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# INFORMATION BULLETIN

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## **New Tenure Determination Law 2008 Teacher Analysis of Student Performance Data When Providing Instruction**

Chapter 57 of the Laws of 2007, added a new Section 3012-b to Education Law requiring the Board of Regents to develop rules establishing minimum standards and procedures for tenure determination of teachers employed in school districts and BOCES. The tenure determination process must include, but need not be limited to, a combination of:

- **An evaluation of the extent to which the teacher successfully utilized analysis of available student performance data (such as: State test results, student work, school-developed assessments, teacher developed assessments, etc.) and other relevant information (such as: documented health or nutrition needs, or other student characteristics affecting learning) when providing instruction.**
- Peer review by other teachers, as far as practicable; (see NYSUT IB #200825).
- An assessment of the teacher's performance by the teacher's building administrator.

Section 3012-b was amended by Chapter 57 of the Laws of 2008. The amendment:

- Changes the effective date of the legislation requiring these new standards and procedures to apply to teachers whose probationary period commences on or after July 1, 2008;
- Prohibits school districts and BOCES from using student test scores to grant or deny tenure; and
- Establishes a two-year sunset on Section 3012-b, which will allow the Legislature to revisit this law in 2010.

**These changes apply only to classroom teachers providing instructional services whose probationary period commences on or after July 1, 2008.** Teachers who are assigned to a new position in a new tenure area in the same school district and teachers who commence probationary period in another school district on or after July 1, 2008 are also affected by these changes.

This bulletin provides information and resources for Local Leaders and Labor Relations Specialists to assist probationary teachers to successfully utilize analysis of available student performance data and other relevant information when providing instruction.

Tenure is an employment status a teacher earns by successfully completing a probationary period of employment. Tenure in New York State is conferred by a Board of Education upon the affirmative recommendation of the Superintendent. A tenured teacher has earned the right to due process under Section 3020-a of the Education Law.

Section 100.2(o) of the Commissioner's Regulations, regarding Annual Professional Performance Review (APPR), requires school districts and BOCES conduct an annual review of professional staff. The procedures used in teacher evaluation are mandatory subjects of collective bargaining. The process for how a teacher will be evaluated related to demonstration of use of analysis of student data in instruction should be part of the district's APPR plan and is a mandatory subject of collective bargaining.

### **1. What does available student performance data mean?**

School districts must provide teachers with timely and relevant student information. According to Section 100.2(o) of the Regulations, available student performance data could include State test results, student work, school-developed assessments, and teacher-developed assessments. Other relevant information includes, but is not limited to, documented health or nutrition concerns or other student characteristics affecting learning.

Available student performance information means that the information is in a form that is readable, understandable, correctly formatted and readily available to the teacher in hard copy or electronic version of the information. The timeliness of results of state tests is a factor in availability. A probationary teacher cannot be held accountable for analyzing data that the district has not provided.

### **2. What is the connection of analysis of student performance data to instruction?**

In planning instruction, a teacher generally begins this process by establishing outcomes for student learning, and then considers how each student will meet the intended instructional objective(s). The success of student learning is related to how well the teacher is able to address the individual needs of his/her students. Understanding individual needs of each student begins with an analysis of available performance data and other relevant information about the student(s). This analysis helps the teacher determine appropriate instructional practices to be employed during individualized, group or whole class instruction. The steps of the teaching and learning processes are summarized below:

- The teacher begins by reviewing relevant data and information about the students' performance. Student data could include assessment information provided by the school district and/or other relevant information available to the teacher including, the results of formative and summative assessments and other classroom-based techniques.
- The teacher reviews the information on the students' performance and other student characteristics affecting learning and develops a lesson that, generally, includes the following components.
  - Learning outcomes linked to standards
  - An assessment of the students' prior knowledge
  - The new learning to be introduced
  - Opportunities for guided practice
  - Procedures for checking understanding of new learning

- Independent practice/homework
- Reflection on lesson and student performance to determine modifications necessary for the next lesson

### 3. How could the teacher demonstrate analysis of data when providing instruction?

Most teachers acquire skills concerning the analysis and use of student data and other information as part of their teacher preparation program, including an understanding of formative and summative assessments and concepts associated with the evaluation of student learning. Part 52 of the Regulations of the Commissioner of Education requires teacher preparation programs to ensure that students can demonstrate knowledge of formal and informal methods of assessing student learning, and the means of analyzing one's own teaching practice, as well as skill in using information gathered through assessment and analysis to plan or modify instruction.

The teacher may demonstrate the use of data analysis by developing, modifying, adapting or differentiating instruction as noted below:

- **Selecting instructional materials at appropriate reading level.** Example: The teacher provides the student with content material at a less difficult reading level aligned with the student's independent reading level and pre-teaches vocabulary.
- **Selecting appropriate learning modality to deliver instruction.** Example: A student does not grasp the difference between two major concepts taught. The teacher provides a word game, word wall, graphic organizer, reading guide or other comprehension tools to help the student comprehend the differences between the concepts.
- **Modifying instruction.** Example: A teacher determines that many students had difficulty with the skill of addition of three numbers and decides to analyze student errors and to re-teach the concept using a different instructional strategy.
- **Grouping students based on identified needs.** Example: Several English language learners who had trouble with the vocabulary in a lesson will receive the same words provided with examples of the use of the words and references to other similar words, designed to link to their background experience and native language.
- **Referring students for additional academic support.** Example: A student is having continued difficulty with reading comprehension despite repeated classroom-based interventions designed to improve the skill. The teacher refers the student to the school's child student team for diagnostic reading assessment based on data collected by observation in the classroom and the results of the trial interventions. In this case, the teacher is using results of student assessment to seek more intensive intervention for the students.

