

NEW YORK STATE ASSEMBLY/SENATE
MEMORANDUM IN SUPPORT OF LEGISLATION

BILL NUMBER:

SPONSOR:

TITLE OF BILL:

AN ACT to amend the education law, in relation to state assessments and teacher evaluations; and to amend chapter 56 of the laws of 2014, amending the education law relating to providing that standardized test scores shall not be included on a student's permanent record, in relation to making certain provisions permanent

PURPOSE:

To make adjustments to the current system of educator evaluations.

SUMMARY OF PROVISIONS:

Section 1: This section would eliminate the requirement to use state assessments in the student performance measure of APPR, a reference to the use of the optional second subcomponent and the use of the state growth model in the student performance category of APPR.

Section 2: This section would repeal the use of a negotiable second subcomponent of student performance in APPR.

Section 3: This section would eliminate the requirement to use an independent evaluator as a part of the observation category.

Section 4: This section would direct the Commissioner to set forth new scoring regulations, including alternative standards to be applied, at district option to tenured teachers with a track record of student success. This section also authorizes the use of independent and/peer evaluators in addition to the observation of a principal or administrator, and requires that all individuals delivering observations be trained.

Section 5: This section would eliminate any scoring consequence related to the use of the second student performance subcomponent, and re-letter the components of the matrix.

Section 6: The section would eliminate the ban on the use of additional sub-components in evaluations including but not limited to, lesson plans and other artifacts of teacher practice, student portfolios, parent and student survey and professional goal setting.

Section 7: This section would eliminate a reference to the utilization of the second subcomponent of student performance and any scoring penalty association with use of that subcomponent.

Section 8: This section would eliminate reference to the applicability of the second subcomponent of student performance and provide that the selection of a student growth measure shall be determined by the employing district.

Section 9: This section would make permanent the prohibition on the use of standardized test scores on a student's permanent record.

Section 10: This section would eliminate the link between the receipt of a districts annual state aid increase and the annual approval of their APPR plan.

Section 11: This section would direct the Commissioner to update the regulations governing the evaluation of principals to align with the changes within this bill for teacher evaluations.

Section 12: This section would eliminate the requirement to use state assessments in the student performance measure component in APPR; affirmatively authorize the use of other measures of student growth within the student performance measure; reinforce that the selection of a measure of student growth is determined by the employing district; and maintain all components of an existing approved plan, regardless of whether the components of the plan are wholly or in part memorialized as a part of a district collective bargaining agreement.

JUSTIFICATION:

The existing system of educator evaluations relies too greatly on state test scores, and too little on the practice of teaching, which is best measured and reflected through the observation process and other components. By eliminating some of the rigid rules in place, and eliminating the threat of losing state aid, this bill takes an important step towards restoring confidence and utility of the evaluation process.

LEGISLATIVE HISTORY:

This is a new bill.

FISCAL IMPLICATIONS:

None to the state.

EFFECTIVE DATE:

This act shall take effect July 1, 2019.

STATE OF NEW YORK

IN ASSEMBLY/SENATE

Introduced by

AN ACT to amend the education law, in relation to state assessments and teacher evaluations; and to amend chapter 56 of the laws of 2014, amending the education law relating to providing that standardized test scores shall not be included on a student's permanent record, in relation to making certain provisions permanent

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 | § 1. Subdivision 4 and subparagraph 1 of paragraph a- of section 3012-d of the education law
2 is amended to read as follows:

3 Subparagraph 1 of paragraph a of subdivision 4 of section 3012-d of the education law is
4 amended to read as follows:

5 4. Categories. The annual evaluation system shall consist of ~~[multiple measures in]~~ two
6 categories: student performance and teacher observations.

