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## Information Bulletin

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### Annual Professional Performance Review (APPR)

#### **Introduction**

Section 100.2 of the Commissioner's Regulations regarding the Annual Professional Performance Review (APPR) requires school districts and BOCES to annually evaluate the performance of probationary and tenured teachers providing instructional and pupil personnel services. The procedures for evaluating teachers are a mandatory subject of collective bargaining. This bulletin includes amendments to Section 100.2 of the Regulations to conform with Chapter 57 of the Laws of 2007 (CR 100.2(o)(2)(iii)2(b)(vi)).

#### **Regulatory Information**

This bulletin provides information on Section 100.2 (o) of the Commissioner's Regulations Annual Professional Performance Review. The regulation specifies formal procedures for the review of the performance of teachers which must be determined by the school district or BOCES, consistent with the requirements of Article 14 of the Civil Service Law. The bulletin provides advice to local leaders to assist them in the implementation of these procedures.

#### **Who are subject to the APPR Regulations?**

Each school district and BOCES must adopt an annual professional performance review plan affecting the following individuals:

- ◆ All teachers providing instructional services. Evening school teachers of adults of nonacademic, vocational subjects are exempt from the APPR requirements.
- ◆ All teachers providing pupil support services including: school attendance teacher, school counselor, school dental hygiene teacher, school nurse-teacher, school psychologist and school social worker.

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**2008 Update**

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 determinations for teachers employed in school districts and BOCES. The tenure determination process must include:

- An evaluation of the extent to which the teacher successfully utilized analysis of available student performance data and other relevant information when providing instruction;
- Peer review by other teachers, as far as practicable; and
- An assessment by the teacher’s building administrator.

Please continue to check NYSUT’s website at [www.nysut.org](http://www.nysut.org) for the latest information.

**Key Regulatory requirements about the development and adoption of the APPR plan**

- ◆ The Board of Education of the school district or BOCES is responsible for adopting an APPR plan. The plan is filed in the district or BOCES and is not submitted to the State Education Department, unless requested. The APPR plan must be approved by the board of education, filed in the district’s BOCES office and available for review by any individual Sept 10th of each year.
- ◆ A component of the APPR Plan includes the formal procedures for review of performance of professional personnel in the district. These procedures are developed by the superintendent in consultation with teachers, administrators, and other school personnel, selected by the superintendent with the advice of their selected peers. While supplementary school personnel including teacher aides, teaching assistants and visiting lecturers are subject to an annual review (CR 100.2(o)(2)(ii)), they are not subject to the requirements in the professional performance review plan (CR 100.2(o)(2)(iii)).
- ◆ The APPR regulation requires that the board of education provide organizations representing parents, and teacher bargaining units with an opportunity to comment prior to its approval.
- ◆ An APPR plan may be for a single year or for multiple years.
- ◆ Districts may add additional criteria to the mandated state criteria for instructional professionals and may adjust criteria for pupil personnel professionals.

**Relevant date in APPR**

Before September 10 of each year

By September 10<sup>th</sup> of each year

By September 10<sup>th</sup> of each year

By September 10 of each year

**Action required and section of regulation**

The governing body of each school district and BOCES shall provide organizations representing parents and the recognized representative of the teachers' bargaining unit with an opportunity to comment on such plan prior to its adoption.

The governing board of each school district and BOCES shall approve a plan which may be annual or multi-year plan, for the annual professional performance review 100.2 (o)(2)(iii)(a)(2)

The plan shall be filed in the district or BOCES office and available for review by any individual 100.2 (o)(2)(iii)(a)(2)

The board of education shall annually review the performance of the superintendent of schools. Procedures shall be filed in the district office and available for review by any individual 100.2 (o)(2)(v)

