.

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.

15. 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 or BOCES to have a fixed percentage of educators in each of the overall HEDI categories.

Scoring: Growth on State Assessments and Comparable Measures

16. Will common branch teachers receive two scores, one each for ELA and mathematics?

Common branch teachers will receive a growth or value-added result for ELA and another one for mathematics. 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.

17. 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 component score (0-20 points). Please see: <http://engageny.org/news/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 growth 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 will 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/wp-content/uploads/2012/03/slo-guidance.pdf>

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 other measures of teacher and principal effectiveness by way of the text descriptions of the four levels of performance (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:

Overall Rubric Score (Must be negotiated)	Rating Category	0-60 point distribution by rating category (must be negotiated)
1-1.8	Ineffective	0-49
1.9-2.8	Developing	50-56
2.9-3.6	Effective	57-58
3.7-4.0	Highly Effective	59-60

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 and BOCES must describe its process for assigning the other 60 points in its APPR plan, which must be published on its web site.

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 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.

SED will provide the scores for the growth measures component of each educator's evaluation in July 2012, or as soon as possible after the State student assessment results are available. 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.

Addendum

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 Review Room?

The requirement to ensure that it is mathematically possible for educators to earn all points in a HEDI range applies to the district-level assignment of points within a subcomponent for any district-wide grade- or subject-level assessment. Districts 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.

Within Review Room, districts/BOCES need to describe how points will be assigned within HEDI categories, but they are not required to list every point and the level of performance it corresponds to. Performance ranges for the four HEDI rating categories must be established, and districts may use phrases such as "points will be assigned within HEDI categories proportionately to an educator's place in the performance range of each HEDI category."

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

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 or principal's evaluation. Typically, the lead evaluator is the person who completes and signs the summative annual professional performance review. 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 and 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 or 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 extend through the 2013-2014 school year, to network teams and other district and 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 and 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 student growth percentile model and the value-added growth model;
4. Application and use of approved teacher or principal practice rubric(s) selected by the district or 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 or 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 or 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 or 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 student growth percentile 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 for training elements one through six, above. NYSED will provide further training on elements seven, eight, and nine above before the second week of June.

J6. How is the State providing training on SLOs?

The State has provided training for district and 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 and BOCES. Also, please continue to check out EngageNY for further resources including NYSED's webinar series: <http://engageny.org/resource/student-learning-objectives-webinar-series/> which provides support for district or BOCES leaders in the critical decisions they must make around SLOs for State Growth.

J7. If a principal or other administrator is not fully certified as a lead evaluator in time for the 2012-2013 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 or 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 or 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.

Addendum

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. How can the training course provide instruction on this system, when the system is not ready for implementation?

The Department expects the Statewide Instructional Reporting System to be available beginning in the 2013-2014 school year. Therefore, training courses conducted during the 2012-2013 school year do not need to cover the use of the system. However, once the

system is available and in use, districts and BOCES will be required to include this in their 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 and 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 and BOCES is required to adopt a complete plan for the annual performance review of all of its classroom teachers and building principals for the 2012-2013 school year 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 submit an APPR plan that is approved by the Commissioner by January 17, 2013 which demonstrates it has fully implemented the new standards and procedures for conducting annual professional performance reviews of its classroom teachers and building principals.

- (b) If a school district or BOCES negotiated the provisions of Education Law §3012-c before amendments were made to this section in Chapter 21 of the Laws of 2012, and now there are conflicting provisions in its CBA agreement, can the district wait until its next contract to resolve those differences?**

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. Therefore, to the extent there are conflicting provisions in the current contract, the school district or BOCES is not required to comply with the conflicting provisions in Education Law §3012-c.

However, the Commissioner will not approve an APPR submitted by July 1, 2012 unless it is in full compliance with all of the requirements of Education Law §3012-c and the APPR regulations. Districts that fail to obtain approval of the Commissioner of their 2012-2013 APPR by January 17, 2013, will not be eligible for any State aid increases from the General Support for Public Schools apportionment in the 2012-2013 school year.

