



## APPR UPDATE

### Appeals Process

June 2012

#### **B A C K G R O U N D**

The revised law continues to require collective bargaining on the important element of appeals as did the original legislation (Chapter 103 of the Laws of 2010). Districts are well advised, if they have not already, to begin discussions with both teachers' and principals' associations, regardless of when the respective labor agreements expire with respect to this important aspect of APPR.

#### **I S S U E S**

Pursuant to the Chapter Laws of 2012 and the regulations adopted by the Board of Regents on March 20, 2012, an appeals process for both teachers and principals must be mutually agreed to through the collective bargaining process. The 2012 law and regulations have not significantly changed this process from the original 2010 legislation.

#### **C O N S I D E R A T I O N S**

It is recommended that the following are "non-negotiable" when bargaining appeals language:

1. Evaluation appeals should be limited to "ineffective" evaluation ratings only. Considering what appears to be a system that will result in a significant number of "developing" composite scores, limiting the right to appeals for only those teachers and principals determined to be "ineffective" is critical to the management of this new mandate.
2. All appeals should commence with the evaluator and end with the superintendent of schools, or her/his designee. The superintendent should be the final determiner of all appeals and labor/management committees should be avoided. The superintendent's (or designee) decision should be final and binding.

\*Please consult with your district's attorney; nothing herein constitutes legal advice

## **C O N S I D E R A T I O N S / R E C O M M E N D A T I O N S**

3. The appeals process should be based only on the written record. If possible, negotiate an appeals process that is based on a paper submission. There should be no hearing or witnesses.
4. The appeals process should not be subject to the grievance or other dispute resolution processes included in locally negotiated collective bargaining agreements.
5. The rating of a principal on his or her own APPR should not be admissible as a basis for a teacher to appeal his or her own evaluation. The fact that a principal was rated less than effective should not be a consideration in appeals of a teacher's evaluation completed by that principal.
6. Use caution if agreeing to a panel for appeal decisions. If agreeing to a panel, have the panel's recommendation be just that, a recommendation only. Make sure the final decision always rests with the superintendent or designee.
7. Be prepared to explain to parents why their children are being placed with teachers receiving ratings that are "ineffective" or "developing."

## **M O D E L A P P E A L S P R O C E S S E S**

SED will be posting approved APPR plans on their site as soon as practicable. Superintendents are encouraged to contact the district of origin for answers to questions of content, implementation and collective bargaining histories.