









•

full

approved

***WEIGHTS AND SCORING RANGES***

*In general*

*Student performance category*

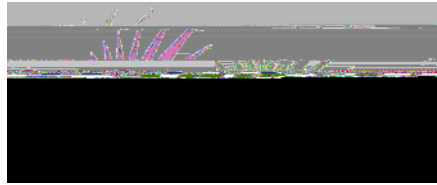




*ADMINISTRATORS*







January 9, 2015

The Honorable Andrew M. Cuomo  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12224

Dear Governor



effectiveness. It affects as well the scoring of such measures and the levels of differentiation among the various categories of effectiveness. Thus, the impact of the collective bargaining requirements is not insignificant. This is particularly so given that inherent in the collective bargaining process are “give and takes” which often have to yield to expediencies that depend on the practical and financial realities at play during the bargaining process. Entrusting such issues to the collective bargaining process has instead yielded a system that makes it impossible to get an accurate picture of educator levels of effectiveness on a statewide basis.

- x Not only the selection of local measures and educator effectiveness rubrics, but also the scoring bands, with ranges that define the levels of differentiation used for rating an educator’s performance under those two sets of factors, are subject to negotiations. Given the proportion of the scales, the collective bargaining requirements ultimately affect the overall composite score of an educator’s effectiveness, as well. As a result, it can be challenging to gain a complete and accurate picture of an educator’s effectiveness.
- x The APPR law sets up an educator evaluation system that was intended to ensure all school students have access to effective educators able to convey the most basic knowledge and skills students need to succeed in their academic and professional endeavors. However, implementation of the law’s collective bargaining requirements has produced, instead, a system that cannot guarantee an educator deemed effective in one school district will be deemed at the same in another.
- x The APPR law requires that school districts and BOCES establish an appeals procedure that allows educators to appeal various aspects of their evaluation including, but not limited to, their rating scores. However, those procedures, which are also required to provide for the timely and expeditious resolution of such appeals, are subject to collective bargaining. As a result, some of those procedures might be more cumbersome and confusing in some school districts and BOCES than in others, which in turn can affect a school board’s ability to make timely decisions within statutorily prescribed time frames. For example, the APPR law requires that an educator’s APPR be a significant factor



However, any review of the APPR system also must acknowledge the ongoing academic and public debate regarding the reliability of using student performance on standardized testing in both student growth analysis and value-added models. Related concerns include, for example, the impact of factors beyond educators control on student learning and, thus, on an educator's evaluation; the accompanying possibility of a diminishing willingness on the part of educators to serve special student populations; and the impact of undue emphasis on tested subjects and te

evaluators are trained and certified by the State Education Department on its use, at no cost to the school district and BOCES.

- x Authorize school districts and BOCES, to gather observational evidence on an ongoing basis rather than at a set number of times throughout the school year, and to conduct all APPR related observations without advance notice to teachers. This authority shall not be subject to collective bargaining.

This proposal addresses two key objectives. First, it permits a more accurate scoring of the rubric based on a more comprehensive set of data. Second, it facilitates the early identification and resolution of possible problem areas in need of attention, rather than waiting until after a teacher receives an overall score of developing or ineffective for the development and implementation of an improvement plan.

- o Activities undertaken to remediate any identified problem areas shall not be subject to collective bargaining either, but shall be specifically targeted to the areas in need of attention based on administrative review of the observational evidence and interactive consultation between the school building principal and the teacher.
  - o For similar reasons, the same concept and process should apply to the evaluation of school building principals. They should apply, as well, to the development and implementation of teacher and principal improvement plans which currently are subject to collective bargaining.
- x Standardize the bands and the process used for scoring the various subcomponents of the APPR evaluation system and the overall composite rating, in a manner consistent with the objectives reflected in the various recommendations set out in this letter.
- x Link the evaluation of school building principals to the quality of teacher evaluations with respect to the second and third subcomponents of the system, and the use of other comparable measures of student growth where no state assessments are available, to foster fidelity and reliability regarding the implementation of the APPR system.
- x Make available the human and financial resources necessary for the State Education Department to provide uniform training on conducting evaluations under the APPR system to all school district and BOCES staff charged with that responsibility. The training should be provided on a regional basis to facilitate participation and minimize disruption to school operations.

## The Issues:

- x The APPR law limits the definition of what constitutes a pattern of ineffective teaching or performance to two consecutive ineffective ratings pursuant to APPRs conducted under the APPR educator evaluation system. As a result, an tenured educator who, for example, receives two ineffective ratings in a three year period, but not in a consecutive sequence, would not be subject to an expedited Section 3020-a proceeding.
- x A pattern of ineffective teaching or performance, as defined under the APPR law, constitutes only “very significant evidence of ineffective teaching or performance”. However, school districts must establish pedagogical incompetence proceedings by a preponderance of the evidence.
- x The impact of an overall composite score other than ineffective because of an effective rating on the other measures APPR subcomponent.

## Reform Proposals:

- x Revise the definition of pattern of ineffective teaching or performance to include multiple years of ineffective ratings that are not consecutive in sequence.
- x Make multiple ineffective ratings constitute a presumption of pedagogical incompetence rather than merely “very significant evidence”.
- x Re-institute the appellate authority of the commissioner of education to review and adjudicate Section 3020-a case, and make available the human and financial resources necessary to effectuate that purpose, in order to ensure a uniform statewide body of law critical to the successful implementation of the APPR educator evaluation system throughout the state.

It is important to note that there are other Section 3020-a issues which are not directly related to the APPR educator evaluation system but nonetheless require attention and need to be examined for possible reform. Those additional issues evince the need for statutory revisions that, for example:

- x Authorize the automatic dismissal of tenured educators who (a) have been convicted of criminal offenses beyond those already set out in the statute, (b) have had their certification revoked by the State Education Department in a Part 83 proceeding, or have (c) failed to obtain permanent certification within requisite statutory timeframes.
- x Lift undue constraints that prevent school officials from requiring a tenured educator cooperate with a school district’s investigation into the educator’s own alleged misconduct.
- x Eliminate paid suspensions while Section 3020-a proceedings are pending, or establish a cap for those facing charges not covered by the current rule allowing suspension without pay in the limited circumstances set out in the statute.



- x Require tenured educators who are the subject of a Section 3020a to provide "reciprocal discovery" to their employing school district.
- x Establish a state panel of hearing officers to hear and decide Section 3020a cases

As mentioned above, both organizations are available to answer any questions you might have, and for a more in-depth discussion of any issues you want to discuss further.

Thank you for your consideration.

Re iderJ 3.6

Respectfully Submitted,



---

Timothy G. Kremer

---

Robert H. Cohen