

DRAFT LBDC

A BUDGET BILL submitted by the Governor  
in accordance with Article VII of the Constitution

AN ACT to amend the education law, in relation to annual professional performance review of classroom teachers and building principals

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

1 permissible reasons other than the performance of the teacher or princi-  
2 pal in the classroom or school, including but not limited to misconduct.

3 Such performance reviews shall also be a significant factor in teacher  
4 and principal development, including but not limited to, coaching,  
5 induction support and differentiated professional development, which are  
6 to be locally established in accordance with procedures negotiated  
7 pursuant to the requirements of article fourteen of the civil service  
8 law.

9 § 2. Paragraph a of subdivision 2 of section 3012-c of the education  
10 law, as added by chapter 103 of the laws of 2010, is amended to read as  
11 follows:

12 a. (1) The annual professional performance reviews conducted pursuant  
13 to this section for classroom teachers and building principals shall  
14 differentiate teacher and principal effectiveness using the following  
15 quality rating categories: highly effective, effective, developing and  
16 ineffective, with explicit minimum and maximum scoring ranges for each  
17 category, for the state assessments and other comparable measures  
18 subcomponent of the evaluation and for the locally selected measures of  
19 student achievement subcomponent of the evaluation, as prescribed in the  
20 regulations of the commissioner. There shall be: (i) a state assessments  
21 and other comparable measures subcomponent which shall comprise twenty  
22 or twenty-five percent of the evaluation; (ii) a locally selected meas-  
23 ures of student achievement subcomponent which shall comprise twenty or  
24 fifteen percent of the evaluation; and (iii) an other measures of teach-  
25 er or principal effectiveness subcomponent which shall comprise the  
26 remaining sixty percent of the evaluation, which in sum shall constitute  
27 the composite teacher or principal effectiveness score. Such annual  
28 professional performance reviews shall result in a single composite

1 teacher or principal effectiveness score, which incorporates multiple  
2 measures of effectiveness related to the criteria included in the regu-  
3 lations of the commissioner.

4 (2) For annual professional performance reviews conducted in accord-  
5 ance with paragraph b of this subdivision for the two thousand eleven--  
6 two thousand twelve school year and for annual professional performance  
7 reviews conducted in accordance with paragraphs f and g of this subdivi-  
8 sion for the two thousand twelve--two thousand thirteen school year, the  
9 overall composite scoring ranges shall be in accordance with this  
10 subparagraph. A classroom teacher and building principal shall be deemed  
11 to be:

12 (A) Highly Effective if they achieve a composite effectiveness score  
13 of 91-100.

14 (B) Effective if they achieve a composite effectiveness score of  
15 75-90.

16 (C) Developing if they achieve a composite effectiveness score of  
17 65-74.

18 (D) Ineffective if they achieve a composite effectiveness score of  
19 0-64.

20 (3) For annual professional performance reviews conducted in accord-  
21 ance with paragraph b of this subdivision for the two thousand eleven--  
22 two thousand twelve school year and for annual professional performance  
23 reviews conducted in accordance with paragraph f of this subdivision for  
24 the two thousand twelve--two thousand thirteen school year for classroom  
25 teachers in subjects and grades for which the board of regents has not  
26 approved a value-added model and for building principals employed in  
27 schools or programs for which there is no approved principal value-added  
28 model, the scoring ranges for the student growth on state assessments or

1 other comparable measures subcomponent shall be in accordance with this  
2 subparagraph. A classroom teacher and building principal shall receive:

3 (A) a highly effective rating in this subcomponent if the teacher's or  
4 principal's results are well-above the state average for similar  
5 students and they achieve a subcomponent score of 18-20;

6 (B) an effective rating in this subcomponent if the teacher's or prin-  
7 cipal's results meet the state average for similar students and they  
8 achieve a subcomponent score of 9-17; or

9 (C) a developing rating in this subcomponent if the teacher's or prin-  
10 cipal's results are below the state average for similar students and  
11 they achieve a subcomponent score of 3-8; or

12 (D) an ineffective rating in this subcomponent, if the teacher's or  
13 principal's results are well-below the state average for similar  
14 students and they achieve a subcomponent score of 0-2.

