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To the Honorable Members of the Board of Regents:

The New York State Council of School Superintendents is grateful for the opportunity to present recommendations today at your “Learning Summit” on implementing the latest statutory changes to Annual Professional Performance reviews (APPR), our state’s system for teacher and principal evaluations.

You and the State Education Department professionals under your leadership, together with our members, must play a central role in implementing the changes the new law requires.

Your actions in promulgating regulations and guidance can help make a flawed law less damaging. As always, our members will play the pivotal role in translating policies enacted for our whole state into practices that can serve each of the diverse communities comprising our state. Senator Charles Schumer once referred to superintendents as “the shock absorbers of the system.” Superintendents mediate between state demands and local concerns. They are the leaders first held accountable for faithful and effective implementation of state policies.

I. The Purposes of an Evaluation System

It is always best to begin with the end in mind. Why do we conduct teacher and principal evaluations? Not to pin numbers on educators or to sort them into categories. The real purpose is to improve teaching and school leadership, with the ultimate aim of helping more children learn more.

Speaking at one of our conferences, teacher effectiveness expert Charlotte Danielson concisely explained how evaluations can help improve teaching and school leadership: First, by producing information that can aid districts in making sound personnel decisions – whom to grant tenure to, to promote, or to dismiss. Second, by giving educators information to help them improve their daily practice. The second purpose has more impact, because few teachers are subject to formal personnel decisions in any year, while all can improve their practice every year.

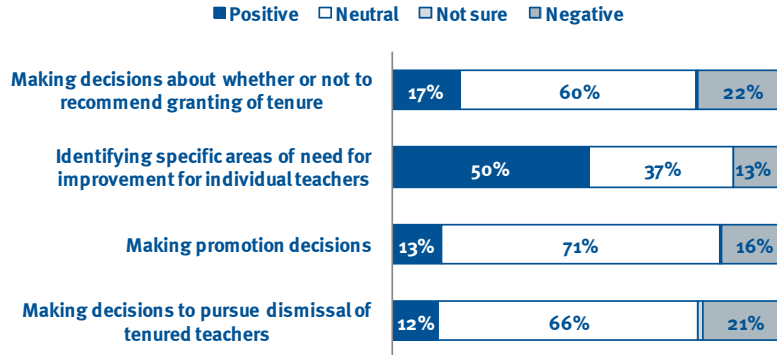
Our surveys as well as anecdotal exchanges indicate that superintendents, at best, are withholding judgment on the value of the current APPR system for making formal personnel decisions. A common perception is that the system produces too many false positives *and* false negatives – weak teachers rated strong and good teachers rated poor.

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On the other hand, the system does seem to be providing some value to efforts to improve instruction.

Impact of APPR in making employment decisions about teachers

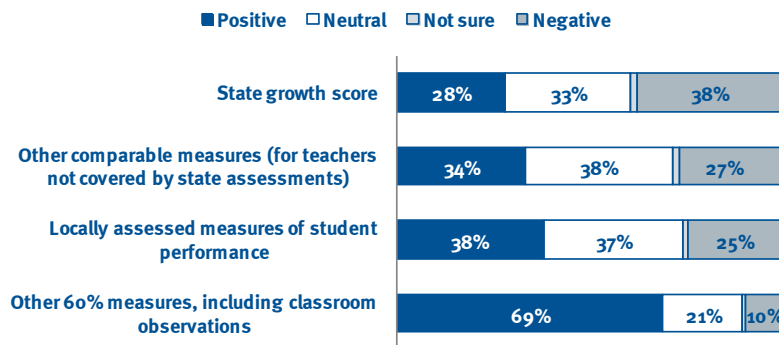


SOURCE: NYS Council of School Superintendents survey, July 2014

Related, superintendents report that the current “other 60 percent measures” are yielding some value. Over half the points for these measures derive from principal-led classroom observations. In our survey, 69 percent of superintendents said this component is having a positive impact on efforts to improve teaching. Over and over again, superintendents say that the state’s requirements sparked productive discussions within schools that led to teachers and administrators “getting on the same page” about how to recognize good instruction. They add that their schools are also conducting classroom observations with more care and gaining more value from them as a result.

