

# NYSUT UNITED

A UNION OF PROFESSIONALS

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support what  
students need.

How do the  
Regents  
rate?

■ VOTERS  
SUPPORT  
SCHOOLS

■ NYSUT  
ELECTIONS  
RESULTS

## REGENTS REPORT CARD

### Teacher/principal evaluation

Regents undermined their original goals of multiple measures, local flexibility and professional judgment, and have set back meaningful reform.

Grade:

F

### Remedial support

After the State Education Department raised cut scores on grade 3-8 math and ELA tests, the Regents removed the safety net for struggling students in the name of flexibility.

Grade:

F

### Student opportunities

The Regents eliminated test development and January exams, as well as exams in fifth- and eighth-grade social studies and foreign languages. These moves narrow the curriculum and make it harder for students to graduate.

Grade:

F

### Special Education services

The Regents removed services for students most in need in favor of flexibility for school districts. They continue to consider additional changes to cut services for students with disabilities.

Grade:

F

Richard C. Iannuzzi

# The option to fail

**T**he new APPR regulations for evaluating teachers and principals are seriously flawed. With only three Regents standing up for children — Regents Cashin, Rosa and Tilles — the remaining Regents determined that it was acceptable to offer school districts, teachers and students the option to fail.

In a letter to the full Board of Regents (the full letter appears on page 8), 10 experts, led by Dr. Linda Darling-Hammond, said it succinctly:

*As researchers who have done extensive work in the area of testing and measurement, and the use of value-added methods of analysis, we write to express our concern about the decision pending before the Board of Regents . . . We urge you to reject proposals that would place significant emphasis on this untested strategy that could have serious negative consequences for teachers and for the most vulnerable students in the State's schools.*

In a letter to Chancellor Tisch and

circulated to the full board, I put it this way:

*The proposed amendments ignore sound educational research; reject significant portions of the work of the Task Force consisting of practitioners from every stakeholder group; seek to circumvent local collective bargaining; and attempt to create regulations contrary to the language and intent of the existing law. . . New York State is poised to take the lead on a path to a thoughtful and comprehensive evaluation system to ensure that every child faces an effective teacher and that every school is administered by an effective principal. I sincerely hope that the full Board of Regents does not choose a different path.*

## Next steps

NYSUT has suspended its collaboration with SED for the remainder of this school year while we re-evaluate our relationship; we have pulled our support for SED's June conference on union/district collaboration; and, we are pursuing all available legal avenues.

“Middle-income districts will struggle, but will try to do right by their students and teachers. Poverty-ridden, overwhelmingly minority districts and small, struggling, poor rural districts will have no choice — they have no resources.”



STEVE WHITNEY

Beyond arguments pertaining to collective bargaining, the role of standardized tests and the meaning of trust is an issue more critical and more substantial: the opportunity/achievement gap. The new regulations “allow” school districts to choose the use of state standardized tests for up to 40% of teacher and principal evaluations instead of choosing locally developed, rich and authentic multiple measures of student growth.

We know all too well how the choice will be made. It will be made based on wealth. Well-to-do districts will choose to continue their work in creating meaningful and authentic evaluation systems that will positively impact instruction and student success. Middle-income districts will struggle, but will try to do right by their students and teachers. Poverty ridden, overwhelmingly minority districts and small, struggling, poor rural districts will have no choice — they have no resources. They will be forced to choose the option that is a disservice to their students. They will be forced

to choose cheap and flawed over rewarding and authentic. They will be forced to choose widening the achievement gap over closing the achievement gap.

The Board of Regents' choice leaves no choice for struggling school districts. If communities serving children of poverty were seeking a path to academic success, that path has been taken away. Instead, the Board of Regents has given them an “option” — the option to fail.

I still believe that partnering and advocacy can coexist — that you can communicate and not capitulate. I also believe that to be successful at both requires recalibrating relationships at strategic moments. This is one of those moments.

*Dick*

**Note:** Your comments on this column or any issue you wish to share directly with me are welcomed. Email your thoughts to [dialogue@nysutmail.org](mailto:dialogue@nysutmail.org)



## NYSUT blasts Regents'

# BREACH of TRUST

DANA FOURNIER

## Union redoubles push for fair evals

By **SYLVIA SAUNDERS**  
ssaunder@nysutmail.org

**N**YSUT and its local unions will take action to ensure the educational integrity and fairness of teacher evaluations — despite the Board of Regents' adoption of regulations that are inconsistent with the new law, the recommendations of the Regents' own task force, and research on best practice in assessments.

