**NYSED APPR Guidance (Updated August, 2012)**

**Sections Relevant to Special Education**

**Section B: Educators Covered by the Law**

**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, schoolpsychologists and school social workers who are pupil personnel service providers arenot 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.

**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 mustthen 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***

**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.

**Section D: State Provided Growth Measures**

**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 (p*lease 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

**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.

**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-guidancememo>. 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.

***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/sloguidance.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 BOCESwide, 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.

***Addendum***

**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.

**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.