

EXHIBIT 73

2018 8 NYCRR § 30-2.5

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NEW YORK CODES, RULES AND REGULATIONS > TITLE 8. EDUCATION DEPARTMENT > CHAPTER I. RULES OF THE BOARD OF REGENTS > PART 30. *TENURE AREAS AND ANNUAL PROFESSIONAL PERFORMANCE REVIEWS FOR CLASSROOM TEACHERS AND BUILDING PRINCIPALS > SUBPART 30-2. ANNUAL PROFESSIONAL PERFORMANCE REVIEWS OF CLASSROOM TEACHERS AND BUILDING PRINCIPALS CONDUCTED PRIOR TO THE 2015-2016 SCHOOL YEAR OR FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO ON OR BEFORE APRIL 1, 2015 WHICH REMAINS IN EFFECT ON OR AFTER APRIL 1, 2015 UNTIL A SUBSEQUENT AGREEMENT IS REACHED

§ 30-2.5 Standards and criteria for conducting annual professional performance reviews and for scoring the subcomponents for such reviews in the 2012-2013 school year and each school year thereafter

(a)Composite effectiveness score. Annual professional performance reviews conducted pursuant to this section shall differentiate teacher and principal effectiveness using a composite effectiveness score. Based on such composite effectiveness score, a classroom teacher or building principal shall be rated as Highly Effective, Effective, Developing or Ineffective as defined in this Subpart.

(b)State assessments or other comparable measures of student growth.

(1)Classroom teachers:

(i)For classroom teachers who teach English language arts or mathematics in grades four to eight or teach a subject in any grade for which there is a State assessment with an approved value-added growth model (e.g., Regents examinations. State assessments in science in grades four and eight or any other State assessment that may be created), a score from 0 to 25 points will be generated for the State assessment subcomponent of the teacher's composite effectiveness score based on the teacher's value-added growth score on such assessment(s).

(ii)In the event the Board of Regents has not approved a value-added growth model for English language arts or mathematics in grades four to eight, a score from 0-20 points will be generated for this subcomponent using the teacher's student growth percentile score on such assessments for the 2012-2013 school year and thereafter until a value-added growth model is approved by the Board of Regents.

(iii)Except as otherwise provided in subparagraphs (i) and (ii) of this paragraph, for classroom teachers who teach one of the core subjects, as defined in this subparagraph, where there is no approved growth or value-added growth model at that grade level or in that subject, the school district or BOCES shall measure student growth based on a State-determined district-or BOCES-wide student growth goal setting process using a State assessment if one exists, or a Regents examination or department-approved alternative examination as described in section 100.2(f) of this Title (including, but not limited to, advanced placement examinations, International Baccalaureate examinations, SAT II, etc.). If there is no State assessment or Regents examination for these grades/subjects, the district or BOCES must measure student growth based on the State determined goal-setting process with an approved student assessment, or a department-approved alternative examination as described in section 100.2(f) of this Title or a district, regional or BOCES

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developed assessment that is rigorous and comparable across classrooms. For purposes of this subparagraph, core subjects shall be defined as science grade eight and high school courses in English language arts, mathematics, science and social studies that lead to a Regents examination in the 2010-2011 school year, or a State assessment in the 2012-2013 school year or thereafter. A school district or BOCES shall generate a score from 0 to 20 points for this subcomponent.

(iv)For all other classroom teachers who teach grades/subjects where there is no value-added growth model approved by the Board of Regents, the school district or BOCES shall generate a score from 0 to 20 points for this subcomponent based on a State-determined district- or BOCES-wide student growth goal-setting process to be used with one or more of the following types of district-selected student assessments for each subject:

(a)State-approved student assessments;

(b)district-, regional- or BOCES- developed student assessments, provided that the district or BOCES verifies comparability and rigor as defined in section 30-2.4 of this Subpart;

(c)State assessments; or

(d)school- or BOCES- wide, group or team results based on State assessment(s).

(v)The school district or BOCES shall measure student growth using the same measure(s) of student growth for all classroom teachers in a course and/or grade level in a district or BOCES.

(vi)If the classroom teacher is responsible for teaching one or more course(s) for which there is an approved value-added growth model and one or more other course(s) for which no student growth or value-added growth model has been approved, a score shall be generated for this subcomponent based on a methodology prescribed by the Commissioner.

(2) Building Principals.

(i)For a building principal employed in a school or program where there is a value added model approved by the Board of Regents for principals based on State assessments or graduation rates, the principal shall be assigned a score from 0-25 points for this subcomponent based on a formula prescribed by the Commissioner.

