AMENDMENT TO THE RULES OF THE BOARD OF REGENTS AND THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 215, 305, 3012-c of the Education Law and Chapter 21 of the Laws of 2012.

1. The emergency action taken at the March 19-20, 2012 meeting of the Board of Regents, which amended subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education and added a new Subpart 30-2 of the Rules of the Board of Regents, is repealed, effective April 24, 2012.

2. Paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education is repealed, effective April 24, 2012.

3. Paragraph (2) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education is renumbered paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education, effective April 24, 2012.

4. Subparagraph (ii) of renumbered paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective April 24, 2012, to read as follows:

(ii) Annual review. The governing body of each school district and BOCES shall ensure that the performance of all teachers providing instructional services or pupil personnel services, as defined in section 80-1.1 of this Title, is reviewed annually <u>in accordance with this subdivision</u>, except evening school teachers of adults enrolled in nonacademic, vocational subjects; and supplementary school

personnel, as defined in section 80-5.6 of this Title, and any classroom teacher subject to the evaluation requirements prescribed in Subpart 30-2 of this Title.

5. Subclause (1) of clause (a) of subparagraph (iv) of renumbered paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective April 24, 2012, to read as follows:

(1) Except as otherwise provided in subparagraph (o)(1)(ii) of this subdivision, [By] by September 1, 2011, the governing body of each school district and BOCES shall adopt a plan, which may be an annual or multi-year plan, for the annual professional performance review of its teachers providing instructional services or pupil personnel services, as defined in section 80-1.1 of this Title, that meets the content requirements prescribed in clause (b) of this subparagraph.

6. Subparagraphs (v) through (vii) of renumbered paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education shall be renumbered subparagraphs (vi) through (viii) of renumbered paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education, effective April 24, 2012.

7. A new subparagraph (v) of renumbered paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education shall be added, effective April 24, 2012, to read as follows:

(v) Performance review of principals. The governing body of each school district shall annually review the performance of all building principals, as defined

in Subpart 30-2 of this Title, according to procedures developed by such body in consultation with such building principals. Such procedures shall be filed in the district office and available for review by any individual no later than September 10th of each year.

8. Clause (b) of renumbered subparagraph (viii) of renumbered paragraph (1) of subdivision (o) of section 100.2 shall be repealed, effective April 24, 2012.

9. The title of Part 30 of the Rules of the Board of Regents is amended, effective April 24, 2012, to read as follows:

Part 30

[TENURE] TENURE AREAS AND ANNUAL PROFESSIONAL PERFORMANCE REVIEWS FOR CLASSROOM TEACHERS AND BUILDING PRINCIPALS

10. A new Subpart 30-2 is added, effective April 24, 2012, to read as follows:

Subpart 30-2 Annual Professional Performance Reviews of Classroom Teachers and Building Principals.

§30-2.1. Applicability.

(a) For annual professional performance reviews conducted by school districts for the 2011-2012 school year, the governing body of each school district shall ensure that:

(1) reviews of all classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals of schools in which such teachers are employed are

conducted in accordance with the requirements of section 3012-c of the Education Law and the provisions of this Subpart; and

(2) reviews of classroom teachers and building principals (other than classroom teachers in the common branch subjects or English language arts or mathematics in grades four to eight or the building principals in which such teachers are employed) are conducted in accordance with subdivision (o) of section 100.2 of this Title.

(b) For annual professional performance reviews conducted by school districts or BOCES in the 2012-2013 school year and any school year thereafter, the governing body of each school district and BOCES shall ensure that the reviews of all classroom teachers and building principals are conducted in accordance with the requirements of section 3012-c of the Education Law and the provisions of this Subpart.

(c) Nothing in this Subpart shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on July 1, 2010 during the term of such agreement and until entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement, all the provisions of this Subpart shall apply.

(d) Annual professional performance reviews of classroom teachers and building principals conducted pursuant to this Subpart shall be a significant factor for employment decisions, including but not limited

to, promotion, retention, tenure determinations, termination and supplemental compensation, in accordance with Education Law §3012-c(1). Nothing herein shall be construed to affect the statutory right of a school district or BOCES to terminate a probationary teacher or principal for statutorily and constitutionally permissible reasons other than the performance of the teacher or principal in the classroom or school, including but not limited to misconduct.

(e) Nothing in this Subpart shall be construed to preclude a school district or BOCES from adopting an annual professional performance review for the 2011-2012 school year that applies to all classroom teachers and building principals in accordance with this Subpart or for BOCES, for classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals in which such teachers are employed.

§30-2.2 Definitions. As used in this Subpart:

(a) Approved teacher or principal practice rubric shall mean a rubric approved by the Commissioner for inclusion on the State Education Department's list of approved rubrics in teacher or principal evaluations.