Efforts will include collective bargaining — the law requires that virtually all aspects of the teacher evaluation process be negotiated — and possible legal challenges to the new regulations.

Meanwhile, NYSUT is suspend-

ing collaboration with the State Education Department, including participation in and co-sponsorship of SED's June 13-14 District/Union Collaboration at Cornell University, a conference aimed at implementing the evaluation law.

The Regents' 11th-hour changes in the regulations for implementing the law sparked outrage from educators and assessment experts, including open letters of protest from nationally recognized researchers (see page 8) and New York State teachers of the year (see page 9).

In what NYSUT President Dick Iannuzzi called “a significant setback for reform and innovation in New York state,” the Regents voted 14-to-3 May 16 to approve regula-

tions that would permit the option of using student performance on a single state test to account for 40 percent of a teacher's evaluation. NYSUT contends the Regents' action is contrary to the language and intent of the law, which was designed to strengthen instruction, support local autonomy, and model best practice by using multiple measures to assess student learning and teacher effectiveness.

“Collaboration now becomes a victim of Albany bureaucracy, legal debate and political posturing,” Iannuzzi said. “New York state was poised to take the lead on a path to a thoughtful and comprehensive evaluation system. Promising procedures developed in partnership with

stakeholders and in response to the voice of practitioners have been sidetracked by political expedience and a misguided rush to get it done — instead of getting it done right.”

The Regents approved new regulations that, among other changes, would:

- Allow districts and locals to negotiate as an option the use of student results on a single test for up to 40 percent of a teacher's annual evaluation. In fact, the law enacted last year limits the use of a single state test to 20 percent of a teacher's evaluation and specifies that the remaining student achievement component (another 20 percent of the total evaluation) must be measured by *other* locally developed and selected assessments.

- Fast track the timeline for rolling out the new system. The system was supposed to take effect this fall for teachers of math and English language arts in grades 4 to 8, as well as their building principals. Everyone else would be subject to new procedures starting with the 2012-13 school year. But the Regents are now asking districts to “begin the process of rolling this system out ... to the extent possible,” for all classroom teachers and building principals in the 2011-12 school year.

- Impose a system placing increased weight on classroom observations and requiring multiple observations, despite the fact the law relegates such matters to collective bargaining.

- Adjust scoring ranges in what experts say is a misuse of and over-emphasis on standardized testing.

“We will use the collective bar-

**Continued on page 6** ➔

## Push for fair evals

← Continued from page 5

gaining process to stand up against what would be a flawed over-reliance on standardized testing that is a disservice to both students and teachers,” Iannuzzi said.

The law calls for each teacher and principal to receive an annual professional performance review (APPR) resulting in a single composite effectiveness score and a rating of “highly effective,” “effective,” “developing” or “ineffective.”

The law requires the composite score to be determined as follows: 20 percent student growth on state assessments or a comparable measure of student achievement growth; 20 percent other, locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms; and 60 percent other measures of teacher/principal effectiveness, with virtually all of the law’s provisions subject to local collective bargaining.

Evaluations under the new system could eventually play a significant role, depending on collective bargaining, in a wide array of employment decisions, including promotion, retention, tenure determinations, termination and supplemental compensation, which is why it is essential that it be fair, educationally sound and reliable. It will not replace seniority rights.

NYSUT Vice President Maria Neira noted that the evaluation law provides a significant role for local unions to be both strong advocates and partners in strengthening instruction and evaluations.

“The law ensures that collective bargaining is a tool for bringing about collaborative solutions,” Neira said. “Our commitment to cre-

ating a thoughtful, fair and comprehensive process for APPR remains steadfast, unshaken by political expediency of those who would circumvent best practice in ensuring teacher effectiveness.”

Neira said NYSUT will continue its leadership role through collective bargaining at the local level and through NYSUT’s Innovation Initiative, which is piloting a research-based teacher evaluation and professional development system in six school districts.

The Innovation Initiative model includes student achievement as one measure, but emphasizes numerous other measures, including intensive observation and feedback; pre- and post-observation conferences with evaluators; and self-reflective study and goal-setting as part of a comprehensive teacher support and evaluation system.

