

S. 6732

A. 9554

S E N A T E - A S S E M B L Y

March 14, 2012

IN SENATE -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. SILVER -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the education law, in relation to annual professional performance review of classroom teachers and building principals and the teacher evaluation appeal process in the city of New York

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 3012-c of the education law, as
 2 added by chapter 103 of the laws of 2010, is amended to read as follows:
 3 1. Notwithstanding any other provision of law, rule or regulation to
 4 the contrary, the annual professional performance reviews of all class-
 5 room teachers and building principals employed by school districts or
 6 boards of cooperative educational services shall be conducted in accord-
 7 ance with the provisions of this section. Such performance reviews which
 8 are conducted on or after July first, two thousand eleven, or on or
 9 after the date specified in paragraph c of subdivision two of this
 10 section where applicable, shall include measures of student achievement
 11 and be conducted in accordance with this section. Such annual profes-
 12 sional performance reviews shall be a significant factor for employment
 13 decisions including but not limited to, promotion, retention, tenure
 14 determination, termination, and supplemental compensation, which deci-
 15 sions are to be made in accordance with locally developed procedures
 16 negotiated pursuant to the requirements of article fourteen of the civil
 17 service law WHERE APPLICABLE. PROVIDED, HOWEVER, THAT NOTHING IN THIS
 18 SECTION SHALL BE CONSTRUED TO AFFECT THE STATUTORY RIGHT OF A SCHOOL
 19 DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO TERMINATE A
 20 PROBATIONARY TEACHER OR PRINCIPAL FOR STATUTORILY AND CONSTITUTIONALLY
 21 PERMISSIBLE REASONS OTHER THAN THE PERFORMANCE OF THE TEACHER OR PRINCI-
 22 PAL IN THE CLASSROOM OR SCHOOL, INCLUDING BUT NOT LIMITED TO MISCONDUCT.
 23 Such performance reviews shall also be a significant factor in teacher

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
 [] is old law to be omitted.

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1 and principal development, including but not limited to, coaching,
2 induction support and differentiated professional development, which are
3 to be locally established in accordance with procedures negotiated
4 pursuant to the requirements of article fourteen of the civil service
5 law.

6 S 2. Paragraph a of subdivision 2 of section 3012-c of the education
7 law, as added by chapter 103 of the laws of 2010, is amended to read as
8 follows:

9 a. (1) The annual professional performance reviews conducted pursuant
10 to this section for classroom teachers and building principals shall
11 differentiate teacher and principal effectiveness using the following
12 quality rating categories: highly effective, effective, developing and
13 ineffective, with explicit minimum and maximum scoring ranges for each
14 category, FOR THE STATE ASSESSMENTS AND OTHER COMPARABLE MEASURES
15 SUBCOMPONENT OF THE EVALUATION AND FOR THE LOCALLY SELECTED MEASURES OF
16 STUDENT ACHIEVEMENT SUBCOMPONENT OF THE EVALUATION, as prescribed in the
17 regulations of the commissioner. THERE SHALL BE: (I) A STATE ASSESSMENTS
18 AND OTHER COMPARABLE MEASURES SUBCOMPONENT WHICH SHALL COMPRISE TWENTY
19 OR TWENTY-FIVE PERCENT OF THE EVALUATION; (II) A LOCALLY SELECTED MEAS-
20 URES OF STUDENT ACHIEVEMENT SUBCOMPONENT WHICH SHALL COMPRISE TWENTY OR
21 FIFTEEN PERCENT OF THE EVALUATION; AND (III) AN OTHER MEASURES OF TEACH-
22 ER OR PRINCIPAL EFFECTIVENESS SUBCOMPONENT WHICH SHALL COMPRISE THE
23 REMAINING SIXTY PERCENT OF THE EVALUATION, WHICH IN SUM SHALL CONSTITUTE
24 THE COMPOSITE TEACHER OR PRINCIPAL EFFECTIVENESS SCORE. Such annual
25 professional performance reviews shall result in a single composite
26 teacher or principal effectiveness score, which incorporates multiple
27 measures of effectiveness related to the criteria included in the regu-
28 lations of the commissioner.

29 (2) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORD-
30 ANCE WITH PARAGRAPH B OF THIS SUBDIVISION FOR THE TWO THOUSAND
31 ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND FOR ANNUAL PROFESSIONAL
32 PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPHS F AND G OF
33 THIS SUBDIVISION FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN
34 SCHOOL YEAR, THE OVERALL COMPOSITE SCORING RANGES SHALL BE IN ACCORDANCE
35 WITH THIS SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL
36 BE DEEMED TO BE:

37 (A) HIGHLY EFFECTIVE IF THEY ACHIEVE A COMPOSITE EFFECTIVENESS SCORE
38 OF 91-100.

39 (B) EFFECTIVE IF THEY ACHIEVE A COMPOSITE EFFECTIVENESS SCORE OF
40 75-90.

41 (C) DEVELOPING IF THEY ACHIEVE A COMPOSITE EFFECTIVENESS SCORE OF
42 65-74.

43 (D) INEFFECTIVE IF THEY ACHIEVE A COMPOSITE EFFECTIVENESS SCORE OF
44 0-64.

45 (3) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORD-
46 ANCE WITH PARAGRAPH B OF THIS SUBDIVISION FOR THE TWO THOUSAND
47 ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND FOR ANNUAL PROFESSIONAL
48 PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH F OF THIS
49 SUBDIVISION FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL
50 YEAR FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES FOR WHICH THE BOARD
51 OF REGENTS HAS NOT APPROVED A VALUE-ADDED MODEL AND FOR BUILDING PRINCIPALS
52 EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS NO APPROVED
53 PRINCIPAL VALUE-ADDED MODEL, THE SCORING RANGES FOR THE STUDENT GROWTH
54 ON STATE ASSESSMENTS OR OTHER COMPARABLE MEASURES SUBCOMPONENT SHALL BE
55 IN ACCORDANCE WITH THIS SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING
56 PRINCIPAL SHALL RECEIVE:

1 (A) A HIGHLY EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR
2 PRINCIPAL'S RESULTS ARE WELL-ABOVE THE STATE AVERAGE FOR SIMILAR
3 STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 18-20;

4 (B) AN EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRIN-
5 CIPAL'S RESULTS MEET THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY
6 ACHIEVE A SUBCOMPONENT SCORE OF 9-17; OR

7 (C) A DEVELOPING RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRIN-
8 CIPAL'S RESULTS ARE BELOW THE STATE AVERAGE FOR SIMILAR STUDENTS AND
9 THEY ACHIEVE A SUBCOMPONENT SCORE OF 3-8; OR

10 (D) AN INEFFECTIVE RATING IN THIS SUBCOMPONENT, IF THE TEACHER'S OR
11 PRINCIPAL'S RESULTS ARE WELL-BELOW THE STATE AVERAGE FOR SIMILAR
12 STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 0-2.

13 (4) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORD-
14 ANCE WITH PARAGRAPH G OF THIS SUBDIVISION FOR THE TWO THOUSAND
15 TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR FOR CLASSROOM TEACHERS IN
16 SUBJECTS AND GRADES FOR WHICH THE BOARD OF REGENTS HAS APPROVED A
17 VALUE-ADDED MODEL AND FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR
18 PROGRAMS FOR WHICH THERE IS AN APPROVED PRINCIPAL VALUE-ADDED MODEL, THE
19 SCORING RANGES FOR THE STUDENT GROWTH ON STATE ASSESSMENTS OR OTHER
20 COMPARABLE MEASURES SUBCOMPONENT SHALL BE IN ACCORDANCE WITH THIS
21 SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL RECEIVE:

22 (A) A HIGHLY EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR
23 PRINCIPAL'S RESULTS ARE WELL-ABOVE THE STATE AVERAGE FOR SIMILAR
24 STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 22-25;

25 (B) AN EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRIN-
26 CIPAL'S RESULTS MEET THE STATE AVERAGE FOR SIMILAR STUDENTS AND THEY
27 ACHIEVE A SUBCOMPONENT SCORE OF 10-21; OR

28 (C) A DEVELOPING RATING IN THIS SUBCOMPONENT IF THE TEACHER'S OR PRIN-
29 CIPAL'S RESULTS ARE BELOW THE STATE AVERAGE FOR SIMILAR STUDENTS AND
30 THEY ACHIEVE A SUBCOMPONENT SCORE OF 3-9; OR

31 (D) AN INEFFECTIVE RATING IN THIS SUBCOMPONENT, IF THE TEACHER'S OR
32 PRINCIPAL'S RESULTS ARE WELL-BELOW THE STATE AVERAGE FOR SIMILAR
33 STUDENTS AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 0-2.