### **Key Regulatory requirements about the content of the plan**

- ◆ The APPR plan must define the **criteria** to be used to evaluate teachers providing instructional services, and must include but not be limited to, the following areas:
  - Content knowledge
  - Preparation, knowledge of pedagogical practices
  - Instructional delivery
  - Classroom management
  - Student development
  - Student assessment
  - Collaboration with students, parents, caregivers and support personnel
  - Reflective practice and ability to adjust instruction
  
- ◆ The APPR plan must also describe the **criteria** to be used to evaluate teachers providing pupil personnel services including school attendance teacher, school counselor, school dental hygiene teacher, school nurse-teacher, school psychologist and school social worker as described in section 80-1.1 and supplemental school personnel including teacher aides, teaching assistants and visiting lecturer as described in section 80.56.
  
- ◆ The APPR plan must describe the **assessment methods** to be used to evaluate teachers and supplemental service personnel performance. Methods may include but are not limited to:
  - Classroom observation
  - Videotape assessment
  - Self review
  - Peer review
  - Portfolio review
  
- ◆ The APPR plan must include specific procedures for the evaluation of **teachers holding a transitional or initial certificate**. The APPR regulation requires that those holding transitional or initial certificates be evaluated using a portfolio review which may include, but is not limited to:
  - A video of teaching performance
  - A sample lesson plan
  - A sample of student work
  - Student assessment instruments
  - Teacher reflection on his/her classroom practice
  
- ◆ The APPR plan must describe how the school district or BOCES will provide **training** for those who will conduct performance evaluations.
  
- ◆ The APPR plan also must include the procedure used to annually **review the performance of the superintendent**. This procedure must be filed in the district and be available for review by any individual no later than September 10<sup>th</sup> of each year.

### **Key Regulatory requirements about Teacher Improvement Plans (TIP)**

- ◆ Each APPR plan must establish the levels of proficiency and evidence required for satisfactory performance.
- ◆ The APPR plan must describe how the school district or BOCES addresses the performance of probationary and tenured teachers, whose performance is evaluated as unsatisfactory and requires a teacher improvement plan (TIP), which shall be developed by the district or BOCES in consultation with the teacher.

- ◆ The TIP is a teacher improvement plan, written as a recommendation or plan of action to help a teacher found to have unsatisfactory practice using the review process established in the APPR plan.
- ◆ Each district must report annually to SED on the district's efforts to address the performance of teachers whose performance is considered unsatisfactory.

**Key Ideas about HOUSSE as part of APPR**

- ◆ The No Child Left Behind Act of 2001 (NCLB) requires that every teacher of a core academic subject must be highly qualified. In New York State, a teacher's status as highly qualified may be determined:
  - at the time of the pre-employment interview
  - by transferable qualification at a previous employer for the same position
  - by certification in the subject taught
  - by completion of a content specialty test or by demonstrating subject area competence using the High Objective Uniform State Standard of Evaluation (HOUSSE)
- ◆ HOUSSE is a tool of NCLB which a teacher may use to demonstrate competency in all core academic subjects they teach, if they are not considered highly qualified by other means. It is a check list which allows points for previous academic, classroom and professional development experiences.
  - ◆ In New York State, HOUSSE, if applicable, must be administered as part of the APPR, or annual evaluation process.
- ◆ NYS teachers who may need to use HOUSSE to demonstrate highly qualified status:
  - Special Education Teachers of multiple subjects
  - Teachers of multiple subjects in rural areas
  - Teachers of Career and Technical Education (CTE)
  - Holders of Permanent NYS teaching certificates who teach subjects out of the certification area (incidental teaching)
  - Teachers certified before 1984

Additional information on NYS's implementation of the highly qualified requirements of NCLB is available at HOUSSE IB #200808.