The law also permits districts, BOCES, and their local collective bargaining agents to re-negotiate the evaluation provisions in their collective bargaining agreements at any time. It is also possible for a school district or BOCES and its respective teachers' or principals' union to enter into agreements outside their collective bargaining contract to re-negotiate their evaluation process to be consistent with the provisions of Education Law §3012-c. The Department strongly encourages parties with ongoing contracts to consider re-negotiating any inconsistent provisions in their agreements as soon as possible to hasten statewide implementation of the new evaluation system.

- (c) What if my district's or BOCES' collective bargaining agreement is effective for three more years? Does the law permit us to modify the evaluation provisions of our contract sooner?**

Yes. The law specifically permits districts, BOCES, and their local collective bargaining agents to re-negotiate the evaluation provisions in their collective bargaining agreements at any time. It is also possible for a school district or BOCES and its respective teachers' or principals' union to enter into agreements outside their collective bargaining contract to re-negotiate their evaluation process to be consistent with the provisions of Education Law §3012-c. The Department strongly encourages parties with ongoing contracts to consider re-negotiating any inconsistent provisions in their agreements as soon as possible to hasten statewide implementation of the new evaluation system.

- (d) If we have entered into a new contract, must we have an APPR plan completed by July 1, 2012? If not, how long do we have before we have to show teachers the document upon which they will be evaluated in 2012-2013?**

By July 1, 2012, the governing body of each school district and 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 or 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. The Commissioner shall approve or reject the plan by September 1, 2012, or as soon as practicable thereafter. The district or BOCES must make the plan available to the public on its web-site no later than September 10 of each school year, or within ten days after its approval by the Commissioner, whichever shall later occur.

- (e) 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 new teacher/principal evaluation in a separate agreement or in conjunction with the primary collective bargaining agreement. A school district or 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.

- (f) What if a school district or BOCES that is at impasse or is otherwise unable to complete collective negotiations on portions of the plan by the July 1, 2012 deadline?**

To the extent that by July 1, 2012 or by July 1 of any subsequent year, if 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, 2012 deadline 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.

- (g) Our existing negotiated teachers' contract expires on June 30, 2012. It contains provisions for an Alternative Supervisory Process that can replace the standard**

written teacher performance review in a given year. Would such an alternative process be permissible after July 1, 2011?

If the alternative supervisory process conflicts with the provisions of Education Law §3012-c, which an alternative evaluation process most likely would, the district or BOCES may use the alternative process until expiration of the contract and a successor agreement is reached. However, upon expiration of the current agreement and entry into a successor agreement, the provisions of Education Law §3012-c shall apply and the successor agreement must be consistent with the provisions of Education Law §3012-c.

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. The new agreements and any evaluation system for teachers and principals, however, 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, differentiate 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 section 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 or BOCES attorney on this issue.

K3. IMPASSE

- (a) **What happens if my district's or BOCES' collective bargaining agreement expires after July 1, 2010, but contract negotiations are stalled and a new agreement cannot be reached?**

Education Law §3012-c provides that any inconsistent provisions in an agreement in effect on July 1, 2010 continue until entry into a successor agreement. While contract

provisions may not be abrogated during this period, districts and BOCES must continue to abide by the applicable provisions of the current APPR regulation for the evaluation of their teachers and building principals (§100.2(o) of the Commissioner's regulations) (see below).

(b) 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.

(c) It appears that it will be difficult to successfully negotiate the necessary components of the APPR 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.

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 or BOCES is required to negotiate what assessments or locally-selected measures the school district or 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 or BOCES shall be determined through collective bargaining.

K5. APPEAL PROCEDURES

- (a) **May a school district or 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 or 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 (the subject of the appeal). An appeal relates solely to evaluation of the performance of the teacher or principal in a single year.

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 performance.

However, if the performance measured by the APPR 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 principals 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 and 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 performance 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 and 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 generated scores based on student growth or value added assessments, this means that a composite score will not be available until the state assessment subcomponent 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) Section 3012-c indicates that annual professional performance reviews must be a significant factor in employment decisions, including tenure determinations. Must a district or BOCES wait until all three annual professional performance reviews are conducted before a tenure decision can be made?