34 (5) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORD-
35 ANCE WITH PARAGRAPH B OF THIS SUBDIVISION FOR THE TWO THOUSAND
36 ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND FOR ANNUAL PROFESSIONAL
37 PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH F OF THIS
38 SUBDIVISION FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL
39 YEAR FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES FOR WHICH THE BOARD
40 OF REGENTS HAS NOT APPROVED A VALUE-ADDED MODEL AND FOR BUILDING PRINCI-
41 PALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS NO APPROVED
42 PRINCIPAL VALUE-ADDED MODEL, THE SCORING RANGES FOR THE LOCALLY SELECTED
43 MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT SHALL BE IN ACCORDANCE WITH
44 THIS SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL
45 RECEIVE:

46 (A) A HIGHLY EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE
47 WELL-ABOVE DISTRICT-ADOPTED EXPECTATIONS FOR STUDENT GROWTH OR ACHIEVE-
48 MENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 18-20; OR

49 (B) AN EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS MEET
50 DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE
51 A SUBCOMPONENT SCORE OF 9-17; OR

52 (C) A DEVELOPING RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE BELOW
53 DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE
54 A SUBCOMPONENT SCORE OF 3-8; OR

(D) AN INEFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE WELL-BELOW DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 0-2.

(6) FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH B OF THIS SUBDIVISION FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED IN ACCORDANCE WITH PARAGRAPH G OF THIS SUBDIVISION FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES FOR WHICH THE BOARD OF REGENTS HAS APPROVED A VALUE-ADDED MODEL AND FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS AN APPROVED PRINCIPAL VALUE-ADDED MODEL, THE SCORING RANGES FOR THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT SHALL BE IN ACCORDANCE WITH THIS SUBPARAGRAPH. A CLASSROOM TEACHER AND BUILDING PRINCIPAL SHALL RECEIVE:

(A) A HIGHLY EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE WELL-ABOVE DISTRICT-ADOPTED EXPECTATIONS FOR STUDENT GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 14-15; OR

(B) AN EFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS MEET DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 8-13; OR

(C) A DEVELOPING RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE BELOW DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 3-7; OR

(D) AN INEFFECTIVE RATING IN THIS SUBCOMPONENT IF THE RESULTS ARE WELL-BELOW DISTRICT-ADOPTED EXPECTATIONS FOR GROWTH OR ACHIEVEMENT AND THEY ACHIEVE A SUBCOMPONENT SCORE OF 0-2.

(7) FOR THE TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN SCHOOL YEAR AND THEREAFTER, THE COMMISSIONER SHALL REVIEW THE SPECIFIC SCORING RANGES FOR EACH OF THE RATING CATEGORIES ANNUALLY BEFORE THE START OF EACH SCHOOL YEAR AND SHALL RECOMMEND ANY CHANGES TO THE BOARD OF REGENTS FOR CONSIDERATION.

(8) Except for the student growth measures ON THE STATE ASSESSMENTS OR OTHER COMPARABLE MEASURES OF STUDENT GROWTH prescribed in paragraphs e, f and g of this subdivision, the elements comprising the composite effectiveness score AND THE PROCESS BY WHICH POINTS ARE ASSIGNED TO SUBCOMPONENTS shall be locally developed, consistent with the standards prescribed in the regulations of the commissioner AND THE REQUIREMENTS OF THIS SECTION, through negotiations conducted, pursuant to the requirements of article fourteen of the civil service law.

S 3. Paragraphs b and c of subdivision 2 of section 3012-c of the education law, as added by chapter 103 of the laws of 2010, are amended to read as follows:

b. (1) Annual professional performance reviews conducted by school districts [on or after July first, two thousand eleven] OR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR of classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals of schools in which such teachers are employed shall be conducted pursuant to this subdivision and shall use two thousand ten--two thousand eleven school year student data as the baseline for the initial computation of the composite teacher or principal effectiveness score for such classroom teachers and principals.

(2) SUBJECT TO PARAGRAPH K OF THIS SUBDIVISION THE ENTIRE ANNUAL PROFESSIONAL PERFORMANCE REVIEW SHALL BE COMPLETED AND PROVIDED TO THE TEACHER OR PRINCIPAL AS SOON AS PRACTICABLE BUT IN NO CASE LATER THAN SEPTEMBER FIRST, TWO THOUSAND TWELVE. THE PROVISIONS OF SUBPARAGRAPHS

1 TWO AND THREE OF PARAGRAPH C OF THIS SUBDIVISION SHALL APPLY TO SUCH
2 REVIEWS.

3 c. (1) Annual professional performance reviews conducted by school
4 districts or boards of cooperative educational services [on or after
5 July first, two thousand twelve] FOR THE TWO THOUSAND TWELVE--TWO THOU-
6 SAND THIRTEEN SCHOOL YEAR AND THEREAFTER of all classroom teachers and
7 all building principals shall be conducted pursuant to this subdivision
8 and shall use two thousand eleven--two thousand twelve school year
9 student data as the baseline for the initial computation of the compos-
10 ite teacher or principal effectiveness score for such classroom teachers
11 and principals. For purposes of this section, an administrator in charge
12 of an instructional program of a board of cooperative educational
13 services shall be deemed to be a building principal.

14 (2) SUBJECT TO PARAGRAPH K OF THIS SUBDIVISION THE ENTIRE ANNUAL
15 PROFESSIONAL PERFORMANCE REVIEW SHALL BE COMPLETED AND PROVIDED TO THE
16 TEACHER OR PRINCIPAL AS SOON AS PRACTICABLE BUT IN NO CASE LATER THAN
17 SEPTEMBER FIRST OF THE SCHOOL YEAR NEXT FOLLOWING THE SCHOOL YEAR FOR
18 WHICH THE CLASSROOM TEACHER OR BUILDING PRINCIPAL'S PERFORMANCE IS BEING
19 MEASURED. THE TEACHER'S AND PRINCIPAL'S SCORE AND RATING ON THE LOCALLY
20 SELECTED MEASURES SUBCOMPONENT, IF AVAILABLE, AND ON THE OTHER MEASURES
21 OF TEACHER AND PRINCIPAL EFFECTIVENESS SUBCOMPONENT FOR A TEACHER'S OR
22 PRINCIPAL'S ANNUAL PROFESSIONAL PERFORMANCE REVIEW SHALL BE COMPUTED AND
23 PROVIDED TO THE TEACHER OR PRINCIPAL, IN WRITING, BY NO LATER THAN THE
24 LAST DAY OF THE SCHOOL YEAR FOR WHICH THE TEACHER OR PRINCIPAL IS BEING
25 MEASURED. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO AUTHORIZE A
26 TEACHER OR PRINCIPAL TO TRIGGER THE APPEAL PROCESS PRIOR TO RECEIPT OF
27 HIS OR HER COMPOSITE EFFECTIVENESS SCORE AND RATING.

28 (3) EACH SUCH ANNUAL PROFESSIONAL PERFORMANCE REVIEW SHALL BE BASED ON
29 THE STATE ASSESSMENTS OR OTHER COMPARABLE MEASURES SUBCOMPONENT, THE
30 LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT AND THE
31 OTHER MEASURES OF TEACHER AND PRINCIPAL EFFECTIVENESS SUBCOMPONENT,
32 DETERMINED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THIS SECTION
33 AND THE REGULATIONS OF THE COMMISSIONER, FOR THE SCHOOL YEAR FOR WHICH
34 THE TEACHER'S OR PRINCIPAL'S PERFORMANCE IS MEASURED.

35 S 4. Paragraphs e, f and g of subdivision 2 of section 3012-c of the
36 education law, as added by chapter 103 of the laws of 2010, are amended
37 to read as follows:

38 e. (1) For annual professional performance reviews conducted in
39 accordance with paragraph b of this subdivision [in] FOR the two thou-
40 sand eleven--two thousand twelve school year, forty percent of the
41 composite score of effectiveness shall be based on student achievement
42 measures as follows: (i) twenty percent of the evaluation shall be
43 based upon student growth data on state assessments as prescribed by the
44 commissioner or a comparable measure of student growth if such growth
45 data is not available; and (ii) twenty percent shall be based on other
46 locally selected measures of student achievement that are determined to
47 be rigorous and comparable across classrooms in accordance with the
48 regulations of the commissioner and as are developed locally in a manner
49 consistent with procedures negotiated pursuant to the requirements of
50 article fourteen of the civil service law.

51 (2) SUCH LOCALLY SELECTED MEASURES MAY INCLUDE MEASURES OF STUDENT
52 ACHIEVEMENT OR GROWTH ON STATE ASSESSMENTS, REGENTS EXAMINATIONS AND/OR
53 DEPARTMENT APPROVED EQUIVALENT, PROVIDED THAT SUCH MEASURES ARE DIFFER-
54 ENT FROM THOSE PRESCRIBED BY THE COMMISSIONER PURSUANT TO CLAUSE (I) OF
55 SUBPARAGRAPH ONE OF THIS PARAGRAPH. THE REGULATIONS OF THE COMMISSIONER
56 SHALL DESCRIBE THE TYPES OF MEASURES OF STUDENT GROWTH OR ACHIEVEMENT

1 THAT MAY BE LOCALLY SELECTED. THE SELECTION OF THE LOCAL MEASURE(S) AS
2 DESCRIBED IN THIS PARAGRAPH TO BE USED BY THE SCHOOL DISTRICT OR BOARD
3 OF COOPERATIVE EDUCATIONAL SERVICES SHALL BE DETERMINED THROUGH COLLEC-
4 TIVE BARGAINING.