The Regents’ action ignored many of the findings of its own task force of educators and other stakeholders who spent months collaborating on how best to implement the new law.

The vote also came after the Regents received a letter from nationally recognized education researchers who warned about using standardized tests to evaluate individual teachers given the particular weaknesses of New York’s exams.

Citing the concerns voiced by practitioners and researchers, three of the Regents stood strong and voted against the revised regulations.

“I disagree with using the same test twice,” said Regent Kathleen Cashin of Brooklyn, noting the state’s assessments were created to measure the skills of students, not teachers.

She also noted the new system would hold teachers accountable to new standards without providing



EL-WISE NOISSETTE

commensurate training for them to improve. “How can we have an accountability system without the pervasive, deep professional development?” Cashin said. “That’s what all the countries exceeding us are doing.”

Regent Roger Tilles of Long Island said school districts simply do not have enough funding or resources to implement the system, which will encourage too many to take the easy way out and overuse the state standardized tests.

“Given the high-stakes nature ... this pushes everyone to do well at all costs,” Tilles said. “It tempts teachers to teach to a certain type of kid; it lends itself to manipulation.” He said this will further narrow the curriculum to focus only on tested subjects.

Regent Betty Rosa of the Bronx agreed that the current tests are not built to reflect growth for students at the high or low end of the spectrum. She cited an eighth-grade teacher with students functioning at a first-, second- or third-grade level. “The truth of the matter is, even if I work miracles and bring those students

Three Regents, from left, Betty Rosa, Roger Tilles and Kathleen Cashin, took a courageous stand and voted against regulations for teacher evaluations. Read Tilles’ commentary on [www.nysut.org](http://www.nysut.org).

from first or second grade all the way up to third- or fourth-grade level, they’re going to score at level one and no growth will be shown,” she said.

Ironically, on the same day the Regents voted to allow the option of weighting standardized tests more heavily, they voted to postpone test development and to get rid of several Regents’ exams to close an \$8 million deficit in the state’s assessment program.

“This setback makes the complex work of implementation more difficult. However, it does not override collective bargaining and our principles. A comprehensive evaluation system must have local flexibility, recognize that teaching is complex and cannot be summarized by a single test score, and must be transparent,” Neira said.

“We will not be silenced as we, the experts, lead the fight for a fair evaluation system.”



# Where we stand on teacher evaluations

## Background

In a move NYSUT says contradicts state law, the state Board of Regents has adopted regulations that offer districts and locals the option of negotiating the use of student results on standardized state tests to account for 40 percent of teachers' annual evaluation. This action ignores the recommendations of the Regents' own task force; it ignores best practice documented by nationally recognized researchers; and it contradicts the state's recently passed law on teacher/principal evaluations, which allows 20 percent of an evaluation to be comprised of student growth on standardized tests, but specifies that an additional 20 percent must be comprised of student performance on other locally developed and selected measures.

Fortunately, since the law requires that virtually all aspects of the process for teacher evaluations, including development of improvement plan procedures as well as appeals processes to challenge flawed evaluations, must be negotiated locally through collective bargaining, educators can continue to advocate for educationally sound evaluation procedures. This includes making sure that the other measures of student achievement are truly the product of local decision-making.

NYSUT encourages members to share with parents and other community members these points about teacher evaluations.

## Talking points

- The state Board of Regents' decision to allow the option of over-reliance on student standardized tests in evaluations is a significant setback for education reform in New York state. Both the chancellor and the commissioner of education have previously cited flaws in the state's standardized tests, one of many reasons why the law clearly limits their use in evaluations and requires the use of multiple other locally determined measures of student achievement.

- Parents understand intuitively that double-counting student performance on a single test does a disservice to both students and teachers alike. It defies logic and would promote inappropriate, high-stakes use of a standardized test that was never designed for that purpose.

- The double-counting option ignores the recommendations of the Regents' own task force calling for rigorous, fair and comprehensive evaluations relying on multiple measures of effectiveness for student learning, which the law says should be locally selected.

- The Regents' decision also ignores a significant body of research on assessments from nationally respected education researchers — a move that prompted almost a dozen national experts to issue a letter saying why it is wrong to over-rely on standardized testing. (See letter, page 8.)