No. A school district or 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

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 performance 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 and 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
- (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 annual professional performance review. If a teacher/principal is challenging the issuance of a teacher or principal improvement plan, appeals must be filed with 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 or 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 or BOCES, and any and all additional information submitted with the response, at the same time the school district or 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.¹

¹ Chapter 21 of the Laws of 2012 prescribes an appeals process that will go into effect on January 16, 2013, unless the city school district of the city of New York enters into a collectively bargained teacher evaluation and appeals plan in conformity with section 3012-c of the Education Law and with the approval of the Commission of Education.

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 or 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: 2011-12 and 2012-13

M1. Why is it important for districts and 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 clear guidelines for determining the teachers and principals who are responsible for student instruction for evaluation purposes.

M2. What kinds of data will districts and 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 and BOCES will need to collect additional data elements to support teacher of record determinations. These new data elements include information about the multiple teachers who may be assigned to a course section; differential instructional weightings between teachers and individual

students; and changes in teacher assignment, student enrollment, and student attendance over the duration of a course.

M3. What happens to teachers/principals who move from one district to another? Do their scores move? What if a teacher or principal only has part of a score by the end of the school year?

Teachers or principals who change employers in the middle of the year will be evaluated by each employer in accordance with the APPR. The student growth portion will be part of this evaluation based on where the teacher was employed when the assessment was administered and based on the teacher of record rules then in effect. For the 2011-12 school year, students and teachers must be “linked” for a minimum time period in order to be attributed to the teacher for evaluation purposes. This is defined as the number of calendar days (exclusive) between “BEDS Day” (October 5, 2011) and the first day of the elementary/middle-level ELA or math assessment administration window (April 17 and 25, 2012, respectively) or 195 calendar days for teachers of grades 4-8 ELA and 203 calendar days for teachers of grades 4-8 math. NYSED expects that in future years we will weight students in proportion to the amount of time they are “linked” to a teacher.

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?

See <http://www.p12.nysed.gov/irs/teacher/TSDL-and-RosterVerification-final3-15-12.pdf> for detailed guidance related to the collection, reporting, and verification of teacher-student data linkage (TSDL) information.

As with all reported school year data, superintendents and charter school principals must establish school and district verification processes to ensure that complete and accurate TSDL information, as summarized in the table 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 verification deadline.

In order to ensure the accuracy of the TSDL, two types of information, described in more detail in Appendix B of this memorandum, 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 beginning and end dates.

- **Linkage Durations** (to be used for research purposes for the 2011-12 school year), or the total course time, prior to the administration of the assessment or the end of the school year, that each student was 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 weekly².

Teacher-Student Roster Verification Reports **for school and district data coordinators** can be found within the Level 2 reporting environment through links provided by the local RIC or Big 4 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> and Appendix C of this memorandum for a description of how teachers can access these Teacher-Student Roster Verification Reports, including steps that schools and districts must take to facilitate this process.

The Teacher-Student Roster Verification Reports available to district and school data coordinators through the Level 2 reporting environment, as well as the reports for individual teachers, both display the same underlying data. The only differences between these reports are the ways they are displayed and delivered to meet the needs of different users.

² Teachers and principals who are employed by the New York City Department of Education (NYCDOE) will use alternate data verification processes and reports. NYCDOE teachers and principals will have access to an online tool, Class List Reporting, to review and update class list information. If NYCDOE teachers have questions about this process, they should contact their principals or data specialists in their school or network. Teacher and principals employed by charter schools located in NYC will view their data by using the NYSED reports described in this memorandum.

Data Certification

Consistent with the reporting of all other school year data, 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, 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 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 listed 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** (to be used for research purposes for the 2011-12 school year) requires accurate basic roster information, as well as the following additional information to be correct in the student management system (see Appendix B for more information):

- 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 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 and districts 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 new types of information will districts be required to report on teacher and student data?

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. Appendix A at <http://www.p12.nysed.gov/irs/teacher/TSDL-and-RosterVerification-final3-15-12.pdf> lists statewide course codes for all elementary/middle-level courses linked to a State assessment (e.g., Grades 3-8 ELA and mathematics) and for secondary-level courses that prepare students to take a Regents exam upon completion of the course (e.g., Integrated Algebra).