5 f. (1) For annual professional performance reviews conducted in
6 accordance with paragraph c of this subdivision [in any school year
7 prior to the first school year for which the board of regents has
8 approved use of a value-added growth model, but not earlier than] FOR
9 the two thousand twelve--two thousand thirteen school year AND THEREAFT-
10 ER FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES FOR WHICH THE BOARD OF
11 REGENTS HAS NOT APPROVED A VALUE-ADDED MODEL AND FOR BUILDING PRINCIPALS
12 EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS NO APPROVED PRINCIPAL
13 VALUE-ADDED MODEL, forty percent of the composite score of effectiveness
14 shall be based on student achievement measures as follows: (i) twenty
15 percent of the evaluation shall be based upon student growth data on
16 state assessments as prescribed by the commissioner or a comparable
17 measure of student growth if such growth data is not available; and (ii)
18 twenty percent shall be based on other locally selected measures of
19 student achievement that are determined to be rigorous and comparable
20 across classrooms in accordance with the regulations of the commissioner
21 and as are developed locally in a manner consistent with procedures
22 negotiated pursuant to the requirements of article fourteen of the civil
23 service law.

24 (2) ONE OR MORE OF THE FOLLOWING TYPES OF LOCALLY SELECTED MEASURES OF
25 STUDENT ACHIEVEMENT OR GROWTH MAY BE USED FOR THE EVALUATION OF CLASS-
26 ROOM TEACHERS:

27 (I) STUDENT ACHIEVEMENT OR GROWTH ON STATE ASSESSMENTS, REGENTS EXAM-
28 INATIONS AND/OR DEPARTMENT APPROVED ALTERNATIVE EXAMINATIONS AS
29 DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER INCLUDING, BUT NOT
30 LIMITED TO, ADVANCED PLACEMENT EXAMINATIONS, INTERNATIONAL BACCALAUREATE
31 EXAMINATIONS, AND SAT II, USING A MEASURE THAT IS DIFFERENT FROM THE
32 GROWTH SCORE PRESCRIBED BY THE DEPARTMENT FOR STUDENT GROWTH ON SUCH
33 ASSESSMENTS OR EXAMINATIONS FOR PURPOSES OF THE STATE ASSESSMENT OR
34 OTHER COMPARABLE MEASURES SUBCOMPONENT THAT IS EITHER:

35 (A) THE CHANGE IN PERCENTAGE OF A TEACHER'S STUDENTS WHO ACHIEVE A
36 SPECIFIC LEVEL OF PERFORMANCE AS DETERMINED LOCALLY, ON SUCH
37 ASSESSMENTS/EXAMINATIONS COMPARED TO THOSE STUDENTS' LEVEL OF PERFORM-
38 ANCE ON SUCH ASSESSMENTS/EXAMINATIONS IN THE PREVIOUS SCHOOL YEAR SUCH
39 AS A THREE PERCENTAGE POINT INCREASE IN STUDENTS EARNING THE PROFICIENT
40 LEVEL (THREE) OR BETTER PERFORMANCE LEVEL ON THE SEVENTH GRADE MATH
41 STATE ASSESSMENT COMPARED TO THOSE SAME STUDENTS' PERFORMANCE LEVELS ON
42 THE SIXTH GRADE MATH STATE ASSESSMENT, OR AN INCREASE IN THE PERCENTAGE
43 OF A TEACHER'S STUDENTS EARNING THE ADVANCED PERFORMANCE LEVEL (FOUR) ON
44 THE FOURTH GRADE ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS
45 COMPARED TO THOSE STUDENTS' PERFORMANCE LEVELS ON THE THIRD GRADE
46 ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS; OR

47 (B) A TEACHER SPECIFIC GROWTH SCORE COMPUTED BY THE DEPARTMENT BASED
48 ON THE PERCENT OF THE TEACHER'S STUDENTS EARNING A DEPARTMENT DETERMINED
49 LEVEL OF GROWTH. THE METHODOLOGY TO TRANSLATE SUCH GROWTH INTO THE
50 STATE-ESTABLISHED SUBCOMPONENT SCORING RANGES SHALL BE DETERMINED LOCAL-
51 LY; OR

52 (C) A TEACHER-SPECIFIC ACHIEVEMENT OR GROWTH SCORE COMPUTED IN A
53 MANNER DETERMINED LOCALLY BASED ON A MEASURE OF STUDENT PERFORMANCE ON
54 THE STATE ASSESSMENTS, REGENTS EXAMINATIONS AND/OR DEPARTMENT APPROVED
55 ALTERNATIVE EXAMINATIONS OTHER THAN THE MEASURE DESCRIBED IN ITEM (A) OR

56 (B) OF THIS SUBPARAGRAPH;

(II) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED LOCALLY BASED ON A STUDENT ASSESSMENT APPROVED BY THE DEPARTMENT PURSUANT TO A REQUEST FOR QUALIFICATION PROCESS ESTABLISHED IN THE REGULATIONS OF THE COMMISSIONER;

(III) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED LOCALLY BASED ON A DISTRICT, REGIONAL OR BOCES-DEVELOPED ASSESSMENT THAT IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS;

(IV) A SCHOOL-WIDE MEASURE OF EITHER STUDENT GROWTH OR ACHIEVEMENT BASED ON EITHER:

(A) A STATE-PROVIDED STUDENT GROWTH SCORE COVERING ALL STUDENTS IN THE SCHOOL THAT TOOK THE STATE ASSESSMENT IN ENGLISH LANGUAGE ARTS OR MATHEMATICS IN GRADES FOUR THROUGH EIGHT;

(B) A SCHOOL-WIDE MEASURE OF STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED LOCALLY BASED ON A DISTRICT, REGIONAL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES DEVELOPED ASSESSMENT THAT IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS OR A DEPARTMENT APPROVED STUDENT ASSESSMENT OR BASED ON A STATE ASSESSMENT; OR

(V) WHERE APPLICABLE, FOR TEACHERS IN ANY GRADE OR SUBJECT WHERE THERE IS NO GROWTH OR VALUE-ADDED GROWTH MODEL APPROVED BY THE BOARD OF REGENTS AT THAT GRADE LEVEL OR IN THAT SUBJECT, A STRUCTURED DISTRICT-WIDE STUDENT GROWTH GOAL-SETTING PROCESS TO BE 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.

(3) ONE OR MORE OF THE FOLLOWING TYPES OF LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT OR GROWTH MAY BE USED FOR THE EVALUATION OF PRINCIPALS, PROVIDED THAT EACH MEASURE IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS AND THAT ANY SUCH MEASURE SHALL BE DIFFERENT FROM THAT USED FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOMPONENT:

(I) STUDENT ACHIEVEMENT LEVELS ON STATE ASSESSMENTS IN ENGLISH LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT SUCH AS PERCENTAGE OF STUDENTS IN THE SCHOOL WHOSE PERFORMANCE LEVELS ON STATE ASSESSMENTS ARE PROFICIENT OR ADVANCED, AS DEFINED IN THE REGULATIONS OF THE COMMISSIONER;

(II) STUDENT GROWTH OR ACHIEVEMENT ON STATE OR OTHER ASSESSMENTS IN ENGLISH LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT FOR STUDENTS IN EACH OF THE PERFORMANCE LEVELS DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER;

(III) STUDENT GROWTH OR ACHIEVEMENT ON STATE ASSESSMENTS IN ENGLISH LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT FOR STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS IN GRADES FOUR TO EIGHT;

(IV) STUDENT PERFORMANCE ON ANY OR ALL OF THE DISTRICT-WIDE LOCALLY SELECTED MEASURES APPROVED FOR USE IN TEACHER EVALUATIONS;

(V) FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES, FOUR, FIVE AND/OR SIX-YEAR HIGH SCHOOL GRADUATION AND/OR DROPOUT RATES;

(VI) PERCENTAGE OF STUDENTS WHO EARN A REGENTS DIPLOMA WITH ADVANCED DESIGNATION AND/OR HONORS AS DEFINED IN THE REGULATIONS OF THE COMMISSIONER, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES;

(VII) PERCENTAGE OF A COHORT OF STUDENTS THAT ACHIEVE SPECIFIED SCORES ON REGENTS EXAMINATIONS AND/OR DEPARTMENT APPROVED ALTERNATIVE EXAMINATIONS INCLUDING, BUT NOT LIMITED TO, ADVANCED PLACEMENT EXAMINATIONS, INTERNATIONAL BACCALAUREATE EXAMINATIONS AND SAT II, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES SUCH AS THE PERCENTAGE OF STUDENTS IN THE TWO THOUSAND NINE COHORT THAT SCORED AT LEAST A THREE ON AN ADVANCED PLACEMENT EXAMINATION SINCE ENTRY INTO THE NINTH GRADE; AND/OR

(VIII) STUDENTS' PROGRESS TOWARD GRADUATION IN THE SCHOOL USING STRONG PREDICTIVE INDICATORS, INCLUDING BUT NOT LIMITED TO NINTH AND/OR TENTH GRADE CREDIT ACCUMULATION AND/OR THE PERCENTAGE OF STUDENTS THAT PASS NINTH AND/OR TENTH GRADE SUBJECTS MOST COMMONLY ASSOCIATED WITH GRADUATION AND/OR STUDENTS' PROGRESS IN PASSING THE NUMBER OF REQUIRED REGENTS EXAMINATIONS FOR GRADUATION, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES.