In contrast, no more than 38 percent of superintendents see any of the current student performance based measures having any positive effect. A common perception is that APPR helped ignite concerns about excessive testing and contributed to the sense that standardized test results play far too large a role in ascribing value to the work being done by schools, teachers and students.

Impact of specific APPR components on improving teaching



SOURCE: NYS Council of School Superintendents survey, July 2014

Regrettably, by prohibiting the use of some elements now in the “other 60 percent” measures and by mandating use of independent observers, the new law is likely to damage the one part of APPR that seems to have been working.

Further, by the particular construction of the matrix enacted into law, the latest changes amplify the state’s over-emphasis on standardized test results. This sense likely contributed some to the surge in “opt-outs” our schools experienced with last month’s grades 3 through 8 assessments.

II. Goals to Guide Change

In attempting to influence legislative action on APPR changes, we stressed that an over-arching goal should be to define a system that could create a “fork in the road.” It should help successful teachers become even more effective while putting inferior teachers on a structured path toward improvement or removal. Several of the reforms enacted to streamline the discipline process for tenured personnel will help with the latter element. The clarification of the authority of districts to dismiss probationary educators will also assist.

We also recommended five more specific objectives to guide action:

1. Maximize value of the evaluations as a tool for improving instruction and school leadership.
2. Improve the soundness of individual results so that they are seen as a fair and reliable tool in making formal employment decisions.
3. Streamline administrative demands of the system to enable leaders and teachers to devote their time to other priority responsibilities.
4. Reduce the impact of system in creating needs for student testing and in contributing to an over-emphasis on standardized test results as a “gold standard” for gauging the performance of students, educators, schools, and districts.
5. Avoid or minimize the need for additional local collective bargaining to implement changes in state requirements.

These goals remain pertinent to the tasks now before us. We would add two others: preserve as much of the good of the current system as we can while striving to minimize the damaging effects of the new law as much as its constraints will allow.

Now we will turn to offering specific recommendations.

III. November 15 Deadline and State Aid Threat

A popular definition of insanity is to repeatedly pursue the same course of action and expect a different result. Many of the defects of the current APPR system derive from the original mandate upon districts to negotiate APPR plans with their local unions and gain Department approval by January 17, 2013, or lose eligibility for state aid increases. The new law requires school districts to repeat that exercise, only faster, with a November 15 deadline and with the complete rules to guide local plans not to be known until you approve regulations in June.

SUMMARY OF RECOMMENDATIONS

November 15 Deadline and State Aid Threat

- We urge the broadest possible granting of an extension of the November 15 deadline. If “hardship” criteria are to be applied, we recommend including as criteria considerations related to the status of collective bargaining. Examples could include having an expired or soon to expire collective bargaining agreement, or being engaged in impasse proceedings before the Public Employment Relations Board.

Simplifying and Improving the Review and Approval Process

- Regulations should limit the need for any new local negotiations to those items expressly required by the new law and allow districts to leave in place elements of existing APPR plans that are unaffected by the latest round of changes. These could include, for example, appeals procedures and Teacher/Principal Improvement Plans.
- Streamline both the plan development and approval process by the Department to promulgate either a complete “default” APPR plan based on research-based and widely recognized best practices which districts could elect, averting the need for thorough review by the Department, or at least specific default elements which districts could indicate they will employ, sparing the need for detailed review of those items.
- A compelling action would be the adoption of a complete default plan which would be automatically implemented should a school district not be able to reach agreement on other plan elements by whatever deadline is specified. This would ensure that no district or union could be held hostage to external negotiations and that all districts would make the deadline for the purpose of securing state aid. This action would ensure that no students are denied resources due to the disagreements of adults.