**Advice to Local Leaders about APPR Plans**

1. Recommend teachers from the union to collaborate with the superintendent on the development of the APPR plan.
2. The procedures for evaluation are a mandatory subject of collective bargaining. Be sure to review the formal review procedures before they are approved by the board of education. The board must approve these procedures for evaluation, file in the district, and make available for review by August 1st of each year.
3. Review the APPR plan and comment before the plan is adopted by the board of education. The board of education must adopt the APPR by September 10.
4. As the APPR plan is developed, urge your district or BOCES to make connections with your district Professional Development Plan (PDP) and your mentor program.
5. NYSUT's Education and Learning Trust can provide background information and workshops on different models of teacher evaluation, teacher portfolio development, and use of video taping for assessment.
6. Build an evaluation model in your APPR that supports the continuous improvement of teachers and supplemental school personnel in your local. Seek models that encourage professional conversations and the creation of a learning community in your school district.

7. There is still much confusion in districts about the use of portfolios in evaluation of holders of initial and transitional certificates. The regulation does not prescribe any details about portfolios. Check to be sure your APPR plan defines the process and form for portfolio use in your district or BOCES. Determine how evaluators are trained to use portfolios as required in the regulation.

**Advice to Local leaders about Teacher Improvement Plans (TIP)**

8. TIPs are intended to help probationary and tenured teachers improve their professional performance, not to be used as disciplinary tools or to gather evidence to terminate an individual.
9. The school district or BOCES is responsible for providing the help to the teacher consistent with the TIP. The teacher must be involved in determining the activities suggested to improve the areas of unsatisfactory performance.
10. TIPs are to be developed in consultation with a teacher and a district representative. Consultation implies a level of mutual respect.
11. Meetings to discuss the TIP may be very tense situations, if a teacher does not understand or agree with the evaluation as unsatisfactory or if a district is misusing the process.
12. As the procedures for the Annual Professional Performance Review are a mandatory subject of collective bargaining, the contract can stipulate that a union representative accompany the teacher for the TIP meetings.
13. Development of a TIP should be a helpful, professional conversation, identifying solutions to areas needing improvement and resources that will HELP the teacher. TIP consultation meetings should not be adversarial.
14. There is no recommended template for a TIP in the APPR regulations. Each district or BOCES develops its own TIP form and process in the APPR plan. The procedures area mandatory subject of collective bargaining.
15. A good TIP may include the following:
  - a. Identification of the specific areas of needed improvement.
  - b. The criteria in the district or BOCES APPR plan used to determine the areas of improvement.
    - What areas does the teacher require improvement?
    - What evidence will demonstrate that the teacher has improved?
  - c. A timeline for accomplishing the improvement, with intermediate benchmarks.
  - d. A statement of what the teacher agrees to do to make the required improvement.
  - e. A statement of who will support the teacher and monitor progress.
  - f. Identification of multiple resources to help the teacher, including, but not limited to:
    - Mentors, district professional development plan, Teacher Centers, BOCES, or Higher Education Institutions, personal counselors, employee assistance programs, and medical referrals and others.
  - g. Release time for courses, workshops and observation, mentoring
  - h. Signatures by the teacher and district representative indicating agreement with the TIP.
16. Advise your membership that if a TIP is used as a threat or as a disciplinary tool by a district representative, the member should immediately contact the local president. Local presidents should ensure that building representatives know who has been identified as participants in the TIP process.
17. The failure of districts to provide TIPs for probationary teachers with unsatisfactory performance has resulted in some cases of an additional year of probation (Juul year). See your Labor Relations Specialist (LRS).

**Advice to Local leaders about HOUSSE**

18. Meet with your administration to determine which teachers are not considered Highly Qualified according to NCLB definitions. NCLB requires that only teachers of core academic subjects must be highly qualified.
19. If the district's APPR does not include a component on use of HOUSSE, meet with your LRS to create one. Submit this to administration as part of the procedures which must be collectively bargained.
20. Meet with those staff members determined not to be highly qualified to assure them that this determination is about qualifications, not about the quality of their teaching or their value to the school and their students.
21. For more information on this complex topic see the most recent NYSUT IB #200808 on the use of HOUSSE listed below.