- Most troubling, the Regents' action contradicts legislation enacted a year ago. The law says

student growth on standardized state tests can account for 20 percent of a teacher's evaluation, with another 20 percent comprised of other measures of student achievement. This approach makes sense and aligns with best practice in testing, since a balance between standardized testing and multiple other measures produces a truer picture of student performance and teacher effectiveness. This is why the law is clear in requiring multiple measures.

- It is not true that over-reliance on standardized testing is a more rigorous way to evaluate teachers. In fact, it's less rigorous, less comprehensive and more subject to skewing. It is an easy way out of the necessary but challenging work of establishing comprehensive teacher evaluations.

- This flawed option is contrary to the overarching mission, embraced by teachers throughout a year of collaboration, of developing an evaluation system that works to strengthen classroom practice and instruction. Ironically, the Regents took this stance even as they voted to cut funding for test development and voted to eliminate numerous exams for middle school and high schools.

- Over-reliance on standardized tests would undermine local decision-making and community autonomy. Districts where high numbers of students live in poverty would be especially disadvantaged, facing pressure to over-use standardized tests rather than commit resources to

develop credible and authentic local assessments.

- Contrary to myth, teachers and their statewide union have long advocated replacing "drive-by" evaluations with a transparent, comprehensive and rigorous evaluation system that advances high standards for teacher effectiveness. In fact, after winning competitive national grants to support its Innovation Initiative, NYSUT is leading a pilot of labor/management teams in six school districts that are successfully developing rigorous evaluations that advance teacher effectiveness and student learning.

- NYSUT and its locals will employ collective bargaining to uphold the law and best practice in evaluations. Meanwhile, NYSUT is suspending collaborations with the State Education Department as a result of this breach and will continue to pursue all avenues necessary to remedy this error. NYSUT and its members across New York state continue our commitment to ensuring high standards and quality evaluations of teacher effectiveness, and will continue to speak truth to power against inappropriate use of testing wherever it affects students and educators.

- NYSUT and its locals have a proven track record of practicing strong advocacy as well as developing strong partnerships to advance public education, and will continue to pursue both avenues to uphold the highest standards of the teaching profession.

# Over-reliance on tests full of pitfalls

May 15, 2011

To The New York State  
Board of Regents:

As researchers who have done extensive work in the area of testing and measurement, and the use of value-added methods of analysis, we write to express our concern about the decision pending before the Board of Regents to require the use of state test scores as 40 percent of the evaluation decision for teachers.

As the enclosed report from the Economic Policy Institute describes, the research literature includes many cautions about the problems of basing teacher evaluations on student test scores. These include problems of attributing student gains to specific teachers; concerns about overemphasis on “teaching to the test” at the expense of other kinds of learning; and disincentives for teachers to serve high-need students, for example, those who do not yet speak English and those who have special education needs.

Reviews of research on value-added methodologies for estimating teacher “effects” based on student test scores have concluded that these measures are too unstable and too vulnerable to many sources of error to be used as a major part of teacher evaluation. A report by the RAND Corporation concluded that: “The research base is currently insufficient to support the use of VAM for high-stakes decisions about individual teachers or schools.”

The Board on Testing and Assessment of the National Research Council of the National Academy of Sciences stated “... VAM estimates of teacher effectiveness ... should not be used to make operational decisions because such estimates are far too unstable to be considered fair or reliable.”

Henry Braun, then of the Educational Testing Service, concluded in his review of research: “VAM results should not serve as the sole

or principal basis for making consequential decisions about teachers. There are many pitfalls to making causal attributions of teacher effectiveness on the basis of the kinds of data available from typical school districts. We still lack sufficient understanding of how seriously the different technical problems threaten the validity of such interpretations.”

According to these studies, the problems with using value-added testing models to determine teacher effectiveness include:

■ **Teachers’ ratings are affected by differences in the students who are assigned to them.** Students are not randomly assigned to teachers — and statistical models cannot fully adjust for the fact that some teachers will have a disproportionate number of students who may be exceptionally difficult to teach (students with poor attendance, who are homeless, who have severe problems at home, etc.) and whose scores on traditional tests have unacceptably low validity (e.g. those who have special education needs or who are English language learners).