(b) Approved student assessment shall mean a standardized student assessment approved by the Commissioner for inclusion in the State Education Department's lists of approved standardized student assessments for the locally selected measures subcomponent and/or to

measure student growth in non-tested subjects for the State assessment or other comparable measures subcomponent.

(c) Building principal or principal shall mean a principal or co-principal of a registered public school or an administrator in charge of an instructional program of a school district or board of cooperative educational services.

(d) Classroom teacher or teacher shall mean a teacher in the classroom teaching service as that term is defined in section 80-1.1 of this Title, who is a teacher of record as defined in this section, except evening school teachers of adults enrolled in nonacademic, vocational subjects, and supplemental school personnel as defined in section 80-5.6 of this Title.

(e) Common branch subjects shall mean common branch subjects as defined in section 80-1.1 of this Title.

(f) Composite effectiveness score shall mean the total effectiveness score out of 100 points assigned to a teacher or principal for an evaluation conducted pursuant to this Subpart. This score shall be calculated based on the sum of the three subcomponent scores described below:

(1) student growth on State assessments or other comparable measures: (0-20 points for the 2011-2012 school year and in subsequent school years for those grades/subjects where there is no value-added growth model approved by the Board of Regents, and 0-25 points for the 2012-2013 school year and

thereafter for those grades/subjects where a value-added growth model is approved by the Board of Regents);

(2) locally selected measures of student achievement (0-20 points for the 2011-2012 school year and in subsequent school years for those grades/subjects where there is no value-added growth model approved by the Board of Regents, and 0-15 points for the 2012-2013 school year and thereafter for those grades/subjects where a value-added growth model is approved by the Board of Regents); and

(3) other measures of teacher and principal effectiveness (0-60 points for the 2011-2012 school year and thereafter).

(g) Co-principal means a certified administrator under Part 80 of this Title, designated by the school's controlling authority to have executive authority, management, and instructional leadership responsibility for all or a portion of a school or BOCES-operated instructional program, in a situation in which more than one such administrator is so designated. The term co-principal implies equal line authority, with each designated administrator reporting to a district-level or comparable BOCES-level supervisor.

(h) Developing means a rating received by a teacher or building principal, wherein the teacher or principal receives a composite effectiveness score within the minimum and maximum scoring range for this rating category as prescribed by the Commissioner in section 30-2.6 of this Subpart.

(i) Effective means a rating received by a teacher or building principal, wherein the teacher or building principal receives a composite effectiveness

score within the minimum and maximum scoring range for this rating category as prescribed by the Commissioner in section 30-2.6 of this Subpart.

(j) Evaluator shall mean any individual who conducts an evaluation of a classroom teacher or building principal under this Subpart.

(k) Highly Effective means a rating received by a teacher or building principal, wherein the teacher or building principal receives a composite effectiveness score within the minimum and maximum scoring range for this rating category as prescribed by the Commissioner in section 30-2.6 of this Subpart.

(l) Ineffective means a rating received by a teacher or building principal, wherein the teacher or building principal receives a composite effectiveness score between the minimum and maximum scoring ranges for this rating category, as prescribed by the Commissioner in section 30-2.6 of this Subpart.

(m) Lead evaluator shall mean the primary individual responsible for conducting and completing an evaluation of a classroom teacher or building principal under this Subpart. To the extent practicable, the building principal, or his or her designee shall be the lead evaluator of a classroom teacher in this Subpart.

(n) Leadership standards shall mean the Educational Leadership Policy Standards: ISLLC 2008 as adopted by the National Policy Board for Educational Administration (Council of Chief State School Officers, Washington DC, One Massachusetts Avenue, NW, Suite 700, Washington, DC 20001-1431; 2008-

available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, New York 12234).

(o) Student growth means the change in student achievement for an individual student between two or more points in time.

(p) Student growth percentile score shall mean the result of a statistical model that calculates each student's change in achievement between two or more points in time on a State assessment or other comparable measure and compares each student's performance to that of similarly achieving students.

(q) Subcomponents of the composite effectiveness score shall mean the three subcomponents of a teacher's or principal's evaluation and composite effectiveness score as described in subdivision (f) of this section.

(r) Teacher or principal student growth percentile score shall mean a measure of central tendency of the student growth percentile scores for a teacher's or principal's students after one or more of the following student characteristics are taken into consideration: poverty, students with disabilities and English language learners.

(s) Teacher(s) of record shall mean, for the 2011-2012 school year, those teachers who are primarily and directly responsible for a student's learning activities that are aligned to the performance measures of a course consistent with guidelines prescribed by the Commissioner. For the 2012-2013 school year and school years thereafter, teachers of record shall be defined in a manner prescribed by the Commissioner.

(t) Testing Standards shall mean the "Standards for Educational and Psychological Testing" (American Psychological Association, National Council on Measurement in Education, and American Educational Research Association; 1999- available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, New York 12234).