(ii)In the event the Board of Regents has not approved a value-added growth model for principals, a score from 0-20 points will be generated using the principal's student growth percentile score based on State assessments or graduation rates.

(iii)For a building principal employed in a school or program where there is no approved value-added growth or principal student growth percentile model approved by the Board of Regents for any course and/or subject taught in the school, a score from 0 to 20 points will be generated based on the State determined district-wide goal setting process with any State assessments, approved student assessments or district, regional or BOCES-developed assessments that is rigorous and comparable across classrooms.

(iv)If the building principal is employed in a school where there are subjects being taught that have an approved value-added growth model and there are other course(s) for which no value-added growth model has been approved, the building principal's score on this subcomponent shall be based on a methodology prescribed by the Commissioner.

(c) Locally Selected Measures.

(1)The score for the locally selected measures subcomponent shall be based on the State subcomponent score (e.g., if 0-25 points assigned to State subcomponent based on value-added growth model, a score of 0-15 points will be assigned to this subcomponent; and if 0-20 points is assigned to State subcomponent because there is no approved value-added growth model, a score of 0-20 points will be assigned to this subcomponent). Such score shall be based upon locally selected

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measures of student achievement that are determined to be rigorous and comparable across classrooms.

(2)For purposes of this section:

(i)rigorous shall mean that the locally selected measure is aligned to the New York State learning standards or, in instances where there are no such standards that apply to a subject/grade level, evidence of alignment to research-based learning standards and, to the extent practicable, the locally selected measure must be valid and reliable as defined by the Testing Standards;

(ii)comparable across classrooms shall mean that the same locally selected measure(s) of student achievement or growth is used across a subject and/or grade level within the school district or BOCES. For principals, the same locally selected measure(s) must be used for all principals in the same or similar program or grade configuration in that school district or BOCES.

(3)Classroom Teachers.

(i)Except as otherwise provided in subparagraphs (ii) and (iii) of this paragraph, 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:

(a)student achievement or growth on State assessments, Regents examinations and/or Department approved alternative examinations as described in section 100.2(f) of this title (including, but not limited to, Advanced Placement examinations, International Baccalaureate examinations, SAT II, etc.), 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:

(1)the change in percentage of a teacher's students who achieve a specific level of performance as determined locally, on such assessments/examinations compared to those students' level of performance on such assessments/examinations in the previous school year (e.g., a three percentage point increase in students earning the proficient level (three) or better performance level on the 7th grade math State assessment compared to those same students' performance levels on the 6th grade math State assessment, or an increase in the percentage of a teacher's students earning the advanced performance level (four) on the 4th grade ELA or math State assessments compared to those students' performance levels on the 3rd grade ELA or math State assessments); or

(2)a teacher specific growth score computed by the Department based on the percent of the teacher's students earning a State determined level of growth. The methodology to translate such growth into the State-established subcomponent scoring ranges shall be determined locally; or

(3)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 subclause (1) or (2) of this clause;

(b)student growth or achievement computed in a manner determined locally based on a student assessment approved by the Department pursuant to the request for qualification process described in section 30-2.8 of this Subpart;

(c)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; or

(d)a school-wide measure of either student growth or achievement based on either:

(i)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;

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(ii)a school-wide measure of 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 or a Department approved student assessment; or based on a State assessment.

(e)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.

(ii)For school districts or BOCES that use one of the measures enumerated in clause (c) or (e) of subparagraph (i) of this paragraph, the superintendent, district superintendent or Chancellor shall certify, in the annual professional performance review plan, that the measure is rigorous and comparable across classrooms as defined in this subdivision and explain how the locally selected measure meets these requirements.

(iii)For school districts or BOCES that use more than one of the local measures described in subparagraph (i) of this paragraph for a grade/subject (e.g. one measure is utilized for some of the district's fifth grade math classes and another measure is utilized for the other fifth grade math classes in the district), the superintendent, district superintendent or Chancellor shall certify in the annual professional performance review plan that the measures are comparable, in accordance with the Testing Standards.

(iv)The selection of the local measure or measures as described in subparagraph (i) of this paragraph to be used by the school district or board of cooperative educational services shall be determined through collective bargaining.

(4)Principals.