15 (4) For annual professional performance reviews conducted in accord-  
16 ance with paragraph g of this subdivision for the two thousand twelve--  
17 two thousand thirteen school year for classroom teachers in subjects and  
18 grades for which the board of regents has approved a value-added model  
19 and for building principals employed in schools or programs for which  
20 there is an approved principal value-added model, the scoring ranges for  
21 the student growth on state assessments or other comparable measures  
22 subcomponent shall be in accordance with this subparagraph. A classroom  
23 teacher and building principal shall receive:

24 (A) a highly effective rating in this subcomponent if the teacher's or  
25 principal's results are well-above the state average for similar  
26 students and they achieve a subcomponent score of 22-25;

1 (B) an effective rating in this subcomponent if the teacher's or prin-  
2 cipal's results meet the state average for similar students and they  
3 achieve a subcomponent score of 10-21; or

4 (C) a developing rating in this subcomponent if the teacher's or prin-  
5 cipal's results are below the state average for similar students and  
6 they achieve a subcomponent score of 3-9; or

7 (D) an ineffective rating in this subcomponent, if the teacher's or  
8 principal's results are well-below the state average for similar  
9 students and they achieve a subcomponent score of 0-2.

10 (5) For annual professional performance reviews conducted in accord-  
11 ance with paragraph b of this subdivision for the two thousand eleven--  
12 two thousand twelve school year and for annual professional performance  
13 reviews conducted in accordance with paragraph f of this subdivision for  
14 the two thousand twelve--two thousand thirteen school year for classroom  
15 teachers in subjects and grades for which the board of regents has not  
16 approved a value-added model and for building principals employed in  
17 schools or programs for which there is no approved principal value-added  
18 model, the scoring ranges for the locally selected measures of student  
19 achievement subcomponent shall be in accordance with this subparagraph.  
20 A classroom teacher and building principal shall receive:

21 (A) a highly effective rating in this subcomponent if the results are  
22 well-above district-adopted expectations for student growth or achieve-  
23 ment and they achieve a subcomponent score of 18-20; or

24 (B) an effective rating in this subcomponent if the results meet  
25 district-adopted expectations for growth or achievement and they achieve  
26 a subcomponent score of 9-17; or

1 (C) a developing rating in this subcomponent if the results are below  
2 district-adopted expectations for growth or achievement and they achieve  
3 a subcomponent score of 3-8; or

4 (D) an ineffective rating in this subcomponent if the results are  
5 well-below district-adopted expectations for growth or achievement and  
6 they achieve a subcomponent score of 0-2.

7 (6) For annual professional performance reviews conducted in accord-  
8 ance with paragraph b of this subdivision for the two thousand eleven--  
9 two thousand twelve school year and for annual professional performance  
10 reviews conducted in accordance with paragraph g of this subdivision for  
11 the two thousand twelve--two thousand thirteen school year for classroom  
12 teachers in subjects and grades for which the board of regents has  
13 approved a value-added model and for building principals employed in  
14 schools or programs for which there is an approved principal value-added  
15 model, the scoring ranges for the locally selected measures of student  
16 achievement subcomponent shall be in accordance with this subparagraph.  
17 A classroom teacher and building principal shall receive:

18 (A) a highly effective rating in this subcomponent if the results are  
19 well-above district-adopted expectations for student growth or achieve-  
20 ment and they achieve a subcomponent score of 14-15; or

21 (B) an effective rating in this subcomponent if the results meet  
22 district-adopted expectations for growth or achievement and they achieve  
23 a subcomponent score of 8-13; or

24 (C) a developing rating in this subcomponent if the results are below  
25 district-adopted expectations for growth or achievement and they achieve  
26 a subcomponent score of 3-7; 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 (7) For the two thousand thirteen--two thousand fourteen school year  
5 and thereafter, the commissioner shall review the specific scoring rang-  
6 es for each of the rating categories annually before the start of each  
7 school year and shall recommend any changes to the board of regents for  
8 consideration.

9 (8) Except for the student growth measures on the state assessments or  
10 other comparable measures of student growth prescribed in paragraphs e,  
11 f and g of this subdivision, the elements comprising the composite  
12 effectiveness score and the process by which points are assigned to  
13 subcomponents shall be locally developed, consistent with the standards  
14 prescribed in the regulations of the commissioner and the requirements  
15 of this section, through negotiations conducted, pursuant to the  
16 requirements of article fourteen of the civil service law.

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

20 b. (1) Annual professional performance reviews conducted by school  
21 districts [on or after July first, two thousand eleven] or boards of  
22 cooperative educational services for the two thousand eleven--two thou-  
23 sand twelve school year of classroom teachers of common branch subjects  
24 or English language arts or mathematics in grades four to eight and all  
25 building principals of schools in which such teachers are employed shall  
26 be conducted pursuant to this subdivision and shall use two thousand  
27 ten--two thousand eleven school year student data as the baseline for

1 the initial computation of the composite teacher or principal effective-  
2 ness score for such classroom teachers and principals.