(u) The governing body of each school district shall mean the board of education of each school district, provided that, in the case of the City School District of the City of New York, it shall mean the Chancellor of the City School District of the City of New York or, to the extent provided by law, the board of education of the City School District of the City of New York and, in the case of BOCES, it shall mean the board of cooperative educational services.

(v) Value-added growth score shall mean the result of a statistical model that incorporates a student's academic history and may use other student demographics and characteristics, school characteristics and/or teacher characteristics to isolate statistically the effect on student growth from those characteristics that are generally not in the teacher's or principal's control. The characteristics included may be different for teachers and principals, based on empirical evidence and policy determinations.

§30-2.3 Requirements for annual professional performance review plans submitted under this Subpart.

(a) Applicability.

(1) By September 1, 2011, the governing body of each school district shall adopt a plan in accordance with the requirements of this Subpart for the annual professional performance review of its classroom teachers of common branch subjects, English language arts or mathematics in grades four to eight and building principals of schools in which such teachers are employed. To the extent that any of the items required to be included in the annual professional performance review plan are not finalized by September 1, 2011 as a result of pending collective bargaining negotiations, the plan shall identify those specific parts of the plan and the school district shall file an amended plan upon completion of such negotiations.

(2) By July 1, 2012, the governing body of each school district and BOCES shall adopt a plan, on a form prescribed by the Commissioner, for the annual professional performance review of all of its classroom teachers and building principals in accordance with the requirements of Education Law §3012-c and this Subpart, and shall submit such plan to the Commissioner for approval. The plan may be an annual or multi-year plan, for the annual professional performance review of all of its classroom teachers and building principals. The Commissioner shall approve or reject the plan by September 1, 2012, or as soon as practicable thereafter. The Commissioner may reject a plan that does not rigorously adhere to the provisions of Education Law §3012-c and the requirements of this Subpart. Should any plan be rejected, the Commissioner shall describe each deficiency in the submitted plan and direct that each such deficiency be resolved through collective bargaining to the extent required under

article fourteen of the Civil Service Law. If any material changes are made to the plan, the school district or BOCES must submit the material changes, on a form prescribed by the Commissioner, to the Commissioner for approval. To the extent that by July 1, 2012 or by July 1 of any subsequent year, if all of the terms of the plan have not been finalized as a result of unresolved collective bargaining negotiations, the entire plan shall be submitted to the Commissioner upon resolution of all of its terms, consistent with Article 14 of the Civil Service Law.

(3) Such plan shall be filed in the district or BOCES office, as applicable, and made available to the public on its web-site no later than September 10th of each school year, or within ten days after its approval by the Commissioner, whichever shall later occur.

(b) Content of the Plan. The annual professional performance review plan shall:

(1) describe the school district's or BOCES' process for ensuring that the Department receives accurate teacher and student data, including enrollment and attendance data and any other student, teacher, school, course and teacher/student linkage data necessary to comply with this Subpart, in a format and timeline prescribed by the Commissioner. This process shall also provide an opportunity for every classroom teacher and building principal to verify the subjects and/or student rosters assigned to them;

(2) describe how the district or BOCES will report to the Department the individual subcomponent scores and the total composite effectiveness score for

each classroom teacher and building principal in the school district or BOCES, in a format and timeline prescribed by the Commissioner;

(3) describe the assessment development, security, and scoring processes utilized by the school district or BOCES. Such processes shall ensure that any assessments and/or measures used to evaluate teachers and principals under this section are not disseminated to students before administration and that teachers and principals do not have a vested interest in the outcome of the assessments they score;

(4) describe the details of the school district's or BOCES' evaluation system, which shall include, but not be limited to, the local measures of student achievement that will be used for the evaluation of teachers and principals, the name of the approved teacher and/or principal practices rubric that the district or BOCES uses or evidence that a variance has been granted from this requirement, any other instruments (such as observations, surveys, self-assessment, portfolios) that will be used to evaluate a teacher's or principal's performance for the remaining 60 points of the evaluation, and the district's or BOCES' scoring methodology for the assignment of points to the following subcomponents: locally selected measures of student achievement and other measures of teacher or principal effectiveness;

(5) describe how the school district or BOCES will provide timely and constructive feedback to classroom teachers and building principals on their annual professional performance review;

(6) describe the appeal procedures that the district or BOCES is using under section 30-2.11 of this section; and

(7) include any required certifications to be included in the plan under this Subpart.

(c) Subject to the provisions of Education Law §3012-c(2)(k), the entire annual professional performance review shall be completed and provided to teacher or principal as soon as practicable but in no case later than September first of the school year next following the school year for which the classroom teacher or building principal's performance is being measured. The teacher's and principal's score and rating on the locally selected measures subcomponent, if available, and on the other measures of teacher and principal effectiveness subcomponent for a teacher's or principal's annual professional performance review shall be computed and provided to the teacher or principal, in writing, by no later than the last day of the school year for which the teacher or principal is being measured. Nothing in this subdivision shall be construed to authorize a teacher or principal to trigger the appeal process prior to receipt of their composite effectiveness score and rating.

