



APPR UPDATE

Collective Bargaining

June 2012

BACKGROUND

The 2012 revisions to the APPR law continue to require collective bargaining on most elements 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.

ISSUES

Pursuant to the Chapter Laws of 2012 and the regulations adopted by the Board of Regents on March 20, 2012, new Subpart 30-2 of the Regulations of the Commissioner of Education effective April 4, 2012, the following elements of the APPR are subject to negotiation:

1. If the Commissioner finds deficiencies in the plan submitted by the District or BOCES and rejects the plan, each deficiency must be resolved through collective bargaining to the extent required under Article 14 of the Civil Service Law (Section 30-2.3 of the Commissioner's Regulations).
2. The selection of the local measure (the 2nd subcomponent worth 20 points) shall be determined through collective bargaining (Section 30-2.4 of the Commissioner's Regulations).
3. The process for assigning points to the locally selected measures and the other measures (3rd subcomponent worth 60 points) of teacher and principal effectiveness shall be transparent and available and established locally through negotiations conducted under Article 14 of the Civil Service Law (Section 30-2.6 of the Commissioner's Regulations).
4. The format for Teacher Improvement Plans (TIPs) and Principal Improvement Plans (PIPs) for teachers and principals shall be negotiated. Such improvement plans shall be developed locally through negotiations pursuant to Article 14 of the Civil Service Law (Section 30-2.10 of the Commissioner's Regulations).
5. The appeals process shall be locally established through negotiations conducted pursuant to Article 14 of the Civil Service Law (Section 3012-c(5) of the Education Law and Section 30-2.11 of the Commissioner's Regulations).

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

I S S U E S – C O N T I N U E D

6. The process of creating an approvable APPR must ensure that it is possible to obtain each point in the scoring ranges, including zero, for each subcomponent and the overall ratings in the Composite Effectiveness Score (CES). The superintendent and the president of the collective bargaining unit must negotiate and certify in the APPR plan that the process for assigning points will use the narrative description for each rating category (Section 30-2.6 of the Commissioner's Regulations).
7. The Other Measures of teacher and principal effectiveness (total of 60 points), including the scoring rubric, shall be locally developed within certain parameters set forth under the Education Law, through negotiations conducted pursuant to Article 14 of the Civil Service Law (Section 3012-c(2)(h) of the Education Law and Sections 30-2.5 and 30-2.7 of the Commissioner's Regulations).

Performance reviews shall be a significant factor in teacher and principal development, including but not limited to, coaching, induction support and differentiated professional development, which are to be locally established in accordance with the procedures negotiated pursuant to the requirements of Article 14 of the Civil Service Law (Section 3012-c(1) of the Education Law). NOTE: This provision was added to the new laws.

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

1. Keep negotiations on the APPR process separate from CBA negotiations. This is permissible and language can be added to the CBA indicating that a completed APPR will be developed. Do not bargain other terms and conditions of employment in exchange for APPR language. Seek legal advice for further guidance on this point.
2. Evaluate what has been achieved already under the existing APPR statute and regulations.
3. Compare and list what needs to be adjusted given the new law.
4. Check legal alerts as new regulations and guidelines are issued and interpreted.
5. According to statute, the APPR plan must be adopted by the Board of Education and submitted to the Commissioner for approval on or before July 1, 2012. Thus, make every attempt to submit your plan to SED by July 1. If your plan has not yet been fully negotiated, submit your plan as soon as practical thereafter upon the conclusion of your negotiations.
6. Your plan must be approved by SED no later than January 17, 2013 or you will lose any increase in state aid received over the previous year. We suggest submitting your plan no later than sometime in October to ensure its approval and to allow adequate time for corrections, if needed.
7. SED has yet to take a position on the applicability of *Wappingers* as it applies to your plan submission and receipt of any increase in state aid. It is likely that issue will be addressed by the courts and/or PERB. Please consult with your district's attorney on how the imposition of an APPR plan, under *Wappingers*, will affect your plan submission to SED and your receipt of any increases in state aid. We will keep you informed of any developing legal doctrine on this issue.