7 a. Student performance category. ~~[Such category shall have at least one subcomponent
8 and an optional second subcomponent as follows:~~

9 ~~(1) For the first subcomponent, (A) for a teacher whose course ends in a state created or
10 administered test for which there is a state provided growth model, such teacher shall have a
11 state provided growth score based on such model, which shall take into consideration
12 certain student characteristics, as determined by the commissioner, including but not limited
13 to students with disabilities, poverty, English language learner status and prior academic
14 history and which shall identify educators whose students' growth is well above or well
15 below average compared to similar students for a teacher's or principal's students after the
16 certain student characteristics above are taken into account; and (B) for a teacher whose
17 course does not end in a state created or administered test such teacher]~~ **A teacher** shall
18 have a student learning objective (SLO) consistent with a goal-setting process determined or
19 developed by the commissioner, that results in a student growth score; provided that, ~~for
20 any teacher whose course ends in a state created or administered assessment for which there
21 is no state provided growth model, such assessment must]~~ **the measure of student
22 performance selected in accordance with subdivision 16 of this section must** be used
23 as the underlying ~~[assessment]-~~ **measure** for such SLO;

1 § 2. Subparagraph 2 of paragraph a of subdivision 4 of section 3012-d of the education law
2 is repealed.

3 § 3. Paragraph b of subdivision 4 of section 3012-d of the education law is amended to read
4 as follows:

5 b. ~~(1)~~ Teacher observations category. The observations category for teachers shall be based
6 on a state-approved rubric and conducted by ~~and shall include up to three~~
7 ~~subcomponents. Such category must include: (1) a subcomponent based on classroom~~
8 ~~observations conducted by a principal or other trained administrator. An additional~~
9 ~~observation may be conducted by an impartial independent or peer evaluator as~~
10 ~~determined by the employing district, and must also include (2) a subcomponent based~~
11 ~~on classroom observations by an impartial independent trained evaluator or evaluators~~
12 ~~selected by the district. An independent trained evaluator may be employed within the~~
13 ~~school district, but not the same school building, as the teacher being evaluated. Such~~
14 ~~category may also include a subcomponent based on classroom observations conducted by a~~
15 ~~trained peer teacher rated effective or highly effective from the same school or from another~~
16 ~~school in the district].~~

17 The commissioner shall determine the weights, and/or weighting options and scoring ranges
18 for the ~~{subcomponents of the}~~ observations category that result in a combined category
19 rating. The commissioner shall also determine the minimum number of observations to be
20 conducted annually, including frequency and duration, and any parameters therefor. The
21 commissioner shall set such weights and scores consistent with the terms contained herein.

22 § 4. Paragraph b of subdivision 4 of section 3012-d of the education law is amended to add
23 new sub paragraphs 2, 3 and 4 to read as follows:

24 (2) In determination of weights, measures, scoring, duration and frequency as
25 authorized in sub paragraph 1 of this paragraph, the commissioner shall set forth the
26 modified standards that allow districts to reduce the frequency and duration of
27 observations for tenured teachers with three or more consecutive ratings of effective
28 or highly effective. Such modifications shall include the adjustment of the approved
29 rubrics to eliminate unwarranted or duplicative components. Such modification
30 shall be applied as determined by the employing district.

31 (3) Districts may opt to include observations by impartial independent evaluators or
32 peer evaluators in addition to that of a principal or other administrator. The inclusion
33 of independent or peer observations shall be as determined by the employing district.

34 (4) Prior to any evaluation being conducted in accordance with this section, each
35 individual who is responsible for conducting an evaluation of a teacher or building
36 principal shall receive appropriate training in accordance with the regulations of the
37 commissioner of education.

38 § 5. Subdivision 5 of section 3012-d of the education law, as added by section 2 of subpart
39 E of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

1 5. Rating determination. The overall rating determination shall be determined ~~[according to~~
2 ~~a methodology]~~ as follows:

3 a. ~~[The following rules shall apply: a teacher or principal who is (1) rated using two~~
4 ~~subcomponents in the student performance category and receives a rating of~~
5 ~~ineffective in such category shall be rated ineffective overall; provided, however, that~~
6 ~~if the measure used in the second subcomponent is a state-provided growth score on~~
7 ~~a state-created or administered test pursuant to clause (A) of subparagraph one of~~
8 ~~paragraph a of subdivision four of this section, a teacher or principal who receives a~~
9 ~~rating of ineffective in such category shall not be eligible to receive a rating of~~
10 ~~effective or highly effective overall; (2) rated using only the state measure~~
11 ~~subcomponent in the student performance category and receives a rating of~~
12 ~~ineffective in such category shall not be eligible to receive a rating of effective or~~
13 ~~highly effective overall; and (3) rated ineffective in the teacher observations category~~
14 ~~shall not be eligible to receive a rating of effective or highly effective overall.~~