(IX) FOR SCHOOL DISTRICTS OR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES THAT CHOOSE TO USE MORE THAN ONE SET OF LOCALLY SELECTED MEASURES DESCRIBED IN THIS PARAGRAPH FOR PRINCIPALS IN THE SAME OR SIMILAR GRADE CONFIGURATION OR PROGRAM SUCH AS ONE SET OF LOCALLY SELECTED MEASURES IS USED TO EVALUATE PRINCIPALS IN SOME K-5 SCHOOLS AND ANOTHER SET OF LOCALLY SELECTED MEASURES IS USED TO EVALUATE PRINCIPALS IN THE OTHER K-5 SCHOOLS IN THE DISTRICT, THE SUPERINTENDENT OR DISTRICT SUPERINTENDENT SHALL, IN THEIR PROFESSIONAL PERFORMANCE REVIEW PLAN, CERTIFY THAT THE SETS OF MEASURES ARE COMPARABLE, IN ACCORDANCE WITH THE TESTING STANDARDS AS DEFINED IN REGULATIONS OF THE COMMISSIONER.

(X) FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS NO APPROVED PRINCIPAL VALUE-ADDED MODEL, THE TYPES OF LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT OR GROWTH SPECIFIED IN SUBPARAGRAPH THREE OF PARAGRAPH G OF THIS SUBDIVISION MAY BE USED. IN ADDITION, A STRUCTURED DISTRICT-WIDE STUDENT GROWTH GOAL-SETTING PROCESS TO BE USED WITH ANY STATE ASSESSMENT OR AN APPROVED STUDENT ASSESSMENT OR A DISTRICT, REGIONAL OF BOCES-DEVELOPED ASSESSMENT THAT IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS MAY BE A LOCALLY SELECTED MEASURE.

(4) THE SELECTION OF THE LOCAL MEASURE OR MEASURES AS DESCRIBED IN SUBPARAGRAPHS TWO AND THREE OF THIS PARAGRAPH TO BE USED BY THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL BE DETERMINED THROUGH COLLECTIVE BARGAINING.

g. (1) For annual professional performance reviews conducted in accordance with paragraph c of this subdivision [in] FOR the [first school year for which the board of regents has approved use of a value-added growth model] TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR and thereafter FOR CLASSROOM TEACHERS IN SUBJECTS AND GRADES IN WHICH THERE IS A VALUE-ADDED GROWTH MODEL APPROVED BY THE BOARD OF REGENTS AND FOR BUILDING PRINCIPALS EMPLOYED IN SCHOOLS OR PROGRAMS FOR WHICH THERE IS AN APPROVED PRINCIPAL VALUE-ADDED MODEL, forty percent of the composite score of effectiveness shall be based on student achievement measures as follows: (i) twenty-five percent of the evaluation shall be based upon student growth data on state assessments as prescribed by the commissioner or a comparable measure of student growth if such growth data is not available; and (ii) fifteen percent shall be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms in accordance with the regulations of the commissioner and as are locally developed in a manner consistent with procedures negotiated pursuant to the requirements of article fourteen of the civil service law. The department shall develop the value-added growth model and shall consult with the advisory committee established pursuant to subdivision seven of this section prior to recommending that the board of regents approve its use in evaluations.

(2) ONE OR MORE OF THE FOLLOWING TYPES OF LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT OR GROWTH MAY BE USED FOR THE EVALUATION OF CLASSROOM TEACHERS:

(I) STUDENT ACHIEVEMENT OR GROWTH ON STATE ASSESSMENTS, REGENTS EXAMINATIONS AND/OR DEPARTMENT APPROVED ALTERNATIVE EXAMINATIONS AS

DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER INCLUDING, BUT NOT LIMITED TO, ADVANCED PLACEMENT EXAMINATIONS, INTERNATIONAL BACCALAUREATE EXAMINATIONS AND SAT II, USING A MEASURE THAT IS DIFFERENT FROM THE GROWTH SCORE PRESCRIBED BY THE DEPARTMENT FOR STUDENT GROWTH ON SUCH ASSESSMENTS OR EXAMINATIONS FOR PURPOSES OF THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOMPONENT THAT IS EITHER:

(A) 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 SUCH AS A THREE PERCENTAGE POINT INCREASE IN STUDENTS EARNING THE PROFICIENT LEVEL (THREE) OR BETTER PERFORMANCE LEVEL ON THE SEVENTH GRADE MATH STATE ASSESSMENT COMPARED TO THOSE SAME STUDENTS' PERFORMANCE LEVELS ON THE SIXTH GRADE MATH STATE ASSESSMENT, OR AN INCREASE IN THE PERCENTAGE OF A TEACHER'S STUDENTS EARNING THE ADVANCED PERFORMANCE LEVEL (FOUR) ON THE FOURTH GRADE ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS COMPARED TO THOSE STUDENTS' PERFORMANCE LEVELS ON THE THIRD GRADE ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS; OR

(B) A TEACHER SPECIFIC GROWTH SCORE COMPUTED BY THE STATE 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 SUBCOMPONENT SCORING RANGES SHALL BE DETERMINED LOCALLY; OR

(C) 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 OTHER THAN THE MEASURE DESCRIBED IN ITEM (A) OR

(B) OF THIS SUBPARAGRAPH;

(II) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED LOCALLY BASED ON A STUDENT ASSESSMENT APPROVED BY THE DEPARTMENT PURSUANT TO A REQUEST FOR QUALIFICATION PROCESS ESTABLISHED IN THE REGULATIONS OF THE COMMISSIONER;

(III) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED LOCALLY BASED ON A DISTRICT, REGIONAL OR BOCES-DEVELOPED ASSESSMENT THAT IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS;

(IV) A SCHOOL-WIDE MEASURE OF EITHER STUDENT GROWTH OR ACHIEVEMENT BASED ON EITHER:

(A) A STATE-PROVIDED STUDENT GROWTH SCORE COVERING ALL STUDENTS IN THE SCHOOL THAT TOOK THE STATE ASSESSMENT IN ENGLISH LANGUAGE ARTS OR MATHEMATICS IN GRADES FOUR THROUGH EIGHT; OR

(B) A SCHOOL-WIDE MEASURE OF STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED LOCALLY BASED ON A DISTRICT, REGIONAL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES DEVELOPED ASSESSMENT THAT IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS OR A DEPARTMENT APPROVED STUDENT ASSESSMENT OR BASED ON A STATE ASSESSMENT.

(3) ONE OR MORE OF THE FOLLOWING TYPES OF LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT OR GROWTH MAY BE USED FOR THE EVALUATION OF PRINCIPALS, PROVIDED THAT EACH MEASURE IS RIGOROUS AND COMPARABLE ACROSS CLASSROOMS AND THAT ANY SUCH MEASURE SHALL BE DIFFERENT FROM THAT USED FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOMPONENT:

(I) STUDENT ACHIEVEMENT LEVELS ON STATE ASSESSMENTS IN ENGLISH LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT SUCH AS PERCENTAGE OF STUDENTS IN THE SCHOOL WHOSE PERFORMANCE LEVELS ON STATE ASSESSMENTS ARE PROFICIENT OR ADVANCED, AS DEFINED IN THE REGULATIONS OF THE COMMISSIONER;

(II) STUDENT GROWTH OR ACHIEVEMENT ON STATE OR OTHER ASSESSMENTS IN ENGLISH LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT FOR

STUDENTS IN EACH OF THE PERFORMANCE LEVELS DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER;

(III) STUDENT GROWTH OR ACHIEVEMENT ON STATE ASSESSMENTS IN ENGLISH LANGUAGE ARTS AND/OR MATHEMATICS IN GRADES FOUR TO EIGHT FOR STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS IN GRADES FOUR TO EIGHT;

(IV) STUDENT PERFORMANCE ON ANY OR ALL OF THE DISTRICT-WIDE LOCALLY SELECTED MEASURES APPROVED FOR USE IN TEACHER EVALUATIONS;

(V) FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES, FOUR, FIVE AND/OR SIX-YEAR HIGH SCHOOL GRADUATION AND/OR DROPOUT RATES;

(VI) PERCENTAGE OF STUDENTS WHO EARN A REGENTS DIPLOMA WITH ADVANCED DESIGNATION AND/OR HONORS AS DEFINED IN THE REGULATIONS OF THE COMMISSIONER, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES;

(VII) PERCENTAGE OF A COHORT OF STUDENTS THAT ACHIEVE SPECIFIED SCORES ON REGENTS EXAMINATIONS AND/OR DEPARTMENT APPROVED ALTERNATIVE EXAMINATIONS INCLUDING, BUT NOT LIMITED TO, ADVANCED PLACEMENT EXAMINATIONS, INTERNATIONAL BACCALAUREATE EXAMINATIONS AND SAT II, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES SUCH AS THE PERCENTAGE OF STUDENTS IN THE TWO THOUSAND NINE COHORT THAT SCORED AT LEAST A THREE ON AN ADVANCED PLACEMENT EXAMINATION SINCE ENTRY INTO THE NINTH GRADE; AND/OR

(VIII) STUDENTS' PROGRESS TOWARD GRADUATION IN THE SCHOOL USING STRONG PREDICTIVE INDICATORS, INCLUDING BUT NOT LIMITED TO NINTH AND/OR TENTH GRADE CREDIT ACCUMULATION AND/OR THE PERCENTAGE OF STUDENTS THAT PASS NINTH AND/OR TENTH GRADE SUBJECTS MOST COMMONLY ASSOCIATED WITH GRADUATION AND/OR STUDENTS' PROGRESS IN PASSING THE NUMBER OF REQUIRED REGENTS EXAMINATIONS FOR GRADUATION, FOR PRINCIPALS EMPLOYED IN A SCHOOL WITH HIGH SCHOOL GRADES.