Beginning with the 2012-13 school year, school districts, charter schools, and BOCES must report teacher-student data linkage (TSDL) information for all classroom teachers. To ensure comparability among schools and districts, a statewide comprehensive course catalog has been developed. 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. Appendix A lists statewide course codes to be used for reporting purposes during the 2011-12 school year. The comprehensive course catalog for 2012-13 school year reporting, developed with extensive input from statewide stakeholder representatives, can be found 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.

Table 4 below is specific to teacher/principal evaluation data reporting requirements. It is not comprehensive for all staff/course reporting.

Table 3. Data Elements to be Reported for Teacher/Principal Evaluation, by Year Required

	Data Element	2010-11	2011-12	2012-13
1	Unique statewide identifier for all teachers assigned to reported courses	Yes	Yes	Yes
2	Student enrollment in all elementary/middle-level courses linked to a state assessment (e.g., Grades 3-8 ELA and mathematics), using the statewide standardized course codes contained in <u>Appendix A</u> at http://www.p12.nysed.gov/irs/teacher/TSDL-and-RosterVerification-final3-15-12.pdf	Yes	Yes	Yes
3	Student enrollment in all secondary-level courses that prepare students to take a Regents exam upon completion of the course (e.g., Integrated Algebra) using statewide standardized course codes contained in <u>Appendix A</u> at http://www.p12.nysed.gov/irs/teacher/TSDL-and-RosterVerification-final3-15-12.pdf	Yes (Grades 9 to 12) plus lower grades if the student is taking a Regents examination	Yes (Grades 9 to 12) plus lower grades if the student is taking a Regents examination	Yes (Grades 7 to 12) plus lower grades if the student is taking a Regents examination
4 ^{NC}	Duration of reported course section		Yes*	Yes
5	Teacher-student linkage start/end dates for reported course section		Yes*	Yes
6	Duration of the student enrollment - teacher assignment linkage for the reported course section (“enrollment linkage”)		Yes*	Yes
7 ^{NC}	Duration of student attendance – teacher assignment linkage for the course section (“attendance linkage”)		Yes*	Yes
8 ^{NC}	Teacher-student linkage duration adjustments for reported course section		Yes*	Yes
9 ^{NC}	Student exclusion-from-evaluation flag for reported course section **		Yes*	Yes
10	Student enrollment in all remaining courses, using statewide standardized course codes found at http://www.p12.nysed.gov/irs/courseCatalog/home.html		Optional	Yes
11 ⁺⁺	Evaluation rating category (Highly Effective, Effective, Developing, Ineffective)		Yes	Yes
12 ^{NC}	Evaluation sub-component scores (student growth, locally selected measures of student achievement, other measures of teacher effectiveness)		Yes	Yes
13	Other personnel data to be used for policy purposes (teacher preparation program, teacher preparation pathway, certifications earned, highest degree status, years in teacher or principal role)	Yes***	Yes	Yes

14 ^{NC}	Other personnel data to be used for policy purposes (tenure status)			Yes
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* *Student management system vendors were provided with these reporting requirements and are expected to provide their customers with this functionality for the 2011-12 school year.*

** *Additional requirements to be determined.*

*** *Data are currently provided by the TEACH Online Services and BEDS Online reporting systems.*

^{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.*

2011–2012 School Year

Data elements (1) through (3) are required for all school districts, charter schools and other public schools. Elementary school students must be assigned to teachers on a subject-by-subject basis. The comprehensive course catalog will be developed to support the collection of student enrollment and teacher assignments for all elementary-, middle-, and secondary-level courses during the 2012-13 school year. Students will be associated with the principal(s) of their building of enrollment through a matching process with information contained in the NYSEDREF system (see <http://www.oms.nysed.gov/sedref/home.html>).

Data elements (4) through (9) will be collected from school districts to support an expanded Teacher of Record policy for the 2011-12 school year and beyond, in particular the capacity to assign multiple teachers to course sections and track teacher-student linkages when student enrollments and teacher assignments change over time. Charter schools must report elements (5) and (6), but are not required to report elements (4) and (7) through (9).