15 ~~b. Except as otherwise provided in paragraph a of this subdivision, a teacher's~~
16 ~~composite score shall be determined as follows:~~

17 ~~(1)~~ If a teacher receives an H in the teacher observation category, and an H in the student
18 performance category, the teacher's composite score shall be H;

19 ~~(2)~~ ~~b.~~ If a teacher receives an H in the teacher observation category, and an E in the
20 student performance category, the teacher's composite score shall be H;

21 ~~(3)~~ ~~c.~~ If a teacher receives an H in the teacher observation category, and a D in the student
22 performance category, the teacher's composite score shall be E;

23 ~~(4)~~ ~~d.~~ If a teacher receives an H in the teacher observation category, and an I in the
24 student performance category, the teacher's composite score shall be D;

25 ~~(5)~~ ~~e.~~ If a teacher receives an E in the teacher observation category, and an H in the
26 student performance category, the teacher's composite score shall be H;

27 ~~(6)~~ ~~f.~~ If a teacher receives an E in the teacher observation category, and an E in the
28 student performance category, the teacher's composite score shall be E;

29 ~~(7)~~ ~~g.~~ If a teacher receives an E in the teacher observation category, and a D in the student
30 performance category, the teacher's composite score shall be E;

31 ~~(8)~~ ~~h.~~ If a teacher receives an E in the teacher observation category, and an I in the
32 student performance category, the teacher's composite score shall be D;

33 ~~(9)~~ ~~i.~~ If a teacher receives a D in the teacher observation category, and an H in the student
34 performance category, the teacher's composite score shall be E;

- 1 ~~[(10)]~~ **j.** If a teacher receives a D in the teacher observation category, and an E in the
2 student performance category, the teacher's composite score shall be E;
- 3 ~~[(11)]~~ **k.** If a teacher receives a D in the teacher observation category, and a D in the student
4 performance category, the teacher's composite score shall be D;
- 5 ~~[(12)]~~ **l.** If a teacher receives a D in the teacher observation category, and an I in the student
6 performance category, the teacher's composite score shall be I;
- 7 ~~[(13)]~~ **m.** If a teacher receives an I in the teacher observation category, and an H in the
8 student performance category, the teacher's composite score shall be D;
- 9 ~~[(14)]~~ **n.** If a teacher receives an I in the teacher observation category, and an E in the
10 student performance category, the teacher's composite score shall be D;
- 11 ~~[(15)]~~ **o.** If a teacher receives an I in the teacher observation category, and a D in the
12 student performance category, the teacher's composite score shall be I;
- 13 ~~[(16)]~~ **p.** If a teacher receives an I in the teacher observation category, and an I in the
14 student performance category, the teacher's composite score shall be I.

15 § 6. Subdivision 6 of section 3012-d of the education law is repealed.

16 § 7. Subdivision 7 of section 3012-d of the education law, as added by section 2 of subpart E
17 of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

18 7. The commissioner shall ensure that the process by which weights and scoring ranges are
19 assigned to subcomponents and categories is transparent and available to those being rated
20 before the beginning of each school year. Such process must ensure that it is possible for a
21 teacher or principal to obtain any number of points in the applicable scoring ranges,
22 including zero, in each subcomponent. The superintendent, district superintendent or
23 chancellor and the representative of the collective bargaining unit (where one exists) shall
24 certify in the district's plan that the evaluation process shall use the standards for the scoring
25 ranges provided by the commissioner. **~~Provided, however, that in any event, the~~**
26 **~~following rules shall apply: a teacher or principal who is:~~**

27 **~~a. rated using two subcomponents in the student performance category and~~**
28 **~~receives a rating of ineffective in such category shall be rated ineffective overall,~~**
29 **~~except that if the measure used in the second subcomponent is a second state-~~**
30 **~~provided growth score on a state-administered or sponsored test pursuant to clause~~**
31 **~~(A) of subparagraph one of paragraph a of subdivision four of this section, a teacher~~**
32 **~~or principal that receives a rating of ineffective in such category shall not be eligible~~**
33 **~~to receive a rating of effective or highly effective overall;~~**