(i)Except as otherwise provided in subparagraph (ii) of this paragraph, one or more of the following types of local measures of student achievement or growth may be used for the evaluation of principals, provided that each measure is rigorous and comparable across classrooms as defined in this section:

(a)student achievement levels on State assessments in English language arts and/or mathematics in grades four to eight (e.g., percentage of students in the school whose performance levels on State assessments are proficient or advanced, as defined in section 100.2(p)(1)(v) of this Title);

(b)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 section 100.2(p)(1)(v) of this Title;

(c)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;

(d)student performance on any or all of the district-wide locally selected measures approved for use in teacher evaluations as described in paragraph (3) of this subdivision;

(e)four, five and/or six-year high school graduation and/or dropout rates for principals employed in a school with high school grades;

(f)percentage of students who earn a Regents diploma with advanced designation and/or honors as defined in section 100.5(b)(7) of this Title, for principals employed in a school with high school grades;

(g)percentage of a cohort of students that achieve specified scores on Regents examinations and/or Department approved alternative examinations as described in section 100.2(f) of this

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Title (including, but not limited to, Advanced Placement examinations, International Baccalaureate examinations, SAT II, etc.), for principals employed in a school with high school grades (e.g., the percentage of students in the 2009 cohort that scored at least a 3 on an Advanced Placement examination since entry into the ninth grade); and/or

(h)students' progress toward graduation in the school using strong predictive indicators, including but not limited to 9th and/or 10th grade credit accumulation and/or the percentage of students that pass 9th and/or 10th 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.

(ii)In addition to the locally selected measures in subparagraph (i), for building principals employed in schools or programs for which there is no approved principal value-added model, a school district or BOCES may use 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.

(iii)For school districts or BOCES 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 (e.g., 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.

(iv)The selection of the local measure or measures as described in subparagraph (i) of this paragraph to be used by the school district or board of cooperative educational services shall be determined through collective bargaining and such measure must be different from that used for the State assessment or other comparable measures subcomponent.

(5)The score for the locally selected measures subcomponent shall be based on the State subcomponent score (e.g., if 0-25 points assigned to State subcomponent based on value-added growth model, a score of 0-15 points will be assigned to this subcomponent; and if 0-20 points is assigned to State subcomponent because there is no approved value-added growth model, a score of 0-20 points will be assigned to this subcomponent).

(d)Other Measures of Teacher and Principal Effectiveness.

(1)Classroom Teacher.

(i)Sixty points of a teacher's composite effectiveness score shall be based on multiple measures, using the criteria prescribed in this subdivision. Such measures shall be aligned with the New York State Teaching standards, which are enumerated below, and their related elements and performance indicators:

(a)the teacher acquires knowledge of each student, and demonstrates knowledge of student development and learning to promote achievement for all students and/or;

(b)the teacher knows the content they are responsible for teaching, and plans instruction that ensures growth and achievement for all students;

(c)the teacher implements instruction that engages and challenges all students to meet or exceed the learning standards;

(d)the teacher works with all students to create a dynamic learning environment that supports achievement and growth;

(e)the teacher uses multiple measures to assess and document student growth, evaluate instructional effectiveness, and modify instruction;

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(f)the teacher demonstrates professional responsibility and engages relevant stakeholders to maximize student growth, development, and learning; and

(g)the teacher sets informed goals and strives for continuous professional growth.

(ii)Rubric. A teacher's performance under this subcomponent must be assessed based on a teacher practice rubric(s) approved by the Department in accordance with section 30-2.7 of this Subpart. The same rubric(s) shall be used for all classroom teachers in a specific grade/subject across the district.

(a)Variance for use of existing rubrics. A variance may be granted to a school district or BOCES that seeks to use a rubric that is either a close adaptation of a rubric on the approved list, or a rubric that was self-developed or developed by a third-party, upon a finding by the Commissioner that the rubric meets the criteria described in section 30-2.7 of this Subpart and the school district or BOCES has demonstrated that it has made a significant investment in the rubric and has a history of use that would justify continuing the use of that rubric.

(b)Variance for use of new innovative rubrics. A variance may be granted to a school district or BOCES that seeks to use a newly developed rubric, upon a finding by the Commissioner that the rubric meets the criteria described in section 30-2.7 of this Subpart and the school district or BOCES has demonstrated how it will ensure inter-rater reliability and the rubric's ability to provide differentiated assessments over time.

(iii)Classroom Observations. In order to support continuous professional growth, a majority of these 60 points 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 conducted for the 2012-2013 school year and thereafter, at least one such observation shall be an unannounced visit.

(iv)Any remaining points of the 60 points shall be based on one or more of the following:

(a)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;

(b)classroom observations by trained in-school peer teachers; and/or

(c)use of a state-approved instrument for parent or student feedback and/or;

(d)evidence of student development and performance through lesson plans, student portfolios and other artifacts of teacher practices through a structured review process.

