

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to Education Law sections 101, 207, 210, 212, 215, 3001, 3012-d.

1. Clause (b) of subparagraph (i) of paragraph (2) of subdivision (d) of section 30-3.4 of the Rules of the Board of Regents shall be amended, effective September 28, 2016, to read as follows:

(b) a second observation shall be conducted by either one or more impartial independent trained evaluator(s) selected and trained by the district or in cases where a hardship waiver is granted by the department pursuant to subclause (1) of this clause, a second observation shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the evaluation pursuant to clause (a) of this paragraph; or in cases where a hardship waiver is granted by the department pursuant to subclause (2) of this subparagraph, a second observation shall be conducted as prescribed in subclause (2). An independent trained evaluator may be employed within the district, but may not be assigned to the same school building as the teacher being evaluated;

(1) . . .

(2) Commencing with the 2016-2017 school year, a school district may apply to the Department for a hardship waiver on an annual basis, in a timeframe and manner prescribed by the commissioner, if the school district believes that compliance with this clause would create an undue burden on the school district in one or more of the following areas: compliance with the independent evaluator requirement would result in financial hardship; the district lacks professionally trained staff to comply with the independent evaluator requirement; the district has a large number of teachers; and/or

compliance with the independent evaluator requirement could impact safety and management of a building. A hardship waiver granted by the Department under this subclause shall excuse, but not prohibit, school districts from conducting observations by impartial independent trained evaluators for teachers who received a rating of highly effective, effective, or developing in the preceding school year (e.g., school districts would be excused, but not prohibited, from conducting observations by impartial independent trained evaluators for the 2016-2017 school year for teachers who receive a rating of highly effective, effective, or developing for the 2015-2016 school year; school districts would be required to conduct observations by impartial independent trained evaluators for the 2016-2017 school year for, at a minimum, teachers who receive a rating of ineffective for the 2015-2016 school year). For teachers who are excused from the impartial independent trained evaluator requirement pursuant to a hardship waiver granted by the Department under this subclause, school districts shall conduct a second observation, provided that such second observation may be conducted by the building principal/supervisor or any individual selected and trained by the school district. The two observations for such teachers could be performed by the same individual. As part of its hardship waiver request, a school district shall submit a plan for conducting observations by the building principal or other individual selected and trained by the school district in lieu of the impartial independent trained evaluator subcomponent. For the other teachers in the district who must still receive a second observation by an impartial, independent trained evaluator (teachers who, at a minimum, received an ineffective rating in the preceding school year), the district must submit a plan for conducting such observations. Once a hardship waiver is approved by

the Department, it shall be considered part of the school district's annual professional performance review plan for such school year.

2. Subparagraph (ii) of paragraph (1) of subdivision (d) of section 30-3.5 of the Rules of the Board of Regents shall be amended, effective September 28, 2016, to read as follows:

(ii) a second school visit shall be conducted by either one or more impartial independent trained evaluator(s) selected and trained by the district or in cases where a hardship waiver is granted by the department pursuant to clause (a) of this subparagraph, a second school visit shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the evaluation pursuant to subparagraph (i) of this paragraph; or in cases where a hardship waiver is granted by the department pursuant to clause (b) of this subparagraph, a second school visit shall be conducted as prescribed in clause (b). An independent trained evaluator may be employed within the district, but may not be assigned to the same school building as the principal being evaluated;

(a) . . .

(b) Commencing with the 2016-2017 school year, a school district may apply to the Department for a hardship waiver on an annual basis, on a form and in a timeframe prescribed by the commissioner, if the school district believes that compliance with this clause would create an undue burden on the district in one or more of the following areas: compliance with the independent evaluator requirement would result in financial hardship; the district lacks professionally trained staff to comply with the independent evaluator requirement; the district has a large number of principals; and/or compliance

with the independent evaluator requirement could impact safety and management of a building. A hardship waiver granted by the Department under this clause shall excuse, but not prohibit, school districts from conducting school visits by impartial independent trained evaluators for principals who received a rating of highly effective, effective, or developing in the preceding school year (e.g., school districts would be excused, but not prohibited, from conducting school visits by impartial independent trained evaluators for the 2016-2017 school year for principals who receive a rating of highly effective, effective, or developing for the 2015-2016 school year; school districts would be required to conduct school visits by impartial independent trained evaluators for the 2016-2017 school year for, at a minimum, principals who receive a rating of ineffective for the 2015-2016 school year). For principals who are excused from the impartial independent trained evaluator requirement pursuant to a hardship waiver granted by the Department under this clause, school districts shall conduct a second school visit, provided that such second school visit may be conducted by the principal's supervisor or any individual selected and trained by the school district. The two school visits for such principals could be performed by the same individual. As part of its hardship waiver request, a school district shall submit a plan for conducting school visits by the principal's supervisor or other individual selected and trained by the school district in lieu of the impartial independent trained evaluator subcomponent. For the other principals in the district who must still receive a second school visit by an impartial, independent trained evaluator (principals who, at a minimum, received an ineffective rating in the preceding school year), the district must submit a plan for conducting such school visits. Once a hardship waiver is approved by the Department, it shall be

considered part of the school district's annual professional performance review plan for such school year.