### **Attachment**

1. Section 100.2 (o) of the Regulations regarding Annual Professional Performance Review  
<http://www.emsc.nysed.gov/part100/pages/1002c.html>

### **Resources**

- ◆ NYSUT Briefing Bulletin #08-08 Teacher Improvement Plan (February 2008)
- ◆ NYSUT Briefing Bulletin #08-09 Update your APPR: Professional Portfolios for Evaluation of Newly Certified Teachers (February 2008)
- ◆ NYSUT Information Bulletin #200808 High Objective Uniform State Standard of Evaluation-HOUSSE (Updated February 2008)

**SECTION 100.2 of the Regulations of the Commissioner of Education**

**100.2 General school requirements.**

**(o) Annual professional performance review.**

(1) For school years commencing prior to July 1, 2000, each school district and board of cooperative educational services (BOCES) shall be subject to the requirements of this paragraph. For school years commencing on or after July 1, 2000, each school district and BOCES shall be subject to the requirements of paragraph (2) of this subdivision.

(i) The governing body of each school district and board of cooperative educational services shall ensure that the performance of all professional personnel, except evening school teachers of nonacademic, vocational subjects, will be reviewed annually.

(ii) Each superintendent, in consultation with teachers, administrators and other school service professionals, selected by the superintendent with the advice of their respective peers, shall develop formal procedures for the review of the performance of all such personnel in the district. Such procedures shall be approved by the governing body of the district, filed in the district office, and available for review by any individual no later than August 1st of each year. Formal procedures for the review of the performance of all such personnel shall include:

(a) criteria by which all such personnel shall be reviewed, and a description of the review procedures;

(b) a description of review activities, including:

(1) the minimum number of observations;

(2) the frequency of observations; and

(3) provisions for a follow-up meeting for the reviewer to commend strengths of performance and discuss the need for improvement, if necessary, with the staff person being reviewed;

(c) methods used to record review results; and

(d) procedures used to:

(1) ensure that all such personnel are acquainted with the performance review procedures; and

(2) ensure that each individual who is reviewed in accordance with the provisions of this subdivision has the opportunity to provide written comment on his or her performance review.

(iii) The board of education shall annually review the performance of the superintendent of schools according to procedures developed by such board in consultation with the superintendent. Such procedures shall be filed in the district office, and available for review by any individual no later than August 1st of each year.

(2) For school years commencing on or after July 1, 2000, each school district and BOCES shall be subject to the requirements of this paragraph.

(i) For purposes of this paragraph, the governing body of each school district shall mean the board of education of each school district, and in the case of the City School District of the City of New York it shall mean the Board of Education of the City School District of the City of New York.

(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(w) of this Title, is

reviewed annually, except evening school teachers of adults enrolled in nonacademic, vocational subjects; and supplementary school personnel, as defined in section 80.33 of this Title.

(iii) Professional performance review plan.

(a) Development and adoption of the plan.

(1) By September 1, 2000, 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(w) of this Title, that meets the content requirements prescribed in clause (b) of this subparagraph.

(2) Each superintendent and in the case of the City School District of the City of New York, the Chancellor, in collaboration with teachers, pupil personnel professionals, administrators and parents selected by the superintendent or in the case of the City School District of New York, the Chancellor, with the advice of their respective peers, shall develop the professional performance review plan, which shall be approved by the governing body of each school district or BOCES, filed in the district or BOCES office, as applicable, and available for review by any individual no later than September 10th of each year. The governing body of each school district and BOCES shall provide organizations representing parents and the recognized representative of the teachers' bargaining unit with an opportunity to comment on such plan prior to its adoption.

(b) Content of the plan.