Each such annual professional performance review shall be based on the state assessments or other comparable measures subcomponent, the locally selected measures of student achievement subcomponent and the other measures of teacher and principal effectiveness subcomponent, determined in accordance with the applicable provisions of Education Law §3012-c and this

Subpart, for the school year for which the teacher's or principal's performance is measured.

§30-2.4 Standards and criteria for conducting annual professional performance reviews and for scoring the subcomponents of such reviews in the 2011-2012 school year for classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals employed in such schools.

(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 subcomponent.

Twenty points of the teacher's or principal's composite effectiveness score shall be based upon the teacher's or principal's student growth percentile score on State assessments in English language arts and/or mathematics in grades four to eight.

(c) Locally selected measures.

(1) Twenty points of the teacher's or principal's composite effectiveness score shall be based upon locally selected 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) For annual professional performance reviews conducted for the 2011-2012 school year only, 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) a student assessment approved by the Department pursuant to the request for qualification process described in section 30-2.8 of this Subpart;

(b) a district, regional or BOCES-developed assessment;

(c) a school-wide, group or team metric based on a State assessment, an approved student assessment or a district, regional or BOCES-developed assessment, across multiple classrooms in a grade level or subject area (e.g.,

school-wide growth on a locally selected math assessment or grade-level growth on the grade four English language arts State assessment);

(d) student achievement 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; or

(e) a structured district-wide student growth goal-setting process to be used with any State assessment, an approved student assessment, or other school or teacher-created assessment.

(ii) For school districts or BOCES that use one of the measures enumerated in clauses (b), (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) For annual professional performance reviews conducted for the 2011-2012 school year only, 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 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) 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.

(iii) 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 any such measure based on a State assessment must be different from that used for the State assessment or other comparable measures 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;

(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;

(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.

(iv) For evaluations conducted for the 2011-2012 school year only, the remaining points of the 60 points shall be based on a combination of any of the following criteria:

(a) evidence of student development and performance through structured reviews of student work and/or artifacts of teacher practice using portfolios or evidence binder processes;

(b) evidence that the teacher develops effective relationships with students, parents, caregivers and relevant stakeholders to maximize student

growth, development and learning through the use of surveys and/or feedback from students, parents/caregivers and/or their peers using structured survey tools; or

(c) evidence that the teacher sets informed professional growth goals and strives for continuous professional growth as demonstrated through teacher self-reflections and teacher progress on professional growth goals, provided that no more than five points shall be attributed to this criterion.

(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;

(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, based on the principal practice rubric, of the principal's leadership and management actions by the building principal's supervisor, another trained administrator, or a trained independent evaluator. This assessment must incorporate one or more school visits by a supervisor and at least two other sources of evidence from the following options: structured feedback from teachers, students, and/or families; school visits by other trained evaluators; review of school documents, records, state accountability processes and/or other locally-determined sources.

(iv) Any 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 may include, but need not be limited to: improved retention of high performing teachers, the correlation between student growth scores of teachers granted tenure as opposed to those denied tenure, quality of feedback provided to teachers throughout the year, facilitation of teacher participation in professional development opportunities made available by the school district or BOCES and/or the quality and effectiveness of teacher evaluations conducted under this section; and

(b) any other goals shall address quantifiable and verifiable improvements in academic results or the school's learning environment resulting from the principal's leadership and commitment to their own professional growth.

(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.

§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 developed assessment that is rigorous and comparable across classrooms. For purposes of this subparagraph, core subjects shall be defined as science and social studies in grades six to 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.

(v) 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 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 sub-component 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;

(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 clauses (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 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;

(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;

(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;

(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.

§30-2.6 Scoring Ranges for Rating Categories.

(a) The governing body of each school district and BOCES shall ensure that the rating category assigned to each classroom teacher and building principal is determined by a single composite effectiveness score that is calculated based on the scores received by the teacher or principal in each of the subcomponents in accordance with the requirements of this section.

(1) Overall Ratings. A classroom teacher and building principal shall be deemed to be:

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

(ii) Effective if they achieve a composite effectiveness score of 75-90.

(iii) Developing if they achieve a composite effectiveness score of 65-74.

(iv) Ineffective if they achieve a composite effectiveness score of 0-64.

(2) For the 2013-2014 school year and thereafter, the Commissioner shall review the specific scoring ranges for each of the rating categories annually before the start of each school year and shall recommend any changes to the Board of Regents for consideration.

(b) State Assessments or Other Comparable Measures Subcomponent.