Observations Category

- Interpret the law to require district plans to assure a capacity to complete independent observations, but avoid mandating them for every teacher, every year. Independent observations could be required for teachers rated Ineffective more than once or teachers with an Improvement Plan, or mandated for all teachers once every three years, or done on a sample basis as a tool for reviewing a district’s observation practices.
- If independent observations are to be required for all teachers, we urge ample flexibility. For example, it should be permissible for curriculum coordinators, special education directors, other administrators, and teacher peers to contribute observations that would be considered by the principal in determining an observation score. Regulations might also authorize focused independent observations, assessing targeted aspects of teacher practice, with a corresponding diminution of any weight given to such observations.
- We urge the Department to permit districts to continue to use all currently approved rubrics. We also urge an interpretation of the law to allow the continued use of rubric elements that relate to observable elements of professional practice, such as effective development and use of lesson plans, for example.
- We recommend districts be given flexibility to permit a range of options in setting the duration and frequency of observations. The minimum number of required observations should be one (or two if an independent observation is to be required for every teacher). Regulations should

allow a mix of scheduled and unannounced observations, both short and long, and should permit some variation based on tenure status and past evaluation results.

Weights and Scoring Ranges

- We urge you to work with psychometricians externally and internally to derive a fair and reasonable weight to these measures. We would urge you calculate scoring ranges for the performance categories so as to lessen the value placed on student performance in relation to measures of observable professional practice.
- Additionally, to the extent that Student Learning Objectives (SLOs) are used to calculate growth scores (for those not in state-tested subjects), the option for school districts to utilize schoolwide or group-wide measures must continue to be available. Again, we recommend some schoolwide measures be promulgated as default options for districts to elect, to aid in streamlining the review and approval process.
- We recommend minimizing any weight given to independent observations in relation to those done by principals in determining the complete rating from the observation category. We recommend, also, that districts be permitted to focus independent observations on particular aspects of teaching practice, with a corresponding limit on the weight given to such observations.

Prohibition Against Assigning an Ineffective Teacher Two Consecutive Years

- The prohibition against assigning a student an ineffective teacher two consecutive years presents complex administrative challenges, particularly for small schools and districts. Waivers should be made available to school districts based upon size and distribution of staffing on a case-by-case basis, as the statute allows, in accordance with this recognition.

APPR for Administrators

- The law should not be interpreted to require independent observations for every principal every year. Independent observations could be required for principals based on tenure status or past results. If generally required, school districts with already limited administrative capacity should be able to apply for a waiver from the independent evaluator requirement. We also recommend maintaining the status quo of the evaluation system for principals to the maximum extent the new law will allow. Further, as with teachers, the regulations should permit variation in the overall observation process based upon tenure status or prior results.

The original aid threat deadline compelled many districts to make concessions on APPR or collective bargaining agreements or both. We have already heard from superintendents who report their local unions threaten there will be no discussions on a new APPR agreement without contract concessions first.

Again, we are being asked to repeat the process that created many of the current system's defects – and do it faster. It is common for unions to be unwilling and unavailable to conduct negotiations during the summer months, meaning many districts will be unable to commence negotiations until after Labor Day (September 7th) – past the date the Department prescribed for submission of plans.

Anything worth doing at all is worth doing well. APPR changes reverberate in every classroom of our state. For the sake of students they should be developed and executed with respectful care.

For these reasons and others, we urge the broadest possible granting of an extension of the November 15 deadline.

If “hardship” criteria are to be applied, we recommend including as criteria considerations related to the status of collective bargaining such as having an expired or soon to expire collective bargaining agreement, or being engaged in impasse proceedings before the Public Employment Relations Board.

IV. Simplifying and Improving the Review and Approval Process

There are actions that should be taken to simplify and expedite the review and approval process. These could help make any deadline more manageable.