(1) Criteria for evaluation of teachers providing instructional services. The professional performance review plan shall describe the criteria that the school district or BOCES shall use to evaluate its teachers providing instructional services, which shall include but not be limited to an evaluation of the following:

(i) Content knowledge, the teacher shall demonstrate a thorough knowledge of the subject matter area and curriculum;

(ii) Preparation, the teacher shall demonstrate appropriate preparation employing the necessary pedagogical practices to support instruction;

(iii) Instructional delivery, the teacher shall demonstrate that the delivery of instruction results in active student involvement, appropriate teacher/student interaction and meaningful lesson plans resulting in student learning;

(iv) Classroom management, the teacher shall demonstrate classroom management skills supportive of diverse student learning needs which create an environment conducive to student learning;

(v) Student development, the teacher shall demonstrate knowledge of student development, an understanding and appreciation of diversity and the regular application of developmentally appropriate instructional strategies for the benefit of all students;

(vi) Student assessment, the teacher shall demonstrate that he or she implements assessment techniques based on appropriate learning standards designed to measure students' progress in learning and that he or she successfully utilizes analysis of available student performance data (for example: State test results, student work, school-developed assessments, teacher-developed assessments, etc.); and other relevant information (for example: Documented health or nutrition needs, or other student characteristics affecting learning) when providing instruction; (Amendment 2007)

(vii) Collaboration, the teacher shall demonstrate that he or she develops effective collaborative relationships with students, parents or caregivers, as needed, and appropriate support personnel to meet the learning needs of students;

(viii) Reflective and responsive practice, the teacher shall demonstrate that practice is reviewed, effectively assessed and appropriate adjustments are made on a continuing basis.

(2) Criteria for the evaluation of teachers providing pupil personnel services. The plan shall describe the criteria that the school district or BOCES shall use to evaluate teachers providing pupil personnel services, as defined in section 80.1(w) of this Title.

(3) Assessment approaches. The plan shall describe the methods that the school districts or BOCES shall employ to assess teachers' performance, which may include but is not limited to the following: classroom observation, videotape assessment, self review, peer review and portfolio review. For teachers possessing a transitional or initial certificate, the plan shall require the teacher to be evaluated based on portfolio review, which may include but is not limited to: a video of teaching performance, a sample lesson plan, a sample of student work, student assessment instruments and the teacher's reflection on his or her classroom performance.

(4) Teacher improvement. The plan shall describe how the school district or BOCES addresses the performance of teachers whose performance is evaluated as unsatisfactory, and shall require the development of a teacher improvement plan for teachers so evaluated, which shall be developed by the district or BOCES in consultation with such teacher.

(5) Training in performance evaluation. The plan shall describe how the school district or BOCES provides training in good practice for the conducting of performance evaluations to staff who perform such evaluations, or alternatively, shall state the fact that the school district or BOCES permits such personnel to participate in training in this subject offered by the department.

(iv) Reporting requirement. The department shall require school districts and BOCES to report on an annual basis information related to the school district's efforts to address the performance of teachers whose performance is evaluated as unsatisfactory, including information related to the implementation of teacher improvement plans for teachers so evaluated.

(v) Performance review of superintendent. The governing body of each school district shall annually review the performance of the superintendent of schools according to procedures developed by such body in consultation with the superintendent. Such procedures shall be filed in the district office and available for review by any individual no later than September 10th of each year.

(vi) Formal procedures for the review of the performance of teachers shall be determined by the school district or BOCES, consistent with the requirements of Article 14 of the Civil Service Law.

(vii) Variance.

(a) A variance shall be granted from a requirement of this paragraph, upon a finding by the commissioner that a school district or BOCES has executed prior to September 3, 1999 an agreement negotiated pursuant to Article 14 of the Civil Service Law whose terms continue in effect and are inconsistent with such requirement.

(b) A variance shall be granted from the criteria for the evaluation of teachers providing instructional services, prescribed in subclause (1) of clause (b) of subparagraph (ii) of this paragraph, upon a finding by the commissioner that the school district or BOCES has demonstrated that a local model for the evaluation of such teachers has produced successful results.