

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.

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 PRINCI-  
52 PALS 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

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

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

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

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

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

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

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

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

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

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

53 (2) SUBJECT TO PARAGRAPH K OF THIS SUBDIVISION THE ENTIRE ANNUAL  
54 PROFESSIONAL PERFORMANCE REVIEW SHALL BE COMPLETED AND PROVIDED TO THE  
55 TEACHER OR PRINCIPAL AS SOON AS PRACTICABLE BUT IN NO CASE LATER THAN  
56 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;

1 (II) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED  
2 LOCALLY BASED ON A STUDENT ASSESSMENT APPROVED BY THE DEPARTMENT PURSU-  
3 ANT TO A REQUEST FOR QUALIFICATION PROCESS ESTABLISHED IN THE REGU-  
4 LATIONS OF THE COMMISSIONER;

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

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

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

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

18 (V) WHERE APPLICABLE, FOR TEACHERS IN ANY GRADE OR SUBJECT WHERE THERE  
19 IS NO GROWTH OR VALUE-ADDED GROWTH MODEL APPROVED BY THE BOARD OF  
20 REGENTS AT THAT GRADE LEVEL OR IN THAT SUBJECT, A STRUCTURED  
21 DISTRICT-WIDE STUDENT GROWTH GOAL-SETTING PROCESS TO BE USED WITH ANY  
22 STATE ASSESSMENT OR AN APPROVED STUDENT ASSESSMENT OR A DISTRICT,  
23 REGIONAL OR BOCES-DEVELOPED ASSESSMENT THAT IS RIGOROUS AND COMPARABLE  
24 ACROSS CLASSROOMS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (I) STUDENT ACHIEVEMENT OR GROWTH ON STATE ASSESSMENTS, REGENTS EXAM-  
56 INATIONS AND/OR DEPARTMENT APPROVED ALTERNATIVE EXAMINATIONS AS



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

7 (A) THE CHANGE IN PERCENTAGE OF A TEACHER'S STUDENTS WHO ACHIEVE A  
8 SPECIFIC LEVEL OF PERFORMANCE AS DETERMINED LOCALLY, ON SUCH  
9 ASSESSMENTS/EXAMINATIONS COMPARED TO THOSE STUDENTS' LEVEL OF PERFORM-  
10 ANCE ON SUCH ASSESSMENTS/EXAMINATIONS IN THE PREVIOUS SCHOOL YEAR SUCH  
11 AS A THREE PERCENTAGE POINT INCREASE IN STUDENTS EARNING THE PROFICIENT  
12 LEVEL (THREE) OR BETTER PERFORMANCE LEVEL ON THE SEVENTH GRADE MATH  
13 STATE ASSESSMENT COMPARED TO THOSE SAME STUDENTS' PERFORMANCE LEVELS ON  
14 THE SIXTH GRADE MATH STATE ASSESSMENT, OR AN INCREASE IN THE PERCENTAGE  
15 OF A TEACHER'S STUDENTS EARNING THE ADVANCED PERFORMANCE LEVEL (FOUR) ON  
16 THE FOURTH GRADE ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS  
17 COMPARED TO THOSE STUDENTS' PERFORMANCE LEVELS ON THE THIRD GRADE  
18 ENGLISH LANGUAGE ARTS OR MATH STATE ASSESSMENTS; OR

19 (B) A TEACHER SPECIFIC GROWTH SCORE COMPUTED BY THE STATE BASED ON THE  
20 PERCENT OF THE TEACHER'S STUDENTS EARNING A STATE DETERMINED LEVEL OF  
21 GROWTH. THE METHODOLOGY TO TRANSLATE SUCH GROWTH INTO THE STATE-ESTABL-  
22 IShed SUBCOMPONENT SCORING RANGES SHALL BE DETERMINED LOCALLY; OR

23 (C) A TEACHER-SPECIFIC ACHIEVEMENT OR GROWTH SCORE COMPUTED IN A  
24 MANNER DETERMINED LOCALLY BASED ON A MEASURE OF STUDENT PERFORMANCE ON  
25 THE STATE ASSESSMENTS, REGENTS EXAMINATIONS AND/OR DEPARTMENT APPROVED  
26 ALTERNATIVE EXAMINATIONS OTHER THAN THE MEASURE DESCRIBED IN ITEM (A) OR  
27 (B) OF THIS SUBPARAGRAPH;

28 (II) STUDENT GROWTH OR ACHIEVEMENT COMPUTED IN A MANNER DETERMINED  
29 LOCALLY BASED ON A STUDENT ASSESSMENT APPROVED BY THE DEPARTMENT PURSU-  
30 ANT TO A REQUEST FOR QUALIFICATION PROCESS ESTABLISHED IN THE REGU-  
31 LATIONS OF THE COMMISSIONER;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 h. The remaining SIXTY percent of the evaluations, ratings and effec-  
47 tiveness scores shall be locally developed, consistent with the stand-  
48 ards prescribed in the regulations of the commissioner, through negoti-  
49 ations conducted pursuant to article fourteen of the civil service law.