### 4. What are some basic understandings probationary teachers should have about analysis of student data?

Student performance data and other relevant information (including health, and nutritional information that impact learning) are the results of the process of gathering, and describing, or quantifying information about student abilities, prior learning, experience, strengths and weaknesses. Teachers being considered for tenure will be required to demonstrate the ability to use these student data and information when providing instruction, including the results of formative and summary assessments.

**Formative assessments** include various procedures and techniques a teacher uses to check a student's understanding and to adjust learning experiences. Generally, formative assessments are continuously throughout the learning process, and include classroom-based assessments, tasks, evidence in portfolios, observations, projects, teacher developed tests, teacher observations of student learning, student work, including student writing, lab performance, arts performance, video of student performance on tasks or projects.

**Summative assessments** are conducted at the end of a lesson, unit, chapter, quarter, semester, or school year to determine student mastery of material, including publisher created tests, standardized tests, large scale assessments, and state assessments and examinations.

**5. Can a teacher's professional portfolio, if required, be used in demonstrating a teacher's analysis of student information when providing instruction?**

Yes. A professional portfolio is a tool for the probationary teacher to demonstrate the ability to analyze data and use results to modify instruction. The professional portfolio is required by Section 100.2(o) of the APPR Regulations for the evaluation of teachers who hold an initial certificate. Initial teaching certificates replaced probationary certificates as of February 1, 2004. When used appropriately, by an evaluator who has been trained, a portfolio provides a way for a teacher to pose questions about collection and analysis of data, decide which data to analyze, collect artifacts and evidence, and then reflect on changes needed in instruction.

**Advice to Local Leaders**

- Request that your Labor Relations Specialist assesses the impact of this new requirement on the district's APPR and PDP plans and collective bargaining agreement. The requirement for demonstration of use of data applies to all teachers whose probationary period commenced on or after July 1, 2008. There will be some probationary teachers in your district hired before July 1, 2008. They are **not** subject to the rules in this law.
- Examine how the district's Professional Development Program (PDP) and mentor program can support new teachers in meeting this new requirement.
- Support for probationary teachers may include collaborative analysis of data, and student work.
- Examine the APPR Plan to determine the needs for new language to describe the evidence and the methods to be used to assess how a teacher demonstrates his/her ability to analyze student information when providing instruction. This may include negotiating criteria, a rubric or a checklist for this assessment.
- Consider adding language to the assessment methods section of the APPR plan suggesting that one way for teachers to demonstrate the ability to analyze data is by including in a portfolio a narrative reflecting on the use of student data and its connection to instruction. The narrative could include identification of the purpose of analyzing data; description of the data collected and analyzed conclusions about what the data reveals about the student performance and reflection on ways to modify instruction in light of the data findings
- Examine how the District-Based Mentoring Plan can be used to support teachers in meeting this requirement. While mentors are not part of the evaluation process unless collectively bargained, they serve a role in supporting the new teacher's knowledge of the uses of data.
- Monitor the district's requirement to provide adequate training to staff that are responsible for performing evaluation of teachers.

- Identify all probationary teachers who hold an initial New York State teaching certificate. Those teachers must:
  - Be assigned mentors (**See IB # 200807 District-Based Teacher Mentoring Programs**) as described in the district’s Professional Development Plan (PDP) and evaluated using a portfolio method as described in the district’s Annual Professional Performance Review (APPR). (**See BB #08-09 Update your APPR: Professional Portfolios Required for Evaluation of Newly Certified Teachers**).

**Resources**

NYSUT’s Education & Learning Trust (ELT) is offering two programs to assist locals and probationary teachers in meeting these new requirements. ELT contact information is 1-800-528-6208 or [ELT@nysutmail.org](mailto:ELT@nysutmail.org).

- New Member Seminar: “Achieving tenure: What you need to know.” Union presidents may request this seminar from ELT. Inquire to arrange this seminar free of charge for new members.
- ELT Professional Development Program: “Using Data to Inform Instruction.” Up to 15 hour in-service program delivered in your local.

NYSUT’s Research and Educational Services provides information on the following topics related to this requirement at [www.nysut.org](http://www.nysut.org), go to Resources (Left Hand Column) and click on Information Bulletins.

<u>Bulletin Name</u>	<u>IB/BB Number</u>
New Tenure Determination Law	BB #08-13
New Tenure Determination Law-Use of Peer Review	IB #200825
Professional Development Plans	IB #200806
District-Based Mentoring	IB #200807
Comparison of Mentoring Models	IB #200803
Annual Professional Performance Review	IB #200826
Use of Portfolio Assessment	BB #08-09
PDP Checklist	BB #08-03

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