(v)Any Teaching Standards that are not addressed in the classroom observations shall be assessed by the district at least once a year.

(2)Building Principals.

(i)Sixty points of a building principal's composite effectiveness score shall be based on multiple measures, using the criteria prescribed in this subdivision. Such measures shall be aligned with the Leadership Standards, enumerated below, and their related functions:

An education leader promotes the success of every student by:

(a)facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community;

(b)advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional growth;

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(c)ensuring management of the organization, operations and resources for a safe, efficient, and effective learning environment;

(d)collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(e)acting with integrity, fairness, and in an ethical manner; and

(f)understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.

(ii)Rubric. A principal's performance under this subcomponent must be assessed based on an approved principal practice rubric in accordance with section 30-2.7 of this Subpart. Such rubric shall be used for all building principals across the district or BOCES.

(a)Variance for use of existing rubrics. A variance may be granted to a school district or BOCES that seeks to use a rubric that is either a close adaptation of a rubric on the approved list, or a rubric that was self-developed or developed by a third-party, upon a finding by the Commissioner that the rubric meets the criteria described in section 30-2.7 of this Subpart and the school district or BOCES has demonstrated that it has made a significant investment in the rubric and has a history of use that would justify continuing the use of that rubric.

(b)Variance for use of new innovative rubrics. A variance may be granted to a school district or BOCES that seeks to use a newly developed rubric, upon a finding by the Commissioner that the rubric meets the criteria described in section 30-2.7 and the school district or BOCES has demonstrated how it will ensure inter-rater reliability and the rubric's ability to provide differentiated assessments over time.

(iii)A majority of the 60 points assigned to this subcomponent 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. This 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.

(iv)The remaining portion of these 60 points shall include 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:

(a)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.

(b)any other goals shall address quantifiable and verifiable improvements in academic results or the school's learning environment (e.g., student or teacher attendance).

(v)Any Leadership Standards not addressed in the assessment of the principal's leadership and management actions by the building principal's supervisor or a trained independent evaluator shall be assessed at least once a year.

(e)Notwithstanding any other provision of this Subpart to the contrary, no annual professional performance review plan shall be approved by the Commissioner for use in the 2014-2015 school year or thereafter that provides for the administration of traditional standardized assessments to students in kindergarten through grade two that are not being used for diagnostic purposes or are required to be administered by federal law,

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including but not limited to assessments developed by any vendor, third-party or other comparable entity; except that nothing in this subdivision shall preclude the use of school- or BOCES-wide, group or team results using State assessments that are administered to students in higher grades in the school or a district, regional or BOCES developed student assessment that is developed in collaboration with a vendor, if otherwise allowed under this section or guidelines of the commissioner. However, this subdivision shall not apply to any annual professional performance review plan approved or determined by the commissioner for use in the 2013-2014 school year which remains in effect in the 2014-2015 school year and thereafter in accordance with [Education Law section 3012-c\(2\)\(l\)](#).

History

Added 30-2.5(effective 05, 20, 11) on 6/08/11, expired 90 days after filing. Added 30-2.5(effective 08, 16, 11) on 8/31/11, expired 60 days after filing. Added 30-2.5(effective 10, 07, 11) on 10/26/11, expired 60 days after filing. Added 30-2.5(effective 02, 04, 12) on 2/22/12, expired 60 days after filing. Added 30-2.5(effective 04, 04, 12) on 4/25/12, expired 60 days after filing. Added 30-2.5(effective 04, 24, 12) on 5/09/12, expired 60 days after filing. Added 30-2.5 on 6/13/12. Amended 30-2.5(b)(1)(iii)(effective 02, 11, 14) on 2/26/14, expired 90 days after filing. Amended 30-2.5(b)(1)(iii)(effective 03, 11, 14) on 3/26/14, expired 60 days after filing. Amended 30-2.5(b)(1)(iii)(effective 05, 10, 14) on 5/14/14, expired 60 days after filing. Amended 30-2.5(b)(1)(iii) on 7/30/14. Added 30-2.5(e)(effective 02, 11, 14) on 2/26/14, expired 90 days after filing. Added 30-2.5(e)(effective 03, 11, 14) on 3/26/14, expired 60 days after filing. Added 30-2.5(e)(effective 05, 10, 14) on 5/14/14, expired 60 days after filing. Added 30-2.5(e) on 7/30/14.

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