(IX) FOR SCHOOL DISTRICTS OR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES THAT CHOOSE TO USE MORE THAN ONE SET OF LOCALLY SELECTED MEASURES DESCRIBED IN THIS PARAGRAPH FOR PRINCIPALS IN THE SAME OR SIMILAR GRADE CONFIGURATION OR PROGRAM, THE SUPERINTENDENT OR DISTRICT SUPERINTENDENT SHALL, IN THEIR PROFESSIONAL PERFORMANCE REVIEW PLAN, CERTIFY THAT THE SETS OF MEASURES ARE COMPARABLE, IN ACCORDANCE WITH THE TESTING STANDARDS AS DEFINED IN REGULATIONS OF THE COMMISSIONER.

(4) THE SELECTION OF THE LOCAL MEASURE OR MEASURES AS DESCRIBED IN SUBPARAGRAPHS TWO AND THREE OF THIS PARAGRAPH TO BE USED BY THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL BE DETERMINED THROUGH COLLECTIVE BARGAINING.

(5) The department shall develop the value-added growth model and shall consult with the advisory committee established pursuant to subdivision seven of this section prior to recommending that the board of regents approve its use in evaluations.

S 5. Paragraph h of subdivision 2 of section 3012-c of the education law, as added by chapter 103 of the laws of 2010, is amended to read as follows:

h. The remaining SIXTY percent of the evaluations, ratings and effectiveness scores shall be locally developed, consistent with the standards prescribed in the regulations of the commissioner, through negotiations conducted pursuant to article fourteen of the civil service law.

(1) A MAJORITY OF THE SIXTY POINTS FOR CLASSROOM TEACHERS SHALL BE BASED ON MULTIPLE CLASSROOM OBSERVATIONS CONDUCTED BY A PRINCIPAL OR OTHER TRAINED ADMINISTRATOR, WHICH MAY BE PERFORMED IN-PERSON OR BY VIDEO. FOR EVALUATIONS FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, AT LEAST ONE SUCH OBSERVATION SHALL BE AN UNANNOUNCED VISIT.

(2) FOR THE REMAINING PORTION OF THESE SIXTY POINTS FOR EVALUATIONS FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, THE COMMISSIONER'S REGULATION SHALL PRESCRIBE THE OTHER FORMS OF EVIDENCE OF TEACHER AND PRINCIPAL EFFECTIVENESS THAT MAY BE USED.

(3) FOR EVALUATIONS OF CLASSROOM TEACHERS FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, THE REMAINING PORTION OF THESE SIXTY POINTS SHALL BE BASED ON ONE OR MORE OF THE FOLLOWING:

(I) ONE OR MORE CLASSROOM OBSERVATIONS BY INDEPENDENT TRAINED EVALUATORS SELECTED BY THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES WHO ARE TEACHERS OR FORMER TEACHERS WITH A DEMONSTRATED RECORD OF EFFECTIVENESS AND HAVE NO PRIOR AFFILIATION WITH THE SCHOOL IN WHICH THEY ARE CONDUCTING THE EVALUATION AND NO OTHER RELATIONSHIP WITH THE TEACHERS BEING EVALUATED THAT WOULD AFFECT THEIR IMPARTIALITY;

(II) CLASSROOM OBSERVATIONS BY TRAINED IN-SCHOOL PEER TEACHERS; AND/OR

(III) USE OF A STATE-APPROVED INSTRUMENT FOR PARENT OR STUDENT FEEDBACK; AND/OR

(IV) EVIDENCE OF STUDENT DEVELOPMENT AND PERFORMANCE THROUGH LESSON PLANS, STUDENT PORTFOLIOS AND OTHER ARTIFACTS OF TEACHER PRACTICES THROUGH A STRUCTURED REVIEW PROCESS.

(4) A MAJORITY OF THESE SIXTY POINTS FOR BUILDING PRINCIPALS SHALL BE BASED ON A BROAD ASSESSMENT OF THE PRINCIPAL'S LEADERSHIP AND MANAGEMENT ACTIONS BASED ON THE PRINCIPAL PRACTICE RUBRIC BY THE BUILDING PRINCIPAL'S SUPERVISOR, A TRAINED ADMINISTRATOR OR A TRAINED INDEPENDENT EVALUATOR, WITH ONE OR MORE VISITS CONDUCTED BY THE SUPERVISOR, AND, FOR EVALUATIONS FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, THAT SUCH ASSESSMENT MUST INCORPORATE MULTIPLE SCHOOL VISITS BY A SUPERVISOR, A TRAINED ADMINISTRATOR OR OTHER TRAINED EVALUATOR, WITH AT LEAST ONE VISIT CONDUCTED BY THE SUPERVISOR AND AT LEAST ONE UNANNOUNCED VISIT. FOR THE REMAINING PORTION OF THESE SIXTY POINTS FOR EVALUATIONS FOR THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, SUCH REGULATIONS SHALL ALSO PRESCRIBE THE OTHER FORMS OF EVIDENCE OF PRINCIPAL EFFECTIVENESS THAT MAY BE USED CONSISTENT WITH THE STANDARDS PRESCRIBED BY THE COMMISSIONER.

(5) FOR EVALUATIONS OF BUILDING PRINCIPALS FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, THE REMAINING PORTION OF THESE SIXTY POINTS SHALL INCLUDE, IN ADDITION TO THE REQUIREMENTS OF SUBPARAGRAPH THREE OF THIS PARAGRAPH, AT LEAST TWO OTHER SOURCES OF EVIDENCE FROM THE FOLLOWING OPTIONS: FEEDBACK FROM TEACHERS, STUDENTS, AND/OR FAMILIES USING STATE-APPROVED INSTRUMENTS; SCHOOL VISITS BY OTHER TRAINED EVALUATORS; AND/OR REVIEW OF SCHOOL DOCUMENTS, RECORDS, AND/OR STATE ACCOUNTABILITY PROCESSES. ANY SUCH REMAINING POINTS SHALL BE ASSIGNED BASED ON THE RESULTS OF ONE OR MORE AMBITIOUS AND MEASURABLE GOALS SET COLLABORATIVELY WITH PRINCIPALS AND THEIR SUPERINTENDENTS OR DISTRICT SUPERINTENDENTS AS FOLLOWS:

(I) AT LEAST ONE GOAL MUST ADDRESS THE PRINCIPAL'S CONTRIBUTION TO IMPROVING TEACHER EFFECTIVENESS, WHICH SHALL INCLUDE ONE OR MORE OF THE FOLLOWING: IMPROVED RETENTION OF HIGH PERFORMING TEACHERS, THE CORRELATION BETWEEN STUDENT GROWTH SCORES OF TEACHERS GRANTED TENURE AS OPPOSED TO THOSE DENIED TENURE; OR IMPROVEMENTS IN THE PROFICIENCY RATING OF THE PRINCIPAL ON SPECIFIC TEACHER EFFECTIVENESS STANDARDS IN THE PRINCIPAL PRACTICE RUBRIC.

(II) ANY OTHER GOALS SHALL ADDRESS QUANTIFIABLE AND VERIFIABLE IMPROVEMENTS IN ACADEMIC RESULTS OR THE SCHOOL'S LEARNING ENVIRONMENTAL SUCH AS STUDENT OR TEACHER ATTENDANCE.

(6) THE DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL ESTABLISH SPECIFIC MINIMUM AND MAXIMUM SCORING RANGES FOR EACH PERFORMANCE LEVEL WITHIN THIS SUBCOMPONENT BEFORE THE START OF EACH SCHOOL YEAR AND SHALL ASSIGN POINTS TO A TEACHER OR PRINCIPAL FOR THIS SUBCOMPONENT BASED ON THE STANDARDS PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER, ALL IN ACCORDANCE WITH, AND SUBJECT TO, THE REQUIREMENTS OF PARAGRAPH J OF THIS SUBDIVISION.

S 6. Subdivision 2 of section 3012-c of the education law is amended by adding a new paragraph j to read as follows:

J. (1) 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 PROCESS BY WHICH POINTS ARE ASSIGNED IN THE RESPECTIVE SUBCOMPONENTS ARE TO BE DETERMINED AS FOLLOWS:

(I) FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOMPONENT, THAT PROCESS SHALL BE FORMULATED BY THE COMMISSIONER WITH THE APPROVAL OF THE BOARD OF REGENTS.