As one step, the regulations should limit the need for any new local negotiations to those items expressly required by the new law and allow districts to leave in place elements of existing APPR plans that are unaffected by the latest round of changes. These could include, for example, appeals procedures and Teacher/Principal Improvement Plans.

Another action which would streamline both the plan development and approval process by the Department would be to promulgate either a complete “default” APPR plan based on research-based and widely recognized best practices which districts could elect, averting the need for thorough review by the Department, or at least specific default elements which districts could indicate they will employ, sparing the Department from reviewing those items.

A compelling action would be the adoption of a complete default plan which would be automatically implemented should a school district not be able to reach agreement on other plan elements by any deadline that is put in place. This would ensure that no district or union could be held hostage to external negotiations and that all districts would make the deadline for the purpose of securing state aid. This action would ensure that no students are denied resources due to the disagreements of adults.

V. Observations Category

As we have explained, the current “other 60 percent measures” are seen by superintendents and others as having produced real and positive effects on what happens in classrooms across the state, leading to improvements in daily instruction. The new law threatens to ruin this accomplishment in public policy.

A. Flexibility on Independent Observations

The primary concern is the requirement that evaluations include independent observations – observations of teachers by someone other than their principal and from outside their school. As one of our members wrote, “The relationship between the teacher and the principal is the one that fosters change and growth. The relationship is vital to the success of all learners.”

Another of our members wrote of his experience with Kim Marshall, author of one of the most commonly used evaluation rubrics in this state. He said Mr. Marshall notes that if a teacher has five or six classes, that would provide between 900 to 1,000 occasions for observation in a 180-day year. A principal might have knowledge of 200 to 300 of those occasions, from direct observation or other interactions. Our member asked,

How can we put significant weight on a single visit of the independent evaluator when the teacher is engaged professionally on many different levels with a principal? How can the independent evaluator have knowledge and more importantly evidence of the work with stakeholders, assessments and professional growth of a teacher? Evaluation is about feedback and accountability, not on how to derive a score.

Requiring independent evaluators also imposes a costly and complex mandate upon schools, one which small and poor districts would find impossible to comply with at a reasonable cost. Given the dubious value of these independent observations, it makes little sense to expect these districts to cross-contract and employ each other’s principals to complete them. These outside principals will have limited perspective on the challenges and priorities of the schools they are visiting, and the time they spend on these observations will be time spent away from the priorities of their own schools, including engaging with families, for example.

We also note that currently special education administrators, curriculum coordinators, teacher peers, and others may observe colleagues and contribute to the final evaluation written by a principal or administrator. Requiring a specific weight on these types of observations toward an independent evaluation could discourage sound, accepted practices. Teachers, in particular, might resist the awkward position of attributing a numerical value to a colleague’s work as part of a formal evaluation.

For all the foregoing reasons, we urge an interpretation of the law to require district plans to assure a capacity to complete independent observations, but avoid mandating them for every teacher (maintaining a “fork in the road,” as previously discussed). Independent observations could be required for teachers rated Ineffective more than once or teachers

with an Improvement Plan, or mandated for all teachers once every three years, or done on a sample basis as a tool for reviewing a district's observation practices.

If independent observations are to be required for all teachers, we urge ample flexibility. For example, it should be permissible for curriculum coordinators, special education directors, other administrators, and teacher peers to contribute observations that would be considered by the principal in determining an observation score. Regulations might also authorize focused independent observations, assessing targeted aspects of teacher practice, with a corresponding diminution of any weight given to such observations.

B. Rubrics

A second reason for our fear that the new law will undermine the gains the current “other 60 percent measures” have yielded for some districts derives from the list of items that are now to be prohibited from inclusion in evaluation subcomponents. Some of these items contribute critical evidence of effective teaching, including lesson planning, goal setting, and survey feedback.