3 (2) Subject to paragraph k of this subdivision the entire annual  
4 professional performance review shall be completed and provided to the  
5 teacher or principal as soon as practicable but in no case later than  
6 September first, two thousand twelve. The provisions of subparagraphs  
7 two and three of paragraph c of this subdivision shall apply to such  
8 reviews.

9 c. (1) Annual professional performance reviews conducted by school  
10 districts or boards of cooperative educational services [on or after  
11 July first, two thousand twelve] for the two thousand twelve--two thou-  
12 sand thirteen school year and thereafter of all classroom teachers and  
13 all building principals shall be conducted pursuant to this subdivision  
14 and shall use two thousand eleven--two thousand twelve school year  
15 student data as the baseline for the initial computation of the compos-  
16 ite teacher or principal effectiveness score for such classroom teachers  
17 and principals. For purposes of this section, an administrator in charge  
18 of an instructional program of a board of cooperative educational  
19 services shall be deemed to be a building principal.

20 (2) Subject to paragraph k of this subdivision the entire annual  
21 professional performance review shall be completed and provided to the  
22 teacher or principal as soon as practicable but in no case later than  
23 September first of the school year next following the school year for  
24 which the classroom teacher or building principal's performance is being  
25 measured. The teacher's and principal's score and rating on the locally  
26 selected measures subcomponent, if available, and on the other measures  
27 of teacher and principal effectiveness subcomponent for a teacher's or  
28 principal's annual professional performance review shall be computed and



1 provided to the teacher or principal, in writing, by no later than the  
2 last day of the school year for which the teacher or principal is being  
3 measured. Nothing in this subdivision shall be construed to authorize a  
4 teacher or principal to trigger the appeal process prior to receipt of  
5 his or her composite effectiveness score and rating.

6 (3) Each such annual professional performance review shall be based on  
7 the state assessments or other comparable measures subcomponent, the  
8 locally selected measures of student achievement subcomponent and the  
9 other measures of teacher and principal effectiveness subcomponent,  
10 determined in accordance with the applicable provisions of this section  
11 and the regulations of the commissioner, for the school year for which  
12 the teacher's or principal's performance is measured.

13 § 4. Paragraphs e, f and g of subdivision 2 of section 3012-c of the  
14 education law, as added by chapter 103 of the laws of 2010, are amended  
15 to read as follows:

16 e. (1) For annual professional performance reviews conducted in  
17 accordance with paragraph b of this subdivision [in] for the two thou-  
18 sand eleven--two thousand twelve school year, forty percent of the  
19 composite score of effectiveness shall be based on student achievement  
20 measures as follows: (i) twenty percent of the evaluation shall be  
21 based upon student growth data on state assessments as prescribed by the  
22 commissioner or a comparable measure of student growth if such growth  
23 data is not available; and (ii) twenty percent shall be based on other  
24 locally selected measures of student achievement that are determined to  
25 be rigorous and comparable across classrooms in accordance with the  
26 regulations of the commissioner and as are developed locally in a manner  
27 consistent with procedures negotiated pursuant to the requirements of  
28 article fourteen of the civil service law.

1 (2) Such locally selected measures may include measures of student  
2 achievement or growth on state assessments, regents examinations and/or  
3 department approved equivalent, provided that such measures are differ-  
4 ent from those prescribed by the commissioner pursuant to clause (i) of  
5 subparagraph one of this paragraph. The regulations of the commissioner  
6 shall describe the types of measures of student growth or achievement  
7 that may be locally selected. The selection of the local measure(s) as  
8 described in this paragraph to be used by the school district or board  
9 of cooperative educational services shall be determined through collec-  
10 tive bargaining.

11 f. (1) For annual professional performance reviews conducted in  
12 accordance with paragraph c of this subdivision [in any school year  
13 prior to the first school year for which the board of regents has  
14 approved use of a value-added growth model, but not earlier than] for  
15 the two thousand twelve--two thousand thirteen school year and thereaft-  
16 er for classroom teachers in subjects and grades for which the board of  
17 regents has not approved a value-added model and for building principals  
18 employed in schools or programs for which there is no approved principal  
19 value-added model, forty percent of the composite score of effectiveness  
20 shall be based on student achievement measures as follows: (i) twenty  
21 percent of the evaluation shall be based upon student growth data on  
22 state assessments as prescribed by the commissioner or a comparable  
23 measure of student growth if such growth data is not available; and (ii)  
24 twenty percent shall be based on other locally selected measures of  
25 student achievement that are determined to be rigorous and comparable  
26 across classrooms in accordance with the regulations of the commissioner  
27 and as are developed locally in a manner consistent with procedures

1 negotiated pursuant to the requirements of article fourteen of the civil  
2 service law.