(II) FOR THE LOCALLY SELECTED MEASURES OF THE STUDENT ACHIEVEMENT SUBCOMPONENT, THAT PROCESS SHALL BE ESTABLISHED LOCALLY THROUGH NEGOTIATIONS CONDUCTED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

(III) FOR THE OTHER MEASURES OF TEACHER AND PRINCIPAL EFFECTIVENESS SUBCOMPONENT, THAT PROCESS SHALL BE ESTABLISHED LOCALLY THROUGH NEGOTIATIONS CONDUCTED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICES LAW.

(2) SUCH PROCESS MUST ENSURE THAT IT IS POSSIBLE FOR A TEACHER OR PRINCIPAL TO OBTAIN EACH POINT IN THE APPLICABLE SCORING RANGES, INCLUDING ZERO, FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOMPONENT, THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT AND THE OVERALL RATING CATEGORIES. THE PROCESS MUST ALSO ENSURE THAT IT IS POSSIBLE FOR A TEACHER OR PRINCIPAL TO OBTAIN EACH POINT IN THE SCORING RANGES PRESCRIBED BY THE DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE OTHER MEASURES OF TEACHER AND PRINCIPAL EFFECTIVENESS SUBCOMPONENT.

(3) THE SUPERINTENDENT, DISTRICT SUPERINTENDENT OR CHANCELLOR AND THE PRESIDENT OF THE COLLECTIVE BARGAINING REPRESENTATIVE (WHERE ONE EXISTS) SHALL CERTIFY IN ITS PLAN THAT THE PROCESS WILL USE THE NARRATIVE DESCRIPTIONS OF THE STANDARDS FOR THE SCORING RANGES PROVIDED IN THE REGULATIONS OF THE COMMISSIONER TO EFFECTIVELY DIFFERENTIATE A TEACHER OR PRINCIPAL'S PERFORMANCE IN EACH OF THE SUBCOMPONENTS AND IN THEIR OVERALL RATINGS TO IMPROVE STUDENT LEARNING AND INSTRUCTION.

(4) THE SCORING RANGES FOR THE OTHER MEASURES OF TEACHER AND PRINCIPAL EFFECTIVENESS SUBCOMPONENT SHALL BE ESTABLISHED LOCALLY THROUGH NEGOTIATIONS CONDUCTED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

S 7. Subdivision 2 of section 3012-c of the education law is amended by adding a new paragraph k to read as follows:

K. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, BY JULY FIRST, TWO THOUSAND TWELVE, THE GOVERNING BODY OF EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL ADOPT A PLAN, ON A FORM PRESCRIBED BY THE COMMISSIONER, FOR THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW OF ALL OF ITS CLASSROOM TEACHERS AND BUILDING PRINCIPALS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION AND THE REGULATIONS OF THE COMMISSIONER, AND SHALL SUBMIT SUCH PLAN TO THE COMMISSIONER FOR APPROVAL. THE PLAN MAY BE AN ANNUAL OR MULTI-YEAR PLAN, FOR THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW OF ALL OF ITS CLASSROOM TEACHERS AND BUILDING PRINCIPALS. THE COMMISSIONER SHALL APPROVE OR REJECT THE PLAN BY SEPTEMBER FIRST, TWO THOUSAND TWELVE, OR AS SOON AS PRACTICABLE THEREAFTER. THE COMMISSIONER MAY REJECT A PLAN

1 THAT DOES NOT RIGOROUSLY ADHERE TO THE PROVISIONS OF THIS SECTION AND
2 THE REGULATIONS OF THE COMMISSIONER. SHOULD ANY PLAN BE REJECTED, THE
3 COMMISSIONER SHALL DESCRIBE EACH DEFICIENCY IN THE SUBMITTED PLAN AND
4 DIRECT THAT EACH SUCH DEFICIENCY BE RESOLVED THROUGH COLLECTIVE BARGAIN-
5 ING TO THE EXTENT REQUIRED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE
6 LAW. IF ANY MATERIAL CHANGES ARE MADE TO THE PLAN, THE SCHOOL DISTRICT
7 OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES MUST SUBMIT THE MATERIAL
8 CHANGES, ON A FORM PRESCRIBED BY THE COMMISSIONER, TO THE COMMISSIONER
9 FOR APPROVAL. TO THE EXTENT THAT BY JULY FIRST, TWO THOUSAND TWELVE, OR
10 BY JULY FIRST OF ANY SUBSEQUENT YEAR, IF ALL THE TERMS OF THE PLAN HAVE
11 NOT BEEN FINALIZED AS A RESULT OF UNRESOLVED COLLECTIVE BARGAINING NEGO-
12 TIATIONS, THE ENTIRE PLAN SHALL BE SUBMITTED TO THE COMMISSIONER UPON
13 RESOLUTION OF ALL OF ITS TERMS, CONSISTENT WITH ARTICLE FOURTEEN OF THE
14 CIVIL SERVICE LAW.

15 S 8. Subdivision 4 of section 3012-c of the education law, as added by
16 chapter 103 of the laws of 2010, is amended to read as follows:

17 4. Notwithstanding any other law, rule or regulation to the contrary,
18 upon rating a teacher or a principal as developing or ineffective
19 through an annual professional performance review conducted pursuant to
20 subdivision two of this section, the school district or board of cooper-
21 ative educational services shall formulate and commence implementation
22 of a teacher or principal improvement plan for such teacher or principal
23 as soon as practicable but in no case later than ten SCHOOL days after
24 [the date on which teachers are required to report prior to] the opening
25 of classes for the school year. Such improvement plan shall be consist-
26 ent with the regulations of the commissioner and developed locally
27 through negotiations conducted pursuant to article fourteen of the civil
28 service law. Such improvement plan shall include, but need not be limit-
29 ed to, identification of needed areas of improvement, a timeline for
30 achieving improvement, the manner in which improvement will be assessed,
31 and, where appropriate, differentiated activities to support a teacher's
32 or principal's improvement in those areas.

33 S 9. Subdivision 5 of section 3012-c of the education law, as added by
34 chapter 103 of the laws of 2010, is amended to read as follows:

35 5. A. An appeals procedure shall be locally established in each school
36 district and in each board of cooperative educational services by which
37 the evaluated teacher or principal may only challenge the substance of
38 the annual professional performance review, the school district's or
39 board of cooperative educational services' adherence to the standards
40 and methodologies required for such reviews, pursuant to this section,
41 the adherence to the regulations of the commissioner and compliance with
42 any applicable locally negotiated procedures, as well as the school
43 district's or board of cooperative educational services' issuance and/or
44 implementation of the terms of the teacher or principal improvement
45 plan, as required under this section. APPEAL PROCEDURES SHALL PROVIDE
46 FOR THE TIMELY AND EXPEDITIOUS RESOLUTION OF ANY APPEAL UNDER THIS
47 SUBDIVISION. The specifics of the appeal procedure shall be locally
48 established through negotiations conducted pursuant to article fourteen
49 of the civil service law. An evaluation which is the subject of an
50 appeal shall not be sought to be offered in evidence or placed in
51 evidence in any proceeding conducted pursuant to either section three
52 thousand twenty-a of this article or any locally negotiated alternate
53 disciplinary procedure, until the appeal process is concluded.

54 B. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALTER OR DIMINISH
55 THE AUTHORITY OF THE GOVERNING BODY OF A SCHOOL DISTRICT OR BOARD OF
56 COOPERATIVE EDUCATIONAL SERVICES TO GRANT OR DENY TENURE TO OR TERMINATE

1 PROBATIONARY TEACHERS OR PROBATIONARY BUILDING PRINCIPALS DURING THE
2 PENDENCY OF AN APPEAL PURSUANT TO THIS SECTION FOR STATUTORILY AND
3 CONSTITUTIONALLY PERMISSIBLE REASONS OTHER THAN THE TEACHER'S OR PRINCI-
4 PAL'S PERFORMANCE THAT IS THE SUBJECT OF THE APPEAL.

5 C. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE A TEACHER
6 OR PRINCIPAL TO TRIGGER THE APPEAL PROCESS PRIOR TO RECEIPT OF THEIR
7 COMPOSITE EFFECTIVENESS SCORE AND RATING FROM THE DISTRICT OR BOARD OF
8 COOPERATIVE EDUCATIONAL SERVICES.

9 S 10. Section 3012-c of the education law is amended by adding a new
10 subdivision 9 to read as follows:

11 9. A. THE DEPARTMENT SHALL ANNUALLY MONITOR AND ANALYZE TRENDS AND
12 PATTERNS IN TEACHER AND PRINCIPAL EVALUATION RESULTS AND DATA TO IDENTI-
13 FY SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND/OR
14 SCHOOLS WHERE EVIDENCE SUGGESTS THAT A MORE RIGOROUS EVALUATION SYSTEM
15 IS NEEDED TO IMPROVE EDUCATOR EFFECTIVENESS AND STUDENT LEARNING
16 OUTCOMES. THE CRITERIA FOR IDENTIFYING SCHOOL DISTRICTS, BOARDS OF COOP-
17 ERATIVE EDUCATIONAL SERVICES AND/OR SCHOOLS SHALL BE PRESCRIBED IN THE
18 REGULATIONS OF THE COMMISSIONER.

