

# PROGRAM BILL # 28

## GOVERNOR'S PROGRAM BILL 2012

### MEMORANDUM

AN ACT to amend the education law, in relation to annual professional performance review of classroom teachers and building principals and the teacher evaluation appeal process in the city of New York.

#### **PURPOSE:**

This bill would create a statewide teacher and principal evaluation system to be implemented by local school districts and would make changes to the teacher evaluation appeals process for the city of New York.

#### **SUMMARY OF PROVISIONS:**

Section 1 of the bill would amend subdivision 1 of section 3012-c of the education law to clarify that this section would not affect a school district or board of cooperative educational services (BOCES) ability to terminate a probationary teacher or principal.

Section 2 of the bill would amend section 3012-c of the education law and add subdivisions 2-8 to establish state and local assessments (objective) and teacher performance (subjective) measures of the annual professional performance review (i.e. the teacher and principal evaluation system, hereinafter referred to as "the evaluation system") and to develop and assign scoring ranges for each of the rating categories within the evaluation system.

Section 3 of the bill would amend paragraphs b and c of subdivision 2 of section 3012-c of the education law to establish a timeline and set forth parameters, including the standards for selecting local measures for student achievement and the implementation of the evaluation system.

Section 4 of the bill would amend paragraphs e, f, g of subdivision 2 of section 3012-c of the education law to explicitly describe the types of locally selected assessments that may be used in the evaluation system.

Section 5 of the bill would amend paragraph h of subdivision 2 of section 3012-c of the education law to establish rigorous standards and scoring of the remaining 60 percent of the evaluation system including, but not limited to multiple classroom observations.

Section 6 of the bill would add a new paragraph j to subdivision 2 of section 3012-c of the education law to add an "anti-gaming" provision requiring that it be possible for a teacher or principal to receive one of the four ratings (highly effective, effective, developing, ineffective) in the applicable scoring range, for each subcomponent. This section would also require that a superintendent, district superintendent or chancellor, and where applicable the president of the collective bargaining representative, certify that it has incorporated and will follow the scoring standards set forth in this section.

Section 7 of the bill would amend subdivision 2 of section 3012-c of the education law by adding a new paragraph k to set forth the requirements and timeline for the governing body of each district or BOCES to adopt a plan for the annual professional performance review of its classroom teachers and principals. This section would also require that the commissioner to approve or reject each plan by September first, two thousand twelve, or as soon as practicable thereafter. Finally, this section would require that if all the terms of the plan are not finalized by July first of any subsequent year as a result of unresolved collective bargaining, the entire plan shall be submitted to the commissioner upon resolution of its terms.

Section 8 of the bill would amend subdivision 4 of section 3012-c of the education law to make a technical correction.

Section 9 of the bill would amend subdivision 5 of section 3012-c of the education law to provide for a timely and expeditious appeals process. Section 9 of the bill would also add a new paragraph b and c. Paragraph b would ensure that nothing in this section shall be construed to alter or diminish the authority of the governing body of a school district or BOCES to grant or deny tenure to or terminate probationary teachers or building principals. Paragraph c would set forth that nothing in this section shall trigger the appeals process prior to the receipt of a composite effectiveness score.

Section 10 of the bill would add a new subdivision 9 to section 3012-c of the education law to allow the department to monitor and analyze trends and patterns around the teacher and principal evaluation plan.

Section 11 of the bill would amend section 3012-c of the education law by adding a new subdivision 5-a to make changes to the ineffective rating appeals process in New York City. Paragraphs a-o of this section set forth the parameters for an expedited appeals process, including:

- The process for a teacher to appeal an ineffective rating.
- The creation of an independent three-member panel where the United Federation of Teachers may appeal up to thirteen percent of cases.
- Timelines for initiating and implementing the appeals process.
- The establishment of an independent evaluator.
- The process for the New York City Department of Education to bring 3020a charges under the new provision.

Section 12 of the bill provides that this bill would take effect immediately, provided that the appeals process would take effect on January 16, 2013, unless the city school district of the city of New York enters into a collectively bargained teacher evaluation and appeals plan in conformity with section 3012-c of the education law before.

**EXISTING LAW:**

Education Law §3012-c (APPR) and section 100.2(o) of the Commissioner's Regulations were enacted in 2010 and 2011 respectively to create a teacher and principal evaluation system in New York State, but to date neither has been implemented.