Data elements (11) through (13) will be collected to support data modeling and other policy purposes. These data will be sourced as described below. Charter schools are not required to report data element (12)

Please use the following Teacher of Record guidance when reporting these data for the 2011-11 school year:

For courses included in the 2011-12 school year collection (grades 3-8 ELA and mathematics, grade 4/8 science, and secondary-level courses associated with a Regents exam), the Teachers of Record are those **teachers** who are **primarily and directly responsible** for a student’s learning activities that are aligned to the performance measures of the course consistent with guidelines prescribed by the Commissioner.

2012–2013 School Year

Data elements (1) through (14) will be collected for all courses offered by school districts, other public schools, **and BOCES**. Students will be associated with the

principal(s) of their building of enrollment through data collected in the SIRS. Tenure status will be collected to support data modeling and other policy purposes, and will be sourced as described below. Charter schools are not required to report elements [4], [7 through 9], [12], and [14].

M6. What does my district/BOCES/charter school 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/nystart/tips.html#contax>.

M7. What steps can a district or BOCES take to facilitate participation in the statewide data system in 2011-2012?

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 subscribes 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.
2. Verify that your human resource and student management system will be capable of storing these Teacher of Record and other required data elements in the 2011-12 school year.
3. Plan to report subject-level course enrollment for elementary school students no later than the 2011–12 school year.
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 growth-score subcomponent of a teacher's evaluation?

Each student enrolled in a course will contribute toward the State-determined student growth scores 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, and has at

least one previous test score. For the 2011-12 school year, students and teachers must be “linked” for a minimum time period in order to be attributed to the teacher for evaluation purposes. This is defined as the number of calendar days (exclusive) between “BEDS Day” (October 5, 2011) and the first day of the elementary/middle-level ELA or math assessment administration window (April 17 and 25, 2012, respectively) or 195 calendar days for teachers of grades 4-8 ELA and 203 calendar days for teachers of grades 4-8 math. NYSED expects that in future years we will weight students in proportion to the amount of time they are “linked” to a teacher.

M9. Is “teacher of record” determined differently for different subcomponents of the evaluation score? Does the same teacher of record policy apply to local assessments and to non-tested subjects?

The teacher of record policy applies to all student course enrollments, teacher course assignments, and any assessment that is reported to the State for evaluation or instructional reporting purposes or is not reported to the State but is used by the district for the local achievement portion of the evaluation.

For non-assessment measures, like classroom observation, evaluators should consider all students in the class to be that teacher’s responsibility during the observation whether or not the student has enough assessment data to generate a state or local assessment score for the teacher.

M10. 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.

M11. Is there a minimum amount of time a teacher must spend with a student to be considered the teacher of record?

For the 2011-12 school year, students and teachers must be “linked” for a minimum time period in order to be attributed to the teacher for evaluation purposes. This is defined as the number of calendar days (exclusive) between “BEDS Day” (October 5, 2011) and the first day of the elementary/middle-level ELA or math assessment administration window (April 17 and 25, 2012, respectively) or 195 calendar days for teachers of grades 4-8 ELA and 203 calendar days for teachers of grades 4-8 math. NYSED expects that in future years we will weight students in proportion to the amount of time they are “linked” to a teacher. The State expects to weight partial-course enrollment (or teacher assignment) differently than full-course, but does not plan to set a minimum time before a student is included in the course. The weighting of the amount of time of each student’s linkage to the teacher(s) of record for evaluation purposes will be defined through the

ongoing work of the Task Force and the vendor contracted to perform the value-added analyses.

M12. What criteria will be used to “flag out” certain students from the class growth score?

Students will be excluded from teacher of record aggregations for evaluation purposes only in extremely limited situations to be determined and published at a future date. 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.

M13. How will the BEDS system capture co-principal information?

For the 2011-2012 school year, the principal(s) responsible for a school building or BOCES-operated program will be sourced by the data contained in the NYSEDREF system. As with all data contained in NYSEDREF, the information will need to be updated regularly through official district channels.

In 2011-12, the State will have the ability to associate multiple co-principals with a location or program code for evaluation purposes. However co-principals will be considered equally responsible for all students within the school or a BOCES program

For the 2012-13 school year and onward, it will be possible for districts 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).

M14. 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 this subcomponent of evaluation. Districts will be responsible for this calculation. However, the state will collect the resulting subcomponent score for each educator (i.e., the score between 0 and 20, or 0 and 15 when there is an approved value-added model, assigned as the score on the locally-selected measures subcomponent). Local assessment results may be reported to the State for instructional reporting purposes.