3 (2) One or more of the following types of locally selected measures of  
4 student achievement or growth may be used for the evaluation of class-  
5 room teachers:

6 (i) student achievement or growth on state assessments, regents exam-  
7 inations and/or department approved alternative examinations as  
8 described in the regulations of the commissioner including, but not  
9 limited to, advanced placement examinations, international baccalaureate  
10 examinations, and SAT II, using a measure that is different from the  
11 growth score prescribed by the department for student growth on such  
12 assessments or examinations for purposes of the state assessment or  
13 other comparable measures subcomponent that is either:

14 (A) the change in percentage of a teacher's students who achieve a  
15 specific level of performance as determined locally, on such  
16 assessments/examinations compared to those students' level of perform-  
17 ance on such assessments/examinations in the previous school year such  
18 as a three percentage point increase in students earning the proficient  
19 level (three) or better performance level on the seventh grade math  
20 state assessment compared to those same students' performance levels on  
21 the sixth grade math state assessment, or an increase in the percentage  
22 of a teacher's students earning the advanced performance level (four) on  
23 the fourth grade English language arts or math state assessments  
24 compared to those students' performance levels on the third grade  
25 English language arts or math state assessments; or

26 (B) a teacher specific growth score computed by the department based  
27 on the percent of the teacher's students earning a department determined  
28 level of growth. The methodology to translate such growth into the

1 state-established subcomponent scoring ranges shall be determined local-  
2 ly; or

3 (C) a teacher-specific achievement or growth score computed in a  
4 manner determined locally based on a measure of student performance on  
5 the state assessments, regents examinations and/or department approved  
6 alternative examinations other than the measure described in item (A) or  
7 (B) of this subparagraph;

8 (ii) student growth or achievement computed in a manner determined  
9 locally based on a student assessment approved by the department pursu-  
10 ant to a request for qualification process established in the regu-  
11 lations of the commissioner;

12 (iii) student growth or achievement computed in a manner determined  
13 locally based on a district, regional or BOCES-developed assessment that  
14 is rigorous and comparable across classrooms;

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

17 (A) a state-provided student growth score covering all students in the  
18 school that took the state assessment in English language arts or math-  
19 ematics in grades four through eight;

20 (B) a school-wide measure of student growth or achievement computed in  
21 a manner determined locally based on a district, regional or board of  
22 cooperative educational services developed assessment that is rigorous  
23 and comparable across classrooms or a department approved student  
24 assessment or based on a state assessment; or

25 (v) where applicable, for teachers in any grade or subject where there  
26 is no growth or value-added growth model approved by the board of  
27 regents at that grade level or in that subject, a structured district-  
28 wide student growth goal-setting process to be used with any state

1 assessment or an approved student assessment or a district, regional or  
2 BOCES-developed assessment that is rigorous and comparable across class-  
3 rooms.

4 (3) One or more of the following types of locally selected measures of  
5 student achievement or growth may be used for the evaluation of princi-  
6 pals, provided that each measure is rigorous and comparable across  
7 classrooms and that any such measure shall be different from that used  
8 for the state assessment or other comparable measures subcomponent:

9 (i) student achievement levels on state assessments in English  
10 language arts and/or mathematics in grades four to eight such as  
11 percentage of students in the school whose performance levels on state  
12 assessments are proficient or advanced, as defined in the regulations of  
13 the commissioner;

14 (ii) student growth or achievement on state or other assessments in  
15 English language arts and/or mathematics in grades four to eight for  
16 students in each of the performance levels described in the regulations  
17 of the commissioner;

18 (iii) student growth or achievement on state assessments in English  
19 language arts and/or mathematics in grades four to eight for students  
20 with disabilities and English language learners in grades four to eight;

21 (iv) student performance on any or all of the district-wide locally  
22 selected measures approved for use in teacher evaluations;

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

25 (vi) percentage of students who earn a regents diploma with advanced  
26 designation and/or honors as defined in the regulations of the commis-  
27 sioner, for principals employed in a school with high school grades;

1 (vii) percentage of a cohort of students that achieve specified scores  
2 on regents examinations and/or department approved alternative examina-  
3 tions including, but not limited to, advanced placement examinations,  
4 international baccalaureate examinations and SAT II, for principals  
5 employed in a school with high school grades such as the percentage of  
6 students in the two thousand nine cohort that scored at least a three on  
7 an advanced placement examination since entry into the ninth grade;  
8 and/or

9 (viii) students' progress toward graduation in the school using strong  
10 predictive indicators, including but not limited to ninth and/or tenth  
11 grade credit accumulation and/or the percentage of students that pass  
12 ninth and/or tenth grade subjects most commonly associated with gradu-  
13 ation and/or students' progress in passing the number of required  
14 regents examinations for graduation, for principals employed in a school  
15 with high school grades.