19 B. A SCHOOL, SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL
20 SERVICES IDENTIFIED BY THE DEPARTMENT IN ONE OF THE CATEGORIES ENUMER-
21 ATED IN PARAGRAPH A OF THIS SUBDIVISION MAY BE HIGHLIGHTED IN PUBLIC
22 REPORTS AND/OR THE COMMISSIONER MAY ORDER A CORRECTIVE ACTION PLAN,
23 WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, REQUIREMENTS THAT THE DISTRICT
24 OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES ARRANGE FOR ADDITIONAL
25 PROFESSIONAL DEVELOPMENT, PROVIDE ADDITIONAL IN-SERVICE TRAINING AND/OR
26 UTILIZE INDEPENDENT TRAINED EVALUATORS TO REVIEW THE EFFICACY OF THE
27 EVALUATION SYSTEM, PROVIDED THAT THE PLAN SHALL BE CONSISTENT WITH LAW
28 AND NOT IN CONFLICT WITH ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT.

29 S 11 Section 3012-c of the education law is amended by adding a new
30 subdivision 5-a to read as follows:

31 5-A. IN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, NOTWITH-
32 STANDING ANY PROVISION OF LAW TO THE CONTRARY, THE FOLLOWING SHALL APPLY
33 TO CLASSROOM TEACHERS:

34 A. A TEACHER WHO DID NOT RECEIVE AN INEFFECTIVE RATING IN THE ANNUAL
35 PROFESSIONAL PERFORMANCE REVIEW FOR THE PRIOR SCHOOL YEAR IS IN "YEAR
36 ONE STATUS".

37 B. A TEACHER WHO RECEIVED AN INEFFECTIVE RATING IN THE PREVIOUS SCHOOL
38 YEAR IS IN "YEAR TWO STATUS", UNTIL AND UNLESS THAT RATING IS EITHER
39 CHANGED BY THE PRINCIPAL OR REVERSED ON APPEAL IN ACCORDANCE WITH THE
40 PROVISIONS OF THIS SUBDIVISION, OR UNTIL AND UNLESS THE TEACHER REVERTS
41 TO YEAR ONE STATUS IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVI-
42 SION.

43 C. A TEACHER WHO IS RATED INEFFECTIVE FOR A SCHOOL YEAR IN WHICH THE
44 TEACHER HAS YEAR ONE STATUS SHALL HAVE A RIGHT TO APPEAL THAT RATING TO
45 THE CHANCELLOR OF THE CITY SCHOOL DISTRICT, WHO SHALL MAKE A FINAL
46 DETERMINATION, UNLESS AN APPEAL IS INITIATED TO A THREE-MEMBER PANEL
47 SUBJECT TO THE FOLLOWING REQUIREMENTS. THE UNITED FEDERATION OF TEACHERS
48 (UFT) MAY APPEAL TO A THREE-MEMBER PANEL THE INEFFECTIVE RATINGS OF UP
49 TO THIRTEEN PERCENT OF TEACHERS WHO RECEIVED SUCH INEFFECTIVE RATINGS
50 FOR A SCHOOL YEAR. ANY SUCH APPEAL MAY ONLY BE MADE ON THE GROUND THAT
51 THE INEFFECTIVE RATING WAS GIVEN DUE TO HARASSMENT OR REASONS NOT
52 RELATED TO JOB PERFORMANCE. THESE APPEALS SHALL BE KNOWN AS A "PANEL
53 APPEALS". THE THREE-MEMBER PANEL SHALL CONSIST OF A PERSON SELECTED BY
54 THE UFT, A PERSON SELECTED BY THE CHANCELLOR OF THE CITY SCHOOL DISTRICT
55 AND AN INDEPENDENT PERSON, NOT AFFILIATED WITH THE UFT OR THE DISTRICT
56 AND SELECTED BY THE STATE EDUCATION DEPARTMENT, WHO SHALL BE THE CHAIR

1 OF THE PANEL AND CONDUCT THE APPEAL HEARING. IF THE PANEL SUSTAINS THE
2 APPEAL, THE PRINCIPAL MUST SUBMIT TO THE PANEL A DIFFERENT RATING, WHICH
3 MUST BE APPROVED BY THE PANEL. ANY INEFFECTIVE RATING THAT IS APPEALED
4 TO THE PANEL MAY NOT BE APPEALED TO THE CHANCELLOR OF THE CITY SCHOOL
5 DISTRICT.

6 D. THE CHANCELLOR OF THE CITY SCHOOL DISTRICT SHALL NOTIFY THE UFT OF
7 ALL INEFFECTIVE RATINGS. EACH SCHOOL YEAR, IF THE UFT IS NOTIFIED OF AN
8 INEFFECTIVE RATING PRIOR TO OCTOBER FIRST, A PANEL APPEAL OF THAT RATING
9 MUST BE INITIATED BY THE UFT BY NOVEMBER FIRST, PROVIDED THAT MORE THAN
10 THIRTEEN PERCENT OF THESE RATINGS MAY BE APPEALED TO THE PANEL. THE UFT
11 AND THE BOARD OF EDUCATION SHALL NEGOTIATE, PURSUANT TO ARTICLE FOURTEEN
12 OF THE CIVIL SERVICE LAW, A PROCEDURE FOR ENSURING THAT EACH SCHOOL
13 YEAR, NOT MORE THAN THIRTEEN PERCENT OF THE RATINGS RECEIVED BY THE UFT
14 AFTER OCTOBER FIRST ARE APPEALED TO THE PANEL. THE BOARD OF EDUCATION
15 SHALL MAKE ALL REASONABLE EFFORTS TO ISSUE RATINGS AND NOTIFY THE UFT OF
16 INEFFECTIVE RATINGS BY OCTOBER FIRST. ANY RATING NOT APPEALED TO THE
17 PANEL MAY BE APPEALED BY THE INDIVIDUAL TEACHER TO THE CHANCELLOR OF THE
18 CITY SCHOOL DISTRICT. APPEALS MADE TO THE CHANCELLOR OF THE CITY SCHOOL
19 DISTRICT MUST BE FILED WITHIN TEN SCHOOL DAYS AFTER THE UFT WOULD OTHER-
20 WISE BE REQUIRED TO NOTIFY THE BOARD OF EDUCATION OF A PANEL APPEAL.

21 E. FOR ALL TEACHERS IN YEAR TWO STATUS, UNLESS AND UNTIL THE INEFFECTIVE
22 RATING THEY RECEIVED IN THE PRIOR YEAR IS CHANGED BY A PRINCIPAL OR
23 OTHERWISE CHANGED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION,
24 AN INDEPENDENT VALIDATOR SHALL BE APPOINTED TO EVALUATE THE TEACHER ON
25 EACH COMPONENT OF THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW IN WHICH
26 THE SCORING OF THE COMPONENT IS AT THE DISCRETION OF THE PRINCIPAL.
27 THESE COMPONENTS SHALL NOT NECESSARILY BE LIMITED TO TEACHER PERFORMANCE,
28 BUT SHALL NOT INCLUDE ANY COMPONENTS IN WHICH THE SCORING OF THE
29 COMPONENT IS OUTSIDE THE DISCRETION OF THE PRINCIPAL, EVEN IF THE PRINCIPAL
30 HAS DISCRETION IN A RELATED GOAL-SETTING PROCESS PRIOR TO SCORING.
31 THE INDEPENDENT VALIDATOR SHALL PERFORM THREE OBSERVATIONS DURING THE
32 COURSE OF THE SCHOOL YEAR. THE TERMS AND CONDITIONS OF THE OBSERVATIONS
33 SHALL BE NEGOTIATED PURSUANT TO THE REQUIREMENTS OF ARTICLE FOURTEEN OF
34 THE CIVIL SERVICE LAW.

35 F. THE UFT AND THE BOARD OF EDUCATION SHALL JOINTLY SELECT AN ORGANIZATION
36 OR ORGANIZATIONS THAT EMPLOY CERTIFIED EDUCATORS, INCLUDING
37 TEACHERS, TO PERFORM THE WORK AS INDEPENDENT VALIDATORS. INDEPENDENT
38 VALIDATORS SHALL NOT BE EMPLOYED SIMULTANEOUSLY BY THE BOARD OF EDUCATION
39 OR SIMULTANEOUSLY HAVE AN INDIVIDUAL CONTRACT WITH THE BOARD OF
40 EDUCATION. SHOULD EITHER THE BOARD OF EDUCATION OR THE UFT NOTIFY THE
41 DEPARTMENT THAT AFTER A GOOD FAITH EFFORT THE BOARD OF EDUCATION AND THE
42 UFT ARE UNABLE TO JOINTLY SELECT ORGANIZATIONS, THE COMMISSIONER SHALL
43 NAME ORGANIZATIONS SUBJECT TO THE FOLLOWING REQUIREMENTS. THE BOARD OF
44 EDUCATION SHALL SET FORTH A REQUIRED NUMBER OF VALIDATORS, AND THE
45 COMMISSIONER SHALL NAME ORGANIZATIONS THAT CAN PROVIDE AT LEAST THIS
46 NUMBER OF VALIDATORS WHOM THE COMMISSIONER DEEMS QUALIFIED. THE COMMISSIONER
47 SHALL NAME ORGANIZATIONS BASED ON THE CRITERIA SET FORTH IN THIS
48 SUBDIVISION THAT APPLY TO THE MUTUAL SELECTION PROCESS FOR THE BOARD OF
49 EDUCATION AND THE UFT AND SHALL ALSO CONSIDER POTENTIAL CONFLICTS OF
50 INTEREST.