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

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

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

9 (I) ONE OR MORE CLASSROOM OBSERVATIONS BY INDEPENDENT TRAINED EVALU-  
10 ATORS SELECTED BY THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCA-  
11 TIONAL SERVICES WHO ARE TEACHERS OR FORMER TEACHERS WITH A DEMONSTRATED  
12 RECORD OF EFFECTIVENESS AND HAVE NO PRIOR AFFILIATION WITH THE SCHOOL IN  
13 WHICH THEY ARE CONDUCTING THE EVALUATION AND NO OTHER RELATIONSHIP WITH  
14 THE TEACHERS BEING EVALUATED THAT WOULD AFFECT THEIR IMPARTIALITY;

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

16 (III) USE OF A STATE-APPROVED INSTRUMENT FOR PARENT OR STUDENT FEED-  
17 BACK; AND/OR

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

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

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

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

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

1 (6) THE DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL  
2 ESTABLISH SPECIFIC MINIMUM AND MAXIMUM SCORING RANGES FOR EACH PERFORM-  
3 ANCE LEVEL WITHIN THIS SUBCOMPONENT BEFORE THE START OF EACH SCHOOL YEAR  
4 AND SHALL ASSIGN POINTS TO A TEACHER OR PRINCIPAL FOR THIS SUBCOMPONENT  
5 BASED ON THE STANDARDS PRESCRIBED IN THE REGULATIONS OF THE COMMISSION-  
6 ER, ALL IN ACCORDANCE WITH, AND SUBJECT TO, THE REQUIREMENTS OF PARA-  
7 GRAPH J OF THIS SUBDIVISION.

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

10 J. (1) THE PROCESS BY WHICH POINTS ARE ASSIGNED IN SUBCOMPONENTS AND  
11 THE SCORING RANGES FOR THE SUBCOMPONENTS MUST BE TRANSPARENT AND AVAIL-  
12 ABLE TO THOSE BEING RATED BEFORE THE BEGINNING OF EACH SCHOOL YEAR. THE  
13 PROCESS BY WHICH POINTS ARE ASSIGNED IN THE RESPECTIVE SUBCOMPONENTS ARE  
14 TO BE DETERMINED AS FOLLOWS:

15 (I) FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOMPO-  
16 NENT, THAT PROCESS SHALL BE FORMULATED BY THE COMMISSIONER WITH THE  
17 APPROVAL OF THE BOARD OF REGENTS.

18 (II) FOR THE LOCALLY SELECTED MEASURES OF THE STUDENT ACHIEVEMENT  
19 SUBCOMPONENT, THAT PROCESS SHALL BE ESTABLISHED LOCALLY THROUGH NEGOTI-  
20 ATIONS CONDUCTED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

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

24 (2) SUCH PROCESS MUST ENSURE THAT IT IS POSSIBLE FOR A TEACHER OR  
25 PRINCIPAL TO OBTAIN EACH POINT IN THE APPLICABLE SCORING RANGES, INCLUD-  
26 ING ZERO, FOR THE STATE ASSESSMENT OR OTHER COMPARABLE MEASURES SUBCOM-  
27 PONENT, THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPO-  
28 NENT AND THE OVERALL RATING CATEGORIES. THE PROCESS MUST ALSO ENSURE  
29 THAT IT IS POSSIBLE FOR A TEACHER OR PRINCIPAL TO OBTAIN EACH POINT IN  
30 THE SCORING RANGES PRESCRIBED BY THE DISTRICT OR BOARD OF COOPERATIVE  
31 EDUCATIONAL SERVICES FOR THE OTHER MEASURES OF TEACHER AND PRINCIPAL  
32 EFFECTIVENESS SUBCOMPONENT.

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

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

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

45 K. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO  
46 THE CONTRARY, BY JULY FIRST, TWO THOUSAND TWELVE, THE GOVERNING BODY OF  
47 EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL  
48 ADOPT A PLAN, ON A FORM PRESCRIBED BY THE COMMISSIONER, FOR THE ANNUAL  
49 PROFESSIONAL PERFORMANCE REVIEW OF ALL OF ITS CLASSROOM TEACHERS AND  
50 BUILDING PRINCIPALS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION  
51 AND THE REGULATIONS OF THE COMMISSIONER, AND SHALL SUBMIT SUCH PLAN TO  
52 THE COMMISSIONER FOR APPROVAL. THE PLAN MAY BE AN ANNUAL OR MULTI-YEAR  
53 PLAN, FOR THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW OF ALL OF ITS  
54 CLASSROOM TEACHERS AND BUILDING PRINCIPALS. THE COMMISSIONER SHALL  
55 APPROVE OR REJECT THE PLAN BY SEPTEMBER FIRST, TWO THOUSAND TWELVE, OR  
56 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 PERFORM-  
28 ANCE, BUT SHALL NOT INCLUDE ANY COMPONENTS IN WHICH THE SCORING OF THE  
29 COMPONENT IS OUTSIDE THE DISCRETION OF THE PRINCIPAL, EVEN IF THE PRIN-  
30 CIPAL 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 ORGAN-  
36 IZATION 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 EDUCA-  
39 TION 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 COMMIS-  
47 SIONER 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.