All of these factors can create both misestimates of teachers’ effectiveness and disincentives for teachers to want to teach the neediest students, creating incentives for teachers to seek to teach those students expected to make the most rapid gains and to avoid schools and classrooms serving struggling students.

■ **Value-added models of teacher effectiveness do not produce stable ratings of teachers.**

Teachers look very different in their measured effectiveness when different statistical methods are used. In addition, researchers have found that teachers’ effectiveness ratings differ from class to class, from year to year, and even from test to test, even when these are within the same content area. Henry Braun notes that ratings are most unstable at the upper and lower ends of

the scale, where many would like to use them to determine high or low levels of effectiveness.

■ **It is impossible to fully separate out the influences of students’ other teachers, as well as school and home conditions, on their apparent learning.**

No single teacher accounts for all of a student’s learning. Prior teachers have lasting effects, for good or ill, on students’ later learning, and current teachers also interact to produce students’ knowledge and skills. Some students receive tutoring, as well as help from well-educated parents.

A teacher who works in a well-resourced school with specialist supports serving students from stable, supportive families may appear to be more effective than one whose students don’t receive these supports.

These problems are exacerbated further by the fact that the kind of grade-level tests and end-of-course tests used in New York are not designed to measure student growth.

While value-added models based on student test scores are useful for looking at groups of teachers for research purposes — for example, to examine the results of professional development programs or to look at student progress at the school or district level, they are problematic as measures for making evaluation decisions for individual teachers.

We urge you to reject proposals that would place significant emphasis on this untested strategy that could have serious negative consequences for teachers and for the most vulnerable students in the state’s schools.

**Eva Baker**, Distinguished Professor, UCLA Graduate School of Education; Director, National Center for Research on Evaluation, Standards and Student Testing (CRESST); President, World Educational Research Association, 2010-2012; Past President, American Educational Research Association

**Linda Darling-Hammond**, Charles E. Ducommun Professor of Education, Stanford University; Past President, American Educational Research Association; Executive Board Member, National Academy of Education

**Edward Haertel**, Vida Jacks Professor of Education, Stanford University; Chair, Board on Testing and Assessment, National Research Council; Vice President, National Academy of Education; Past President, National Council on Measurement in Education

**Helen F. Ladd**, Edgar Thompson Professor of Public Policy and Professor of Economics, Sanford School of Public Policy, Duke University; President, Association of Public Policy and Management

**Henry M. Levin**, William Heard Kilpatrick Professor of Economics and Education, Teachers College, Columbia University; Past President, Evaluation Research Society; Past President, Comparative and International Education Society

**Robert E. Linn**, Professor Emeritus, University of Colorado at Boulder; Past President, American Educational Research Association; Past President, National Council on Measurement in Education

**Aaron Pallas**, Professor of Sociology and Education, Teachers College, Columbia University; Fellow, American Educational Research Association

**Richard Shavelson**, Dean Emeritus and Margaret Jacks Professor Emeritus, Stanford University; Past President, American Educational Research Association

**Lorrie A. Shepard**, Dean & Distinguished Professor, University of Colorado at Boulder; Past President, American Educational Research Association; Past President, National Academy of Education; Past President, National Council on Measurement in Education

**Lee S. Shulman**, Charles E. Ducommun Professor Emeritus, Stanford University; President Emeritus, Carnegie Foundation for the Advancement of Teaching; Past President, American Educational Research Association

\* Footnotes included in letter posted at [www.nysut.org](http://www.nysut.org).



# APPR regulations poison 'spirit of collaboration'

May 18, 2011

Dear Chancellor Tisch and Board of Regents,

It is with sadness, pain and frustration that we write this letter. We are deeply concerned about recent changes to the State Education Department's Annual Professional Performance Review system. These changes, while politically popular, will neither improve schools nor increase student learning; rather, they will cause tangible harm to students and teachers alike.

The changes to APPR will kill the spirit of collaboration that developed from NYSED and NYSUT working together. Evaluating teachers based on test scores is a huge paradigm shift. The fact that NYSUT was willing to work with NYSED to develop a fair evaluation process shows good will on the part of teachers across the state. To unilaterally change the terms of a jointly crafted law at the eleventh hour poisons the atmosphere. Without buy-in from practitioners in the field, this reform effort is unlikely to succeed.