(1) A classroom teacher and building principal shall receive:

(i) a Highly Effective rating in this subcomponent if the teacher's or principal's results are well-above the State average for similar students and they achieve a subcomponent score of:

(a) 18-20 for the 2011-2012 school year, and for the 2012-2013 school year and thereafter for teachers and principals whose score on this subcomponent is not based on a value-added model; or

(b) 22-25 for the 2012-2013 school year and thereafter for teachers and principals whose score on this subcomponent is based on a value-added model.

(ii) an Effective rating in this subcomponent if the teacher's or principal's results meet the State average for similar students and they achieve a subcomponent score of:

(a) 9-17 for the 2011-2012 school year, and for the 2012-2013 school year and thereafter for teachers and principals whose score on this subcomponent is not based on a value-added model; or

(b) 10-21 for the 2012-2013 school year and thereafter for teachers and principals whose score on this subcomponent is based on a value-added model.

(iii) a Developing rating in this subcomponent if the teacher's or principal's results are below the State average for similar students and they achieve a subcomponent score of:

(a) 3-8 for the 2011-2012 school year, and for the 2012-2013 school year and thereafter for teachers and principals whose score on this subcomponent is not based on a value-added model; or

(b) 3-9 for the 2012-2013 school year and thereafter for teachers and principals whose score on this subcomponent is based on a value-added model.

(iv) an Ineffective rating in this subcomponent, if the teacher or principal's results are well-below the State average for similar students and they achieve a subcomponent score of 0-2.

(c) Locally selected measures.

(1) A classroom teacher and building principal shall receive:

(i) a Highly Effective rating in this subcomponent if the results are well-above district-adopted expectations for student growth or achievement and they achieve a subcomponent score of:

(a) 18-20 for the 2011-2012 school year, and for the 2012-2013 school year and thereafter for teachers and principals whose score on the State assessment or other comparable measures subcomponent is not based on a value-added model; or

(b) 14-15 for the 2012-2013 school year and thereafter for teachers and principals whose score on the State assessment or other comparable measures subcomponent is based on a value-added model.

(ii) an Effective rating in this subcomponent if the results meet district-adopted expectations for growth or achievement and they achieve a subcomponent score of:

(a) 9-17 for the 2011-2012 school year, and for the 2012-2013 school year and thereafter for teachers and principals whose score on the State assessment or other comparable measures subcomponent is not based on a value-added model; or

(b) 8-13 for the 2012-2013 school year and thereafter for teachers and principals whose score on the State assessment or other comparable measures subcomponent is based on a value-added model.

(iii) a Developing rating in this subcomponent if the results are below district-adopted expectations for growth or achievement and they achieve a subcomponent score of:

(a) 3-8 for the 2011-2012 school year, and for the 2012-2013 school year and thereafter for teachers and principals whose score on the State assessment or other comparable measures subcomponent is not based on a value-added model; or

(b) 3-7 for the 2012-2013 school year and thereafter for teachers and principals whose score on the State assessment or other comparable measures subcomponent is based on a value-added model.

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

(2) For the 2013-2014 school year and thereafter. the Commissioner shall review the specific scoring ranges for each of the quality review categories annually before the start of each school year and will recommend any changes to the Board of Regents for consideration.

(d) Other Measures of Teacher and Principal Effectiveness. The district or BOCES shall establish specific minimum and maximum scoring ranges for each performance level within this subcomponent before the start of each school year and shall assign points to a teacher or principal for this subcomponent based on the following standards, all in accordance with, and subject to, the requirements of subdivision (e) of this section:

(1) A teacher or principal shall receive:

(i) a Highly Effective rating in this subcomponent if the teacher's or principal's overall performance and results exceed the New York State Teaching or Leadership Standards;

(ii) an Effective rating in this subcomponent if the teacher's or principal's overall performance and results meet the New York State Teaching or Leadership Standards;

(iii) a Developing rating in this subcomponent if the teacher's or principal's overall performance and results need improvement to meet the New York State Teaching or Leadership Standards; or

(iv) an Ineffective rating in this subcomponent if the teacher's or principal's overall performance and results do not meet the New York State Teaching or Leadership Standards.

(e) The process by which points are assigned in subcomponents and the scoring ranges for the subcomponents must be transparent and available to those being rated before the beginning of each school year. The process by which points are assigned in the respective subcomponents are to be determined as follows:

(1) For the State Assessment or Other Comparable Measures Subcomponent, that process shall be formulated by the Commissioner with the approval of the Board of Regents.

(2) For the Locally Selected Measures of Student Achievement Subcomponent, that process shall be established locally through negotiations conducted under article fourteen of the Civil Service Law.

(3) For the Other Measures of Teacher and Principal Effectiveness Subcomponent, that process shall be established locally through negotiations conducted under article fourteen of the Civil Service Law.