16 (ix) For school districts or boards of cooperative educational  
17 services that choose to use more than one set of locally selected meas-  
18 ures described in this paragraph for principals in the same or similar  
19 grade configuration or program such as one set of locally selected meas-  
20 ures is used to evaluate principals in some K-5 schools and another set  
21 of locally selected measures is used to evaluate principals in the other  
22 K-5 schools in the district, the superintendent or district superinten-  
23 dent shall, in their professional performance review plan, certify that  
24 the sets of measures are comparable, in accordance with the testing  
25 standards as defined in regulations of the commissioner.

26 (x) For building principals employed in schools or programs for which  
27 there is no approved principal value-added model, the types of locally  
28 selected measures of student achievement or growth specified in subpara-

1 graph three of paragraph g of this subdivision may be used. In addition,  
2 a structured district-wide student growth goal-setting process to be  
3 used with any state assessment or an approved student assessment or a  
4 district, regional or BOCES-developed assessment that is rigorous and  
5 comparable across classrooms may be a locally selected measure.

6 (4) The selection of the local measure or measures as described in  
7 subparagraphs two and three of this paragraph to be used by the school  
8 district or board of cooperative educational services shall be deter-  
9 mined through collective bargaining.

10 g. (1) For annual professional performance reviews conducted in  
11 accordance with paragraph c of this subdivision [in] for the [first  
12 school year for which the board of regents has approved use of a value-  
13 added growth model] two thousand twelve--two thousand thirteen school  
14 year and thereafter for classroom teachers in subjects and grades in  
15 which there is a value-added growth model approved by the board of  
16 regents and for building principals employed in schools or programs for  
17 which there is an approved principal value-added model, forty percent of  
18 the composite score of effectiveness shall be based on student achieve-  
19 ment measures as follows: (i) twenty-five percent of the evaluation  
20 shall be based upon student growth data on state assessments as  
21 prescribed by the commissioner or a comparable measure of student growth  
22 if such growth data is not available; and (ii) fifteen percent shall be  
23 based on other locally selected measures of student achievement that are  
24 determined to be rigorous and comparable across classrooms in accordance  
25 with the regulations of the commissioner and as are locally developed in  
26 a manner consistent with procedures negotiated pursuant to the require-  
27 ments of article fourteen of the civil service law. The department shall  
28 develop the value-added growth model and shall consult with the advisory

1 committee established pursuant to subdivision seven of this section  
2 prior to recommending that the board of regents approve its use in eval-  
3 uations.

4 (2) One or more of the following types of locally selected measures of  
5 student achievement or growth may be used for the evaluation of class-  
6 room teachers:

7 (i) student achievement or growth on state assessments, regents exam-  
8 inations and/or department approved alternative examinations as  
9 described in the regulations of the commissioner including, but not  
10 limited to, advanced placement examinations, international baccalaureate  
11 examinations and SAT II, using a measure that is different from the  
12 growth score prescribed by the department for student growth on such  
13 assessments or examinations for purposes of the state assessment or  
14 other comparable measures subcomponent that is either:

15 (A) the change in percentage of a teacher's students who achieve a  
16 specific level of performance as determined locally, on such  
17 assessments/examinations compared to those students' level of perform-  
18 ance on such assessments/examinations in the previous school year such  
19 as a three percentage point increase in students earning the proficient  
20 level (three) or better performance level on the seventh grade math  
21 state assessment compared to those same students' performance levels on  
22 the sixth grade math state assessment, or an increase in the percentage  
23 of a teacher's students earning the advanced performance level (four) on  
24 the fourth grade English language arts or math state assessments  
25 compared to those students' performance levels on the third grade  
26 English language arts or math state assessments; or

27 (B) a teacher specific growth score computed by the state based on the  
28 percent of the teacher's students earning a state determined level of



1 growth. The methodology to translate such growth into the state-estab-  
2 lished subcomponent scoring ranges shall be determined locally; or

3 (C) a teacher-specific achievement or growth score computed in a  
4 manner determined locally based on a measure of student performance on  
5 the state assessments, regents examinations and/or department approved  
6 alternative examinations other than the measure described in item (A) or  
7 (B) of this subparagraph;

8 (ii) student growth or achievement computed in a manner determined  
9 locally based on a student assessment approved by the department pursu-  
10 ant to a request for qualification process established in the regu-  
11 lations of the commissioner;

12 (iii) student growth or achievement computed in a manner determined  
13 locally based on a district, regional or BOCES-developed assessment that  
14 is rigorous and comparable across classrooms;

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

17 (A) a state-provided student growth score covering all students in the  
18 school that took the state assessment in English language arts or math-  
19 ematics in grades four through eight; or

20 (B) a school-wide measure of student growth or achievement computed in  
21 a manner determined locally based on a district, regional or board of  
22 cooperative educational services developed assessment that is rigorous  
23 and comparable across classrooms or a department approved student  
24 assessment or based on a state assessment.