We believe in appropriate use of data to improve student achievement. Likewise, we believe that schools should develop rigorous systems to evaluate teachers and support professional growth; however, to allow 40 percent of a teacher's evaluation to hinge on a single standardized test score risks great harm to our schools and the people therein.

We could quote the research of educational experts like Diane Ravitch, Richard Rothstein and Jonathan Kozol as to why poverty and parental support affect test scores significantly more than any curricular changes a school can provide. We could refer to myriad child psycholo-

gists who have documented the deleterious effects of high-stakes testing on our nation's youth. We could call upon assessment experts who insist that standardized tests were not developed to evaluate teacher effectiveness. And we could examine the last decade of educational results that followed No Child Left Behind: rampant gaming of the system to provide the appearance of growth, narrowing of the curriculum, excessive teaching to the test and virtually no change in the achievement gap.

All of the above would lead the reasonable person to be skeptical about using standardized tests as the engine for school reform. Worse yet, we fear that the competition generated by this approach will reduce the collaboration necessary for true school improvement.

To illustrate the challenges of the new APPR system, we offer these stories from our schools:

1) Andrew has a severe learning disability. He is a hands-on learner who struggles on written exams. His resource teacher, counselor and mother thought he would be best-served taking a challenging science course, even though everyone knew he would fail the Regents exam. When 40 percent of a teacher's evaluation depends on that test score, will schools still make this sort of humane, pedagogically sound decision?

2) Jason missed two days of school this week for golf sectionals. He is a weak student and will struggle to pass the Regents exam. He will miss yet another day next week and perhaps more days if he advances to the state tournament. These golf matches were scheduled during school hours by officials representing New York State. Does the

coach or sectional committee bear any responsibility for Jason's performance on the Regents exam?

3) Tranh moved to America in January to live with his uncle. He speaks very little English and missed half a year of instruction. Who is accountable for his standardized test scores?

4) Simone will miss school all next week because her parents are taking the family on vacation. She will miss five days of instruction for this illegal absence. Will her teachers get an asterisk placed next to Simone's test scores?

5) Emily finally told her doctor and her parents that she is struggling with depression. She is starting counseling and medication. Needless to say, her grades are suffering. As Emily's life hangs in the balance, how do we find the strength to show her compassion when we know her poor grades will negatively affect our evaluation?

6) Trudy is a veteran teacher. She volunteered to teach a class of at-risk learners because she has the skills to do so. Her passing rate on the Regents exam will be significantly lower than her peers teaching the stronger students. Under the new APPR, what motivation will teachers have to take on the most challenging students?

7) Marcia teaches art, Beth teaches special education and Craig is a guidance counselor. There are no standardized assessments attached to their jobs. They are gifted educators, but they — like many others in our profession — will not feel the same pressure as those teachers who have a high-stakes exam attached to their course. How do we deal with the divisiveness caused by this inequality?

8) Diane teaches fourth grade.

She worked diligently to prepare her students for the ELA. She went to workshops to learn about standards and her passing rate suggests great skill as a teacher. Last spring, the cut scores were changed without warning. Suddenly both Diane and her students seem less-skilled. How do we ensure that the vagaries of testing don't harm people like Diane and her students?

All of the above issues are real and will take time to work out. That's why the new APPR system must be implemented slowly and thoughtfully. Increased time would allow schools to grapple with these thorny issues. Forcing schools to implement a plan without proper preparation will produce anger, stress and confusion, none of which will help kids.

We fully understand the desire to improve accountability. Using external assessments for a small part of a teacher's evaluation, as agreed to by NYSUT, seems fair and reasonable. Changing the law without warning seems less so.

On behalf of our colleagues across the state, we ask you to please reconsider the original plan that was agreed upon by all stakeholders. This collaborative approach would ultimately provide the most benefit to our students.

Sincerely,

**Jeff Peneston**, 2011 New York State Teacher of the Year

**Debra Calvino**, 2010 New York State Teacher of the Year

**Vickie Mike**, 2009 New York State Teacher of the Year

**Rich Ognibene**, 2008 New York State Teacher of the Year

**Marguerite Izzo**, 2007 New York State Teacher of the Year

**Stephen Bongiovi**, 2006 New York State Teacher of the Year

**Elizabeth Day**, 2005 New York State Teacher of the Year

**Dr. Patricia Jordan**, 1993 New York State Teacher of the Year