Also, their forced exclusion would mean that virtually every currently approved rubric could not continue in use without some changes. Forcing changes to these rubrics would both damage their value and demand new local efforts and negotiations to revise them. The latter would compound the challenges of meeting a November 15 approval deadline.

Importantly, we read the law as excluding use of these prohibited elements as evidence of student development and performance, but not where used as evidence of good instructional and professional practice. *We urge the Department to permit districts to continue to use all currently approved rubrics. We also urge an interpretation of the law to allow the continued use of rubric elements that relate to observable elements of professional practice, such as effective development and use of lesson plans, for example.*

C. Frequency and duration

We recommend districts be given flexibility to permit a range of options in setting the duration and frequency of observations. The minimum number of required observations should be one (or two if an independent observation is to be required for every teacher). Regulations should allow a mix of scheduled and unannounced observations, both short and long, and should permit some variation based on tenure status and past evaluation results.

VI. Weights and Scoring Ranges

The law requires the Department to adopt regulations defining the weights to be given to the various subcomponents contributing to the category ratings for student performance and observations, and to define scoring ranges for the categories and subcomponents. The law also calls for the Department to define parameters for an optional second student performance measures and to set permissible growth targets for the student performance measures.

As we explained at the outset, we believe APPR has contributed to our current turmoil over testing, by initially increasing the volume of student testing and more by distorting the purposes of assessment.

One of our members has written,

...I have never met a student who did not want to know how well they were doing, a parent who did not want to know how their child was progressing, or a teacher who did not find assessment to be a critical and integral part of the instructional process. Teachers teach but they know that what counts is whether students learned. Assessment measures the latter to inform the former. Furthermore, I have never worked with a teacher or principal who did not expect student performance to be a critical part of the evaluation process. They expect to discuss how well their students did and reflect on what they could do to make their efforts to improve student learning more efficient and effective.

He added,

Assessment on the grades 3-8 level has become increasingly detached from the instructional process. To meet the needs of 0-20 calculations by the state, tests are now given three months before the end of the school year, meaning that the last three months are not assessed until the spring of the following school year. On the other hand test results are not available for use by parents, teachers or schools until the following fall so they do not inform any of the end-of-the- year discussions between parents and teachers or among school staff during the spring and summer regarding the instructional needs of students for the next school year. Furthermore, they cannot be part of any end-of-the- year discussions between teachers and administrators regarding performance that year.

...Just as Charlotte Danielson said that the purpose of her rubric (well supported by research) was reflection and discussion for the benefit of instructional improvement – not the creation of a score – so too was student achievement data a topic of serious reflection and discussion between teachers and administrators – not the creation of scores. APPR weighs heavily on that.

Testing has become a political battleground and APPR has contributed to that development. Rational discussion, even among well-intentioned people, has become difficult or impossible. Federal law is a factor as well, mandating testing of every student, every year in ELA and math between third and eighth grades, while also complicating movement toward online adaptive testing, which could give schools and families better information, faster and with shorter tests.

Too often in recent years, the needs of the state accountability system have overwhelmed consideration of the contributions of assessment toward instructional improvement. In practice, these decisions have most often worked to the detriment of both concerns.

Sadly, the latest round of APPR law changes compounds those mistakes. Our organization supported consideration of a matrix model as one option for a revised APPR system. But we supported leaving to experts the assignment of deciding what student performance measures to use and what consequences should flow from each combination of ratings a teacher receives. Given all its details, the matrix enacted into law risks compelling that excessive weight will be given to standardized test results for teachers covered by state tests.

Massachusetts, by comparison, utilizes a “matrix” with two axes, but in that state, professional practice measures have wider impact; student performance measures chiefly affect the determination of goal-setting plans for teachers.

As Regents, your ability to mitigate those effects to any degree draws chiefly from your responsibility to prescribe weights and scoring ranges for the factors going into the matrix.