M15. 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 (prior to the administration of the assessment to be used for evaluation purposes) 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 (prior to the administration of the assessment to be used for evaluation purposes) 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.

M16. How do I report enrollment and attendance linkage for classes that follow a generally fixed schedule and for which class attendance is taken?

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.

M17. How do I report student course enrollment in classes that are organized across subjects by “homeroom” or “common branch”?

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 mathematics, 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 mathematics and science, that student will also be reported in four courses with linkages to the teachers assigned to each class, as appropriate.

M18. How do I report enrollment and attendance linkage for classes that do not follow a fixed schedule?

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, mathematics, science and social studies classes that do not follow a fixed schedule: ELA and mathematics 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.

M19. How do I report attendance linkage for classes in which period attendance is not taken?

If schools, consistent with state attendance requirements (see 8 NYCRR § 104.1)³, 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.

³ “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”

If districts 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 mathematics session).

M20. How should I report enrollment and attendance linkage information for teachers who have a long-term absence or take a leave of absence?

In order to ensure that enrollment and attendance linkage information is accurate for teachers who have a long-term absence or a leave of absence, districts should end the teacher assignment (in the student management system or other LEA systems, as appropriate) as of the first day of the long-term absence or leave of absence and begin again the teacher assignment 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.

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.

M21. How are linkage duration adjustments reported?

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 (see 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 $(.8 \times .25) + (1 \times .75) = .95$, or 95%.

M22. 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.

M23. When will the minimum “n” be announced for the number of students required for a teacher in grades 4-8 ELA/Math to receive a State-provided Growth score?

The minimum “n” size will be announced in May.

M24. 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?

For 2012-13, students should be reported as enrolled in the appropriate course code that best matches the course curriculum. There is no state-provided growth measure for NYSAA. These classes will have student learning objectives for their comparable growth measure. Please see NYSED SLO Guidance Document for further details as to the rules of SLOs for teachers with students who take the NYSAA: <http://engageny.org/wp-content/uploads/2012/03/slo-guidance.pdf>

M25. 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?

In order to ensure data quality for those elementary/middle-level courses in which a State assessment is offered (grades 3-8 ELA and mathematics; 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 mathematics class for state reporting purposes. Students who are enrolled in a local course code that allows for multiple grades of enrollment should be reported to the State as enrolled in separate state course codes.

M26. For 8th grade students who take both the Grade 8 mathematics assessment and the Integrated Algebra Regents examination, which assessment will be used for teacher evaluation purposes?

For the 2011-12 school year, when a student has taken both the Grade 8 mathematics assessment and the Integrated Algebra Regents exams, the Grade 8 mathematics assessment will be used for the State-determined student growth score for teacher evaluations. In this case, the Regents exam is one of the choices for the locally-selected measures of student achievement.

Addendum

M27. How should the following students be linked to teachers and principals: students who are in out-of-school suspension, in-school suspension, on medical leave, homebound, or home-schooled? How should classroom minutes be counted for these students? If a student receives tutoring at home because they are homebound or in

out-of-school suspension, should they be enrolled in the courses for which they are receiving the tutoring?

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.

Students who are suspended, on medical leave, or homebound should 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 on each school day. Students who are tutored at home should continue to be enrolled in the courses they were taking prior to being placed on homebound status. Please see the Student Information Reporting Rules for additional information (<http://www.p12.nysed.gov/irs/sirs/>).

Students who are home-schooled and not enrolled in a course that is delivered by a school or district are not linked to a school, teacher, or principal.

M28. 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. See question M9 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 for the regularly scheduled course.

M29. If a special education student 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.

M30. If a student audits a general education course, 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.

M31. How should I report enrollment and attendance linkage information for principals who have a long-term absence or take a leave of absence?

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.

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/2011-12/2011-12SIRSGuidance/NEWER/RICandBig5Contacts20111220.doc>) for support and guidance on submitting and verifying this data.

For charter schools in New York City, NYCDOE is working with SED 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/documentation/Teacher-CourseDataCollection-final-5-2-11-2.pdf>.