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

1 classrooms and that any such measure shall be different from that used  
2 for the state assessment or other comparable measures subcomponent:

3 (i) student achievement levels on state assessments in English  
4 language arts and/or mathematics in grades four to eight such as  
5 percentage of students in the school whose performance levels on state  
6 assessments are proficient or advanced, as defined in the regulations of  
7 the commissioner;

8 (ii) student growth or achievement on state or other assessments in  
9 English language arts and/or mathematics in grades four to eight for  
10 students in each of the performance levels described in the regulations  
11 of the commissioner;

12 (iii) student growth or achievement on state assessments in English  
13 language arts and/or mathematics in grades four to eight for students  
14 with disabilities and English language learners in grades four to eight;

15 (iv) student performance on any or all of the district-wide locally  
16 selected measures approved for use in teacher evaluations;

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

19 (vi) percentage of students who earn a regents diploma with advanced  
20 designation and/or honors as defined in the regulations of the commis-  
21 sioner, for principals employed in a school with high school grades;

22 (vii) percentage of a cohort of students that achieve specified scores  
23 on regents examinations and/or department approved alternative examina-  
24 tions including, but not limited to, advanced placement examinations,  
25 international baccalaureate examinations and SAT II, for principals  
26 employed in a school with high school grades such as the percentage of  
27 students in the two thousand nine cohort that scored at least a three on

1 an advanced placement examination since entry into the ninth grade;  
2 and/or

3 (viii) students' progress toward graduation in the school using strong  
4 predictive indicators, including but not limited to ninth and/or tenth  
5 grade credit accumulation and/or the percentage of students that pass  
6 ninth and/or tenth grade subjects most commonly associated with gradu-  
7 ation and/or students' progress in passing the number of required  
8 regents examinations for graduation, for principals employed in a school  
9 with high school grades.

10 (ix) For school districts or boards of cooperative educational  
11 services that choose to use more than one set of locally selected meas-  
12 ures described in this paragraph for principals in the same or similar  
13 grade configuration or program, the superintendent or district super-  
14 intendent shall, in their professional performance review plan, certify  
15 that the sets of measures are comparable, in accordance with the testing  
16 standards as defined in regulations of the commissioner.

17 (4) The selection of the local measure or measures as described in  
18 subparagraphs two and three of this paragraph to be used by the school  
19 district or board of cooperative educational services shall be deter-  
20 mined through collective bargaining.

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

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

1 h. The remaining sixty percent of the evaluations, ratings and effec-  
2 tiveness scores shall be locally developed, consistent with the stand-  
3 ards prescribed in the regulations of the commissioner, through negoti-  
4 ations conducted pursuant to article fourteen of the civil service law.

5 (1) A majority of the sixty points for classroom teachers shall be  
6 based on multiple classroom observations conducted by a principal or  
7 other trained administrator, which may be performed in-person or by  
8 video. For evaluations for the two thousand twelve--two thousand thir-  
9 teen school year and thereafter, at least one such observation shall be  
10 an unannounced visit.

11 (2) For the remaining portion of these sixty points for evaluations  
12 for the two thousand eleven--two thousand twelve school year, the  
13 commissioner's regulation shall prescribe the other forms of evidence of  
14 teacher and principal effectiveness that may be used.

15 (3) For evaluations of classroom teachers for the two thousand twelve-  
16 -two thousand thirteen school year and thereafter, the remaining portion  
17 of these sixty points shall be based on one or more of the following:

18 (i) one or more classroom observations by independent trained evalu-  
19 ators selected by the school district or board of cooperative educa-  
20 tional services who are teachers or former teachers with a demonstrated  
21 record of effectiveness and have no prior affiliation with the school in  
22 which they are conducting the evaluation and no other relationship with  
23 the teachers being evaluated that would affect their impartiality;

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

25 (iii) use of a state-approved instrument for parent or student feed-  
26 back; and/or

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

4 (4) A majority of these sixty points for building principals shall be  
5 based on a broad assessment of the principal's leadership and management  
6 actions based on the principal practice rubric by the building princi-  
7 pal's supervisor, a trained administrator or a trained independent eval-  
8 uator, with one or more visits conducted by the supervisor, and, for  
9 evaluations for the two thousand twelve--two thousand thirteen school  
10 year and thereafter, that such assessment must incorporate multiple  
11 school visits by a supervisor, a trained administrator or other trained  
12 evaluator, with at least one visit conducted by the supervisor and at  
13 least one unannounced visit. For the remaining portion of these sixty  
14 points for evaluations for the two thousand eleven--two thousand twelve  
15 school year, such regulations shall also prescribe the other forms of  
16 evidence of principal effectiveness that may be used consistent with the  
17 standards prescribed by the commissioner.