Education Law §3012-c also establishes the parameters for a teacher to appeal an ineffective evaluation rating. Education Law §3020-a establishes the process a school district must follow before removing or disciplining a tenured teacher. In New York City, alternative procedures specified in the collective bargaining agreement between the teachers union and the New York City Department of Education may also be used. (§§ 2590-f(1)(c), 3020(4)).

**STATEMENT IN SUPPORT:**

New York's public schools spend more money per pupil than those in any other state. Yet, in measures of student performance, New York ranks 38th nationally in graduation rates. Teacher quality is one of the most important factors in a student's achievement and success. In 2010, the federal government created the Race to the Top program which, among other things, required a teacher and principal evaluation system. New York was a winner, yet has failed to implement an evaluation system. Such a system is critical in strengthening and supporting teachers so that they best serve our student's needs by preparing all students for college and careers.

This bill would make New York State a national leader in education by creating a new groundbreaking statewide teacher and principal evaluation system. The proposed teacher evaluation system would provide clear standards and significant guidance to local school districts for the implementation of a teacher evaluation system that is based on multiple measures of performance including student achievement and rigorous classroom observations.

This bill follows through on the state's commitment to put in place a real and effective teacher evaluation system as a condition of the \$700 million granted through the federal Race to the Top program.

Details of the teacher and principal evaluation plan are as follows:

### **Teacher and Principal Performance – 60 points**

The bill would provide that 60 percent of a teacher's evaluation be based on rigorous and nationally recognized measures of teacher performance. This bill would also require that a majority of the teacher performance points be based on multiple classroom observations by an administrator or principal, at least one of which must be unannounced. The remaining points would be based upon defined standards including observations by independent trained evaluators, peer classroom observations, student and parent feedback, and evidence of performance through student portfolios.

This bill would also provide that 60 percent of a principal's evaluation be based on broad assessments of leadership and management actions, which would include multiple school visits by a supervisor and trained evaluator, of which one must be unannounced.

### **Student Achievement in State and Local Assessments– 40 points**

Under this provision, forty percent of a teacher's evaluation would be based on student academic achievement, with 20 percent (25 percent beginning in 2012-2013) from state testing and 20 percent (15 percent beginning in 2012-2013) from a list of three testing options including state tests, third party assessments/tests approved by the SED and locally developed tests that would be subject to SED review and approval. Under this proposal, school districts would also have the option of using state tests (but applying a different growth formula than the one used by the state) to measure up to 40 percent of a teacher's rating.

### **Rating System**

The teacher evaluation scoring system to ensure student achievement and teacher performance would be significantly tightened under this provision. The new rating system would prohibit a teacher or principal who is rated ineffective in the objective measures of student growth (40pts) from receiving a developing score overall. The scoring system would be as follows:

Ineffective: 0 – 64  
Developing: 65 – 74  
Effective: 75 – 90  
Highly Effective: 91 – 100

### **Assigning a Curve for the Ratings**

For the first time, this bill would establish a standard for school districts and teacher unions to set the allocation of points or the "curve" for the teacher ratings. The

curve would be allocated in a manner that a teacher could receive one of the four ratings, and the SED Commissioner would be able to reject insufficiently set curves.

### **SED Commissioner Final Review**

The bill would also give the Commissioner of Education the authority to approve evaluation plans, or deny local evaluation plans that are deemed insufficient, thereby adding rigor to the process and ensuring evaluation plans comply with the law.

### **Appeals**

A teacher and principal evaluation plan must contain a locally established appeals procedure to allow a teacher or principal to challenge the substance of an annual professional performance review. This bill would clarify that this appeals process be timely and expeditious and allow districts to terminate probationary teachers and principals or grant or deny tenure while an appeal is pending. This bill would also codify an agreement reached by the United Federation of Teachers and the New York City School District to implement such an appeals system as part of its teacher and principal evaluation plan, should alternative procedures not be collectively bargained by January 16, 2013.

### **LEGISLATIVE HISTORY:**

Chapter 103 of the Laws of 2010 enacted a statewide system of teacher evaluation, which has not been implemented.

### **BUDGET IMPLICATIONS:**

This bill would ensure that New York met its commitment to put in place a real and effective teacher evaluation system as a condition of the \$700 million granted through the federal Race to the Top program.

School districts that have not implemented a teacher and principal evaluation system consistent with this proposal by January 17, 2013, would not receive their share of state school aid increases for the 2012-2013 school year and thereafter.

### **EFFECTIVE DATE:**

This bill would take effect immediately, provided that the appeals process would take effect on January 16, 2013, unless the city school district of the city of New York enters into a collectively bargained teacher evaluation and appeals plan in conformity with section 3012-c of the education law before.