34 **~~b. rated using only the state measure subcomponent in the student performance~~**
35 **~~category and receives a rating of ineffective in such category shall not be eligible to~~**
36 **~~receive a rating of effective or highly effective overall; and~~**

1 ~~e. rated ineffective in the observations category shall not be eligible to receive a~~
2 ~~rating of effective or highly effective overall.]~~

3 § 8. Subdivision 10 of section 3012-d of the education law, as added by section 2 of subpart
4 E of part EE of chapter 56 of the laws of 2015, is amended to read as follows:

5 10. The local collective bargaining representative shall negotiate with the district:

6 a. ~~[whether to use a second measure, and, in the event that a second measure is used, which~~
7 ~~measure to use, pursuant to subparagraph two of paragraph a of subdivision four of this~~
8 ~~section **[and];**~~

9 ~~b.]~~ how to implement the provisions of paragraph b of subdivision four of this section [,]
10 and associated regulations as established by the commissioner, in accordance with article
11 fourteen of the civil service law; **provided further that,**

12 **b. the selection and use of a student performance measure in a teacher's or**
13 **principal's evaluation pursuant to subdivision four of this section and paragraphs a**
14 **and b of subdivision sixteen of this section shall be as determined by the employing**
15 **school district.**

16 § 9. Section 2 of subpart B of part AA of chapter 56 of the laws of 2014 amending the
17 education law relating to providing that standardized test scores shall not be included on a
18 student's permanent record, as amended by section 35 of part CCC of chapter 59 of the laws
19 of 2018, is amended to read as follows:

20 § 2. This act shall take effect immediately ~~[and shall expire and be deemed repealed on~~
21 ~~December 31, 2019].~~

22 § 10. Subdivision 11 of section 3012-d of the Education Law is repealed.

23 § 11. Subdivision 14 of section 3012-d of the Education Law is amended to read as follows

24 14. The commissioner shall adopt regulations to align the principal evaluation system ~~[as set~~
25 ~~forth in section three thousand twelve c of this article with the new]~~ **with the**-teacher
26 evaluation system **set forth in this section, as amended pursuant to a chapter of the**
27 **laws of 2019[herein]** .

28 § 12. Section 3012-d of the education law is amended by adding a new subdivision 16 to
29 read as follows:

30 **16. a. Notwithstanding any other provision of law, rule or regulation to the contrary,**
31 **the grades three through eight English language arts and mathematics state**
32 **assessments and all other state-created or administered tests shall not be required to**
33 **be utilized in any manner to determine a teacher or principal evaluation required by**
34 **this section.**

1 b. The commissioner shall promulgate rules and regulations providing alternative
2 measures of student growth that may be used instead of state-created or
3 administered tests, which shall include but not be limited to all of the assessments
4 that have been approved by the commissioner for use in determining transition
5 scores and ratings as well as student portfolios.

6 c. The selection and use of a measure of student performance in a teacher's or
7 principal's evaluation pursuant to paragraphs a and b of this subdivision and
8 subdivision four of this section shall be determined by the employing school
9 district.

10 d. Notwithstanding any provision of subdivision twelve of this section to the
11 contrary, nothing in this section shall be construed to abrogate any conflicting
12 provisions of any collective bargaining agreement, collectively bargained plan or
13 approved plan for the evaluation of a teacher or principal under this section that is in
14 effect on the date this subdivision takes effect until the entry into a successor
15 collective bargaining agreement, collectively bargained plan or approved plan,
16 provided that notwithstanding any other provision of law to the contrary, upon the
17 entry into a successor collective bargaining agreement or approved plan the
18 provisions of this subdivision shall apply; and, provided further, however, that any
19 assessments used in determining transition scores and ratings shall be used in
20 determining scores and ratings pursuant to this section instead of the grades three
21 through eight English language arts and mathematics state assessments until the
22 entry into a successor collective bargaining agreement or approved plan.

23 e. For the purpose of this subdivision transition scores and ratings shall have the
24 same meaning as found in 8 NYCRR 30-3.17 of the Commissioner Regulations in
25 place at the time of the effective date of this section.

26 § 13. This act shall take effect July 1, 2019.