18 (5) For evaluations of building principals for the two thousand  
19 twelve--two thousand thirteen school year and thereafter, the remaining  
20 portion of these sixty points shall include, in addition to the require-  
21 ments of subparagraph three of this paragraph, at least two other sourc-  
22 es of evidence from the following options: feedback from teachers,  
23 students, and/or families using state-approved instruments; school  
24 visits by other trained evaluators; and/or review of school documents,  
25 records, and/or state accountability processes. Any such remaining  
26 points shall be assigned based on the results of one or more ambitious  
27 and measurable goals set collaboratively with principals and their  
28 superintendents or district superintendents as follows:

1 (i) at least one goal must address the principal's contribution to  
2 improving teacher effectiveness, which shall include one or more of the  
3 following: improved retention of high performing teachers, the corre-  
4 lation between student growth scores of teachers granted tenure as  
5 opposed to those denied tenure; or improvements in the proficiency  
6 rating of the principal on specific teacher effectiveness standards in  
7 the principal practice rubric.

8 (ii) any other goals shall address quantifiable and verifiable  
9 improvements in academic results or the school's learning environmental  
10 such as student or teacher attendance.

11 (6) The district or board of cooperative educational services shall  
12 establish specific minimum and maximum scoring ranges for each perform-  
13 ance level within this subcomponent before the start of each school year  
14 and shall assign points to a teacher or principal for this subcomponent  
15 based on the standards prescribed in the regulations of the commission-  
16 er, all in accordance with, and subject to, the requirements of para-  
17 graph j of this subdivision.

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

20 j. (1) The process by which points are assigned in subcomponents and  
21 the scoring ranges for the subcomponents must be transparent and avail-  
22 able to those being rated before the beginning of each school year. The  
23 process by which points are assigned in the respective subcomponents are  
24 to be determined as follows:

25 (i) For the state assessment or other comparable measures subcompo-  
26 nent, that process shall be formulated by the commissioner with the  
27 approval of the board of regents.

1 (ii) For the locally selected measures of the student achievement  
2 subcomponent, that process shall be established locally through negoti-  
3 ations conducted under article fourteen of the civil service law.

4 (iii) For the other measures of teacher and principal effectiveness  
5 subcomponent, that process shall be established locally through negoti-  
6 ations conducted under article fourteen of the civil services law.

7 (2) Such process must ensure that it is possible for a teacher or  
8 principal to obtain each point in the applicable scoring ranges, includ-  
9 ing zero, for the state assessment or other comparable measures subcom-  
10 ponent, the locally selected measures of student achievement subcompo-  
11 nent and the overall rating categories. The process must also ensure  
12 that it is possible for a teacher or principal to obtain each point in  
13 the scoring ranges prescribed by the district or board of cooperative  
14 educational services for the other measures of teacher and principal  
15 effectiveness subcomponent.

16 (3) The superintendent, district superintendent or chancellor and the  
17 president of the collective bargaining representative (where one exists)  
18 shall certify in its plan that the process will use the narrative  
19 descriptions of the standards for the scoring ranges provided in the  
20 regulations of the commissioner to effectively differentiate a teacher  
21 or principal's performance in each of the subcomponents and in their  
22 overall ratings to improve student learning and instruction.

23 (4) The scoring ranges for the other measures of teacher and principal  
24 effectiveness subcomponent shall be established locally through negoti-  
25 ations conducted under article fourteen of the civil service law.