(4) Such process must ensure that it is possible for a teacher or principal to obtain each point in the scoring ranges, including 0, identified in subdivisions (a), (b) and (c) of this section for the student growth or other comparable measures subcomponent, the locally selected measures subcomponent and the overall rating categories. The process must also ensure that it is possible for a teacher or principal to obtain each point in the scoring ranges prescribed by the district or BOCES for the other measures of teacher and principal effectiveness subcomponent.

(5) The superintendent, district superintendent or Chancellor and the president of the collective bargaining representative (where one exists) shall certify in its plan that the process will use the narrative descriptions provided in subdivisions (a), (b), (c) and (d) of this section to effectively differentiate a teacher or principal's performance in each of the subcomponents and in their overall ratings to improve student learning and instruction.

(f) The scoring ranges for the Other Measures of Teacher and Principal Effectiveness Subcomponent shall be established locally through negotiations conducted under article fourteen of the Civil Service Law.

§30-2.7 Approval process for approved teacher and principal practice rubrics.

(a) A provider who seeks to place a teacher or principal practice rubric on the list of approved rubrics under this section shall submit to the Commissioner a written application in a form and within the time prescribed by the Commissioner.

(b) Teacher practice rubric. The Commissioner shall evaluate a rubric for inclusion on the Department's list of approved practice rubrics for classroom teachers pursuant to a request for qualification ("RFQ") process. Such proposals shall meet the following minimum criteria and any supplemental criteria outlined by the Commissioner in the RFQ process:

(1) the rubric must broadly cover the Teaching Standards and their related elements;

(2) the rubric must be grounded in research about teaching practice that supports positive student learning outcomes;

(3) the rubric must have four performance rating categories. If a rubric does not have four levels that match the rating categories of Highly Effective, Effective, Developing and Ineffective, the rubric's summary ratings must be easily convertible to the four rating categories that New York State has adopted;

(4) the rubric must clearly define the expectations for each rating category. The Highly Effective and Effective rating categories must encourage excellence beyond a minimally acceptable level of effort or compliance;

(5) to the extent possible, the rubric should rely on specific, discrete, observable, and/or measurable behaviors by students and teachers in the classroom with direct evidence of student engagement and learning;

(6) the rubric must use clear and precise language that facilitates common understanding among teachers and administrators;

(7) the rubric must be specifically designed to assess the classroom effectiveness of teachers;

(8) the rubric must include descriptions of any specific training and implementation details that are required for the rubric to be effective; and

(9) the rubric shall be applicable to all grades and subjects or if designed explicitly for specific grades and/or subjects, a rubric will only be approved for use in the grades or subjects for which it is designed.

(c) Principal Practice Rubric. The Commissioner shall evaluate a rubric for inclusion on the Department's list of approved practice rubrics for building principals pursuant to a request for qualification ("RFQ") process. Such

proposals shall meet the following minimum criteria and any supplemental criteria outlined by the Commissioner in the RFQ process:

(1) the rubric must broadly cover the Leadership Standards and their related functions;

(2) the rubric must be grounded in research about leadership practice that supports positive student learning outcomes;

(3) the rubric must have four performance rating categories. If a rubric does not have four levels that match the rating categories of Highly Effective, Effective, Developing, and Ineffective, the rubric's summary ratings must be easily convertible to the four rating categories that New York State has adopted;

(4) the rubric must clearly define the expectations for each rating category. The Highly Effective and Effective rating categories must encourage excellence beyond a minimally acceptable level of effort or compliance;

(5) to the extent possible, the rubric should rely on specific, discrete, observable, and/or measurable behaviors by principals and their staff and students;

(6) the rubric must use clear and precise language that facilitates common understanding among building principals and their evaluators;

(7) the rubric must be specifically designed to assess the effectiveness of school leaders; and

(8) the rubric must include descriptions of any specific training and implementation details that are required for the rubric to be effective.

(d) Termination of approval of a teacher or principal scoring rubric.

(1) Approval for inclusion on the Department's list of approved rubrics may be withdrawn for good cause, including, but not limited to, a determination by the Commissioner that the rubric:

(i) does not comply with one or more of the criteria for approval set forth in this section or the criteria set forth in the request for qualification;

(ii) the Department determines that the practice rubric is not identifying meaningful and/or observable differences in performance levels across schools and classrooms; and/or

(iii) high-quality academic research calls into question the correlation between high performance on this rubric and positive student learning outcomes.

(2) Termination of a rubric from the approved list shall be conducted in accordance with the following procedures:

(i) The Commissioner or his/her designee shall notify the provider of the approved rubric in writing of the intent to terminate approval at least 30 calendar days prior to the effective date of the termination. Such notification shall include a list of the identified deficiencies.