51 G. IN AN INSTANCE IN WHICH THE INDEPENDENT VALIDATOR DOES NOT COMPLETE
52 THE REVIEW PROCESS DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF THE BOARD
53 OF EDUCATION, THE TEACHER SHALL REMAIN IN YEAR TWO STATUS THE FOLLOWING
54 SCHOOL YEAR. SHOULD THE INDEPENDENT VALIDATOR NOT COMPLETE THE REVIEW
55 PROCESS FOR A SECOND CONSECUTIVE SCHOOL YEAR AND FOR ANY REASON IN THE
56 SECOND YEAR FOR OTHER THAN A LEAVE OF ABSENCE OR CHRONIC ABSENCE ON THE

1 PART OF THE TEACHER, THE TEACHER SHALL RETURN TO YEAR ONE STATUS THE
2 FOLLOWING SCHOOL YEAR.

3 H. AN INDEPENDENT VALIDATOR SHALL BE DEEMED TO HAVE AGREED WITH THE
4 PRINCIPAL WHEN AN INDEPENDENT VALIDATOR'S SCORING, IN CONJUNCTION WITH
5 THE SCORING OF COMPONENTS NOT REVIEWED BY THE INDEPENDENT VALIDATOR IN
6 ACCORDANCE WITH THIS SUBDIVISION, WOULD RESULT IN A RATING IN THE SAME
7 CATEGORY ON THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW THAN WOULD RESULT
8 FROM THE PRINCIPAL'S RATING.

9 I. FOR PURPOSES OF THIS SUBDIVISION, AN INDEPENDENT VALIDATOR SHALL BE
10 DEEMED TO HAVE DISAGREED WITH THE PRINCIPAL WHEN AN INDEPENDENT
11 VALIDATOR'S SCORING, IN CONJUNCTION WITH THE SCORING OF COMPONENTS NOT
12 REVIEWED BY THE INDEPENDENT VALIDATOR IN ACCORDANCE WITH THIS SUBDIVI-
13 SION, WOULD RESULT IN A RATING IN A DIFFERENT CATEGORY ON THE ANNUAL
14 PROFESSIONAL PERFORMANCE REVIEW THAN WOULD RESULT FROM THE PRINCIPAL'S
15 RATING.

16 J. IF A TEACHER RECEIVES AN INEFFECTIVE RATING FOR A SCHOOL YEAR IN
17 WHICH THE TEACHER IS IN YEAR TWO STATUS AND THE INDEPENDENT VALIDATOR
18 AGREES, THE DISTRICT MAY BRING A PROCEEDING PURSUANT TO SECTIONS THREE
19 THOUSAND TWENTY AND THREE THOUSAND TWENTY-A OF THIS ARTICLE BASED ON A
20 PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE. IN SUCH PROCEEDING, THE
21 CHARGES SHALL ALLEGE THAT THE EMPLOYING BOARD HAS DEVELOPED AND SUBSTAN-
22 Tially IMPLEMENTED A TEACHER IMPROVEMENT PLAN IN ACCORDANCE WITH SUBDI-
23 VISION FOUR OF THIS SECTION FOR THE EMPLOYEE FOLLOWING THE EVALUATION
24 MADE FOR THE YEAR IN WHICH THE EMPLOYEE WAS IN YEAR ONE STATUS AND WAS
25 RATED INEFFECTIVE. THE PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE
26 SHALL GIVE RISE TO A REBUTTABLE PRESUMPTION OF INCOMPETENCE AND IF THE
27 PRESUMPTION IS NOT SUCCESSFULLY REBUTTED, THE FINDING, ABSENT EXTRAOR-
28 DINARY CIRCUMSTANCES, SHALL BE JUST CAUSE FOR REMOVAL. IN THESE HEAR-
29 INGS, THE TEACHER SHALL HAVE UP TO THREE DAYS TO PRESENT HIS OR HER CASE
30 FOR EVERY ONE DAY USED BY THE DISTRICT TO PRESENT ITS CASE. THE HEARING
31 OFFICER SHALL RENDER A WRITTEN DECISION WITHIN TEN DAYS OF THE LAST DAY
32 OF THE HEARING.

33 K. IF THE TEACHER RECEIVES AN INEFFECTIVE RATING BY THE PRINCIPAL IN A
34 SCHOOL YEAR IN WHICH THEY ARE IN YEAR TWO STATUS AND THE INDEPENDENT
35 VALIDATOR DISAGREES, THE INEFFECTIVE RATING REMAINS BUT THE DISTRICT MAY
36 NOT BRING PROCEEDING BASED ON A PATTERN OF INEFFECTIVE TEACHING OR
37 PERFORMANCE, AS DEFINED IN THIS SECTION, PROVIDED HOWEVER THAT NOTHING
38 IN THIS SECTION SHALL PREVENT THE BOARD OF EDUCATION FROM CHARGING A
39 TEACHER BASED ON INCOMPETENCE AND ENTERING THE PRINCIPAL'S EVALUATIONS
40 INTO EVIDENCE.

41 L. IF UPON THE COMPLETION OF A HEARING PURSUANT TO SECTIONS THREE
42 THOUSAND TWENTY AND THREE THOUSAND TWENTY-A OF THIS ARTICLE, BASED
43 EITHER ON A PATTERN OF INEFFECTIVE TEACHING OR PERFORMANCE OR CHARGES OF
44 INCOMPETENCE IN WHICH YEAR ONE OR YEAR TWO EVALUATIONS WERE ENTERED INTO
45 EVIDENCE, AND A HEARING OFFICER FINDS THE TEACHER INCOMPETENT, BUT
46 DECIDES NOT TO TERMINATE, THE TEACHER REMAINS IN YEAR TWO STATUS FOR THE
47 SCHOOL YEAR IN PROGRESS OR THE FOLLOWING SCHOOL YEAR IF THE FINDING IS
48 MADE IN BETWEEN SCHOOL YEARS. IF UPON THE COMPLETION OF THE HEARING, THE
49 HEARING OFFICER EXONERATES THE TEACHER OF CHARGES OF INCOMPETENCE THE
50 TEACHER SHALL REVERT TO YEAR ONE STATUS IF IN THE MIDDLE OF THE SCHOOL
51 YEAR OR AT THE BEGINNING OF THE FOLLOWING SCHOOL YEAR IF THE FINDING IS
52 MADE IN BETWEEN SCHOOL YEARS.

53 M. IF THE TEACHER RECEIVES AN INEFFECTIVE RATING IN YEAR TWO BY THE
54 PRINCIPAL AND THE VALIDATOR AGREES, AND THE DISTRICT DOES NOT BRING AN
55 EXPEDITED PROCEEDING PURSUANT TO SECTIONS THREE THOUSAND TWENTY AND
56 THREE THOUSAND TWENTY-A OF THIS ARTICLE, THE TEACHER MAY APPEAL THE YEAR

1 TWO INEFFECTIVE RATING TO THE CHANCELLOR OF THE CITY SCHOOL DISTRICT,
2 WHO SHALL MAKE A FINAL DETERMINATION. IF THE RATING IS UPHELD, THE
3 TEACHER SHALL REMAIN IN YEAR TWO STATUS FOR THE SUBSEQUENT SCHOOL YEAR,
4 BUT IF FOLLOWING THAT YEAR THE TEACHER IS NOT CHARGED, THE TEACHER
5 REVERTS TO YEAR ONE STATUS FOR THE NEXT SCHOOL YEAR.

6 N. A PROCESS SHALL BE ESTABLISHED TO EVALUATE THE EFFECTIVENESS OF THE
7 SPECIFIC PROCEDURES ESTABLISHED IN THIS SUBDIVISION AFTER TWO YEARS FROM
8 THE EFFECTIVE DATE OF THIS SUBDIVISION, PROVIDED HOWEVER THAT A FAILURE
9 OR DELAY IN ESTABLISHING THAT PROCESS SHALL NOT INVALIDATE ANY
10 PROVISIONS OF THIS SUBDIVISION.

11 O. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
12 BOARD OF EDUCATION AND THE UFT MAY ALTER ANY PROVISIONS OF THIS SUBDIVI-
13 SION THROUGH COLLECTIVE BARGAINING.

14 S 12. This act shall take effect immediately; provided that: (a) The
15 appeals process will go into effect on January 16, 2013, unless the city
16 school district of the city of New York enters into a collectively
17 bargained teacher evaluation and appeals plan in conformity with section
18 3012-c of the education law and with the approval of the commissioner of
19 education.

20 (b) The chancellor of the District shall notify the legislative bill
21 drafting commission upon the occurrence of the events provided for in
22 subdivision (a) of this section in order that the commission may main-
23 tain an accurate and timely effective data base of the official text of
24 the laws of the state of New York in furtherance of effectuating the
25 provisions of section 44 of the legislative law and section 70-b of the
26 public officers law.