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

1 k. Notwithstanding any other provision of law, rule or regulation to  
2 the contrary, by July first, two thousand twelve, the governing body of  
3 each school district and board of cooperative educational services shall  
4 adopt a plan, on a form prescribed by the commissioner, for the annual  
5 professional performance review of all of its classroom teachers and  
6 building principals in accordance with the requirements of this section  
7 and the regulations of the commissioner, and shall submit such plan to  
8 the commissioner for approval. The plan may be an annual or multi-year  
9 plan, for the annual professional performance review of all of its  
10 classroom teachers and building principals. The commissioner shall  
11 approve or reject the plan by September first, two thousand twelve, or  
12 as soon as practicable thereafter. The commissioner may reject a plan  
13 that does not rigorously adhere to the provisions of this section and  
14 the regulations of the commissioner. Should any plan be rejected, the  
15 commissioner shall describe each deficiency in the submitted plan and  
16 direct that each such deficiency be resolved through collective bargain-  
17 ing to the extent required under article fourteen of the civil service  
18 law. If any material changes are made to the plan, the school district  
19 or board of cooperative educational services must submit the material  
20 changes, on a form prescribed by the commissioner, to the commissioner  
21 for approval. To the extent that by July first, two thousand twelve, or  
22 by July first of any subsequent year, if all the terms of the plan have  
23 not been finalized as a result of unresolved collective bargaining nego-  
24 tiations, the entire plan shall be submitted to the commissioner upon  
25 resolution of all of its terms, consistent with article fourteen of the  
26 civil service law.

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



1 4. Notwithstanding any other law, rule or regulation to the contrary,  
2 upon rating a teacher or a principal as developing or ineffective  
3 through an annual professional performance review conducted pursuant to  
4 subdivision two of this section, the school district or board of cooper-  
5 ative educational services shall formulate and commence implementation  
6 of a teacher or principal improvement plan for such teacher or principal  
7 as soon as practicable but in no case later than ten school days after  
8 [the date on which teachers are required to report prior to] the opening  
9 of classes for the school year. Such improvement plan shall be consist-  
10 ent with the regulations of the commissioner and developed locally  
11 through negotiations conducted pursuant to article fourteen of the civil  
12 service law. Such improvement plan shall include, but need not be limit-  
13 ed to, identification of needed areas of improvement, a timeline for  
14 achieving improvement, the manner in which improvement will be assessed,  
15 and, where appropriate, differentiated activities to support a teacher's  
16 or principal's improvement in those areas.

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

19 5. a. An appeals procedure shall be locally established in each school  
20 district and in each board of cooperative educational services by which  
21 the evaluated teacher or principal may only challenge the substance of  
22 the annual professional performance review, the school district's or  
23 board of cooperative educational services' adherence to the standards  
24 and methodologies required for such reviews, pursuant to this section,  
25 the adherence to the regulations of the commissioner and compliance with  
26 any applicable locally negotiated procedures, as well as the school  
27 district's or board of cooperative educational services' issuance and/or  
28 implementation of the terms of the teacher or principal improvement

1 plan, as required under this section. Appeal procedures shall provide  
2 for the timely and expeditious resolution of any appeal under this  
3 subdivision. The specifics of the appeal procedure shall be locally  
4 established through negotiations conducted pursuant to article fourteen  
5 of the civil service law. An evaluation which is the subject of an  
6 appeal shall not be sought to be offered in evidence or placed in  
7 evidence in any proceeding conducted pursuant to either section three  
8 thousand twenty-a of this article or any locally negotiated alternate  
9 disciplinary procedure, until the appeal process is concluded.

10 b. Nothing in this section shall be construed to alter or diminish  
11 the authority of the governing body of a school district or board of  
12 cooperative educational services to grant or deny tenure to or terminate  
13 probationary teachers or probationary building principals during the  
14 pendency of an appeal pursuant to this section for statutorily and  
15 constitutionally permissible reasons other than the teacher's or princi-  
16 pal's performance that is the subject of the appeal.

17 c. Nothing in this section shall be construed to authorize a teacher  
18 or principal to trigger the appeal process prior to receipt of their  
19 composite effectiveness score and rating from the district or board of  
20 cooperative educational services.

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

23 9. a. The department shall annually monitor and analyze trends and  
24 patterns in teacher and principal evaluation results and data to identi-  
25 fy school districts, boards of cooperative educational services and/or  
26 schools where evidence suggests that a more rigorous evaluation system  
27 is needed to improve educator effectiveness and student learning  
28 outcomes. The criteria for identifying school districts, boards of coop-

1 erative educational services and/or schools shall be prescribed in the  
2 regulations of the commissioner.

3 b. A school, school district or board of cooperative educational  
4 services identified by the department in one of the categories enumer-  
5 ated in paragraph a of this subdivision may be highlighted in public  
6 reports and/or the commissioner may order a corrective action plan,  
7 which may include, but not be limited to, requirements that the district  
8 or board of cooperative educational services arrange for additional  
9 professional development, provide additional in-service training and/or  
10 utilize independent trained evaluators to review the efficacy of the  
11 evaluation system, provided that the plan shall be consistent with law  
12 and not in conflict with any applicable collective bargaining agreement.

13 § 11. This act shall take effect immediately.