(ii) The provider may reply in writing within 10 calendar days of receipt of the Commissioner's notification, addressing the Commissioner's statement of reasons, indicating whether deficiencies and/or violations exist, what steps have been taken to correct conceded deficiencies and/or violations, and the time period and steps by which deficiencies and/or violations will be corrected. If no reply is received, termination and removal from the list will become effective 30 calendar days from the date of receipt of the Commissioner's notification.

(iii) Within three business days of receipt of the Commissioner's notification, the provider may request oral argument before the Commissioner or his/her designee.

(iv) After consideration of any written response and of any oral argument, a determination shall be made whether approval shall be terminated. Notice of such determination shall be provided in writing to the provider.

§30-2.8 Approval process for student assessments.

(a) Approval of student assessments for the evaluation of classroom teachers and building principals. An assessment provider who seeks to place an assessment on the list of approved student assessments under this section shall submit to the Commissioner a written application in a form and within the time prescribed by the Commissioner.

(b) The Commissioner shall evaluate a student assessment for inclusion on the Department's list of approved student assessments for the locally selected measures subcomponent, based on the following minimum criteria and any supplemental criteria established by the Commissioner in the request for qualification ("RFQ"):

(1) the assessment is aligned with 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

(2) the provider must demonstrate that there is strong evidence that the assessment is aligned with industry standards of reliability and validity as defined in the Testing Standards.

(c) The Commissioner shall also evaluate student assessment for inclusion on the Department's list of approved student assessments for student growth in non-tested subjects based on the following minimum criteria and any supplemental criteria established by the Commissioner in the RFQ Process:

(1) the assessment is aligned with 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;

(2) the provider must demonstrate that there is strong evidence that the assessment is aligned with industry standards of reliability and validity as defined in the Testing Standards;

(3) the provider must demonstrate to the Department, with a detailed procedure for measuring growth using the student assessment, that such assessment will result in normative inferences about each individual's student growth; and

(4) the provider must provide information to the Department on the one or more norming groups used to calculate normative growth as well as the required test administration procedure, including a recommended testing timeline when using the instrument to measure growth, including the potential use of a pre-test or other tool in the first year of implementation.

(d) Termination of approval.

(1) Approval shall be withdrawn for good cause, including, but not limited to, a determination by the Commissioner that:

(i) the assessment does not comply with one or more of the criteria for approval set forth in this section or the criteria set forth in the RFQ;

(ii) the Department determines that the assessment is not identifying meaningful and/or observable differences in performance levels across schools and classrooms; and/or

(iii) high quality academic research calls into question the correlation between high performance on the assessment and positive student learning outcomes.

(2) Termination of a student assessment from the approved list shall be conducted in accordance with the following procedures:

(i) The Commissioner or his/her designee shall notify the provider of the approved assessment in writing of the intent to terminate approval at least 30 calendar days prior to the effective date of the termination, including a list of the identified deficiencies.

(ii) The provider may reply in writing within 10 calendar days of receipt of the Commissioner's notification, addressing the Commissioner's statement of reasons, indicating whether deficiencies and/or violations exist, what steps have been taken to correct conceded deficiencies and/or violations, and the time period and steps by which deficiencies and/or violations will be corrected. If no reply is received, termination and removal from the list will become effective 30 calendar days from the date of receipt of the Commissioner's notification.

(iii) Within three business days of receipt of the Commissioner's notification, the provider may request oral argument before the Commissioner or his/her designee.

(iv) After consideration of any written response and of any oral argument, a determination shall be made whether approval shall be terminated. Notice of such determination shall be provided in writing to the provider.

§30-2.9 Training of evaluators and lead evaluators.

(a) The governing body of each school district and BOCES shall ensure that evaluators have appropriate training before conducting an evaluation under this section. The governing body shall also ensure that any lead evaluator has been certified by such governing body as a qualified lead evaluator before conducting and/or completing a teacher's or principal's evaluation in accordance with the requirements of this Subpart, except as otherwise provided in this subdivision. Nothing herein shall be construed to prohibit a lead evaluator who is properly certified by the State as a school administrator or superintendent of schools from conducting classroom observations or school visits as part of an annual professional performance review under this Subpart prior to completion of the training required by this section provided such training is successfully completed prior to completion of the evaluation.