We urge you to work with psychometricians externally and internally to derive a fair and reasonable weight to these measures. We would urge you calculate scoring ranges for the performance categories so as to lessen the value placed on student performance in relation to measures of observable professional practice.

Additionally, to the extent that Student Learning Objectives (SLOs) are used to calculate growth scores (for those not in state-tested subjects), the option for school districts to utilize schoolwide or group-wide measures must continue to be available. Again, we recommend some schoolwide measures be promulgated as default options for districts to elect, to aid in streamlining the review and approval process. Many districts have used schoolwide measures to reduce the volume of testing students are subjected to efforts to comply with APPR mandates.

Above, we have recommended steps to minimize the burden independent observations would create. We also recommend minimizing any weight given to these observations in relation to those done by principals in determining the complete rating from this category. Again, we also recommended that independent observations might be limited to focus on particular aspects of teaching practice, with a corresponding limit on the weight given to such observations.

VII. Prohibition Against Assigning an Ineffective Teacher in two Consecutive Years

Prohibiting assignment of a student in any two consecutive years to teachers rated “ineffective,” while admirable, is not always possible in every situation. In many small school districts, this may not be possible. In cases where students change classrooms several times throughout the day, there is an increased likelihood of this crossover becoming unavoidable. Add to this the fact that ratings for individual teachers for the previous school year do not come out until after the beginning of the next school year, making it impossible to know if a student was previously placed with or will be placed with an ineffective teacher. These factors complicate faithful execution of the new law.

While there is an express process for school districts to obtain a waiver from this requirement, we understand the sensitivity to granting abundant waivers. But we also note that other provisions enacted with the new budget make it less likely a student will be assigned truly bad teachers – by clarifying the authority of districts to dismiss probationary teachers and streamlining procedures for removing tenured teachers who have proven unfit for the classroom.

It should be recognized by the Board of Regents that the nature of the conflicts raised above could result in many waivers; this should be acceptable understanding the constraints that school districts face in both resources and laws governing staff management. It is recommended that waivers be made available to school districts based upon size and distribution of staffing on a case-by-case basis, as the statute allows, in accordance with this recognition.

VIII. APPR for Administrators

While occupying a very simple sentence within the new law, the issue of evaluating principals is extremely important and uniquely different than evaluating teachers. While schools have many teachers in many different subject areas, they usually have relatively few administrators. Further, these building administrators are not providing front-line instruction to students, but are managing staffing, scheduling, compliance, discipline, security and any other issues that may arise within a school building on a given day. On top of this, they are also performing observations of teachers as part of the current APPR law, and could now be expected to conduct independent evaluations of staff they with whom they have no experience.

The most problematic function of applying the teacher evaluation system to principals lies with the use of independent evaluators. In some cases, there are no other qualified administrators within a school district to evaluate the principal, in others the district may already share a superintendent or have a joint superintendent/principal, making these observations impracticable. If, as we suggest above for teachers, the Board of Regents chooses to limit use of independent evaluators, this becomes less problematic for some districts, however a waiver process should be formulated.

The law should not be interpreted to require independent observations for every principal every year. Independent observations could be required for principals based on tenure status or past results. If generally required, school districts with already limited administrative capacity should be able to apply for a waiver from the requirement. We also recommend maintaining the status quo of the evaluation system for principals to the maximum extent the new law will allow. Further, as with teachers, the regulations should permit variation in the overall observation process based upon tenure status or prior results.

IX. Conclusion

Our members are the “implementers-in-chief.” Superintendents are the leaders who must collaborate with all groups and seek common ground among their respective interests. Every moment of their work is focused on students as well as the interests of teachers, school and district administrators, parents, and local communities. Their allegiance is to children and

learning and then to all groups, not one alone. They translate law and policy and connect theory to practice.

As school superintendents, we call upon you apply the new law to permit your agency and our schools the time and flexibility to maximize our opportunities to advance learning by students, professional growth for educators, and accountability to the public.