(b) To qualify for certification as a lead evaluator under this section, individuals shall successfully complete a training course that meets the minimum requirements prescribed in this subdivision. The training course shall provide training on:

(1) the New York State Teaching Standards, and their related elements and performance indicators and the Leadership Standards and their related functions, as applicable;

(2) evidence-based observation techniques that are grounded in research;

(3) application and use of the student growth percentile model and the value-added growth model as defined in section 30-2.2 of this Subpart;

(4) application and use of the State-approved teacher or principal rubric(s) selected by the district or BOCES for use in evaluations, including training on the effective application of such rubrics to observe a teacher or principal's practice;

(5) application and use of any assessment tools that the school district or BOCES utilizes to evaluate its classroom teachers or building principals, including but not limited to, structured portfolio reviews; student, parent, teacher and/or community surveys; professional growth goals and school improvement goals, etc.;

(6) application and use of any State-approved locally selected measures of student achievement used by the school district or BOCES to evaluate its teachers or principals;

(7) use of the Statewide Instructional Reporting System;

(8) the scoring methodology utilized by the Department and/or the district or BOCES to evaluate a teacher or principal under this Subpart, including how scores are generated for each subcomponent and the composite effectiveness score and application and use of the scoring ranges prescribed by the

Commissioner for the four designated rating categories used for the teacher's or principal's overall rating and their subcomponent ratings; and

(9) specific considerations in evaluating teachers and principals of English language learners and students with disabilities.

(c) Training shall be designed to certify lead evaluators. Districts shall describe in their annual professional performance review plan the duration and nature of the training they provide to evaluators and lead evaluators and their process for certifying lead evaluators under this section.

(d) School districts and BOCES shall also describe in their annual professional performance review plan their process for ensuring that lead evaluators maintain inter-rater reliability over time (such as data analysis to detect disparities on the part of one or more evaluators; periodic comparisons of a lead evaluator's assessment with another evaluator's assessment of the same classroom teacher or building principal; annual calibration sessions across evaluators) and their process for periodically recertifying all lead evaluators.

(e) Any individual who fails to achieve required training or certification or re-certification, as applicable, by a school district or BOCES pursuant to the requirements of this section shall not conduct or complete an evaluation under this Subpart.

§30-2.10 Teacher or Principal Improvement Plans.

(a) Upon rating a teacher or a principal as Developing or Ineffective through an annual professional performance review conducted pursuant to Education Law §3012-c and this Subpart, a school district or BOCES shall

formulate and commence implementation of a teacher or principal improvement plan for such teacher or principal as soon as practicable but in no case later than 10 school days after the opening of classes in the school year following the school year for which such teacher or principal's performance is being measured.

(b) Such improvement plan shall be developed locally through negotiations pursuant to article 14 of the Civil Service Law and shall include, but need not be limited to, identification of needed areas of improvement, a timeline for achieving improvement, the manner in which the improvement will be assessed, and, where appropriate, differentiated activities to support a teacher's or principal's improvement in those areas.

§30-2.11 Appeal Procedures.

(a) A professional performance plan under this Subpart shall describe the appeals procedure utilized by a school district or BOCES through which an evaluated teacher or principal may challenge their annual professional performance review. Pursuant to section 3012-c of the Education Law, a teacher or principal may only challenge the following in an appeal:

(1) the substance of the annual professional performance review;

(2) the school district's or BOCES' adherence to the standards and methodologies required for such reviews, pursuant to Education Law §3012-c and this Subpart;

(3) the adherence to the regulations of the Commissioner and compliance with any applicable locally negotiated procedures, as well as the school district's or BOCES' issuance and/or implementation of the terms of the teacher or

principal improvement plan, as required under Education Law §3012-c and this Subpart.

(b) Appeal procedures shall provide for the timely and expeditious resolution of any appeal under Education Law §3012-c(5) and (5-a).

(c) Nothing in this section shall be construed to alter or diminish the authority of the governing body of a school district or BOCES to grant or deny tenure to or terminate probationary teachers or probationary building principals during the pendency of an appeal pursuant to this section for statutorily and constitutionally permissible reasons other than the teacher's or principal's performance that is the subject of the appeal.

(d) Nothing in this Subpart shall be construed to authorize a teacher or principal to trigger the appeal process prior to receipt of their composite effectiveness score and rating from the district or BOCES.

§30-2.12 Monitoring and Consequences for Non-Compliance.

(a) The Department will annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify districts, BOCES and/or schools where evidence suggests that a more rigorous evaluation system is needed to improve educator effectiveness and student learning outcomes. The Department will analyze data submitted pursuant to this Subpart to identify:

(1) schools, districts or BOCES with unacceptably low correlation results between student growth on the State assessment or other comparable measures subcomponent and any other measures of teacher and principal effectiveness used by the district or BOCES to evaluate its teachers and principals; and/or

(2) schools, districts or BOCES whose teacher and principal composite scores and/or subcomponent scores and/or ratings show little differentiation across educators and/or the lack of differentiation is not justified by equivalently consistent student achievement results.

(b) A school district or BOCES identified by the Department in one of the categories enumerated above may be highlighted in public reports and/or the Commissioner may order a corrective action plan, which may include, but not be limited to, requirements that the district or BOCES arrange for additional professional development, provide additional in-service training and/or utilize independent trained evaluators to review the efficacy of the evaluation system, provided that the plan shall be consistent with law and not in conflict with any applicable collective bargaining agreement.