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To: Superintendents of Public Schools  
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Principals of Charter and Other Public Schools

From: Assistant Commissioner Julia Rafal-Baer

Date: May 5, 2014 *Julia Rafal-Baer*

Subject: Summary of the Board of Regents' Recent Regulatory Changes to Subpart 30-2 of the Rules of the Board of Regents to Implement Chapter 56 of the Laws of 2014, Relating to Annual Professional Performance Reviews (APPR) for Teachers and Principals

On March 31, 2014, Chapter 56 of the Laws of 2014 was signed into law by the Governor. As a result, on April 29, 2014, the Board of Regents adopted emergency regulations, effective May 10, 2014, in order to implement the provisions of the new law. These regulatory amendments, as summarized below, define "traditional standardized assessments," conform the expedited review process for material changes relating to the elimination of unnecessary tests, and establish caps on testing time for traditional standardized tests and for test preparation time based on the minimum required annual instructional hours for such grade.<sup>1</sup>

- **Definition of traditional standardized assessment** – Traditional standardized assessment shall mean a systematic method of gathering information from objectively scored items that allow the test taker to select one or more of the given options or choices as their response. Examples include multiple-choice, true-false, and matching items. Traditional standardized assessments are those that require the student (and not the examiner/assessor) to directly use a "bubble" answer sheet. Traditional standardized assessments do not include performance assessments or assessments in which students perform real-world tasks that demonstrate application of knowledge and skills; assessments that are otherwise required to be administered by federal law; and/or assessments used for diagnostic or formative purposes, including but not limited to assessments used for diagnostic screening required by Education Law §3208(5).

*Please see [K-2 APPR Assessment Guidance](#) for information on how to evaluate and identify existing third-party assessments that are not traditional standardized third-party assessments and may be used to assess students in grades K-2 and [Removal of Traditional Standardized Third Party Assessments in K-2](#) for information on the removal of K-2 traditional standardized third-party assessments from the State-approved list.*

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<sup>1</sup> The Board of Regents item is posted at: <http://www.regents.nysed.gov/meetings/2014/April2014/413p12a1.pdf>

*Tasks 2, 3, 7, and 8 in the Review Room portal will be updated for plans submitted for use in the 2014-15 school year.*

- **Expedited APPR review** – On February 11, 2014, the Board of Regents amended Subpart 30-2 to provide for an expedited review for districts/BOCES wishing to make material changes to an APPR plan that solely relate to the elimination of unnecessary assessments on students. As part of this expedited review process, the Department will only review those sections of the plan that relate to the eliminated assessments to ensure compliance with Education Law §3012-c and Subpart 30-2, provided that the superintendent, district superintendent or chancellor shall provide a written explanation of the changes made to the plan, on a form prescribed by the Commissioner, and certify that no other material changes have been made to the plan.

Chapter 56 of the Laws of 2014 requires the Commissioner to complete an expedited review of any material changes properly and completely submitted within 10 business days of submission. In order to implement the new law, effective May 10, 2014, for any district/BOCES that utilizes the Expedited Material Change Process to eliminate unnecessary assessments used to assess students for APPR purposes, ***the Commissioner shall complete the review of material changes that are properly and completely submitted within 10 business days of submission.*** In order to be considered properly and completely submitted, the submission must:

- use the form prescribed by the Commissioner;
- meet the requirements of Education Law §3012-c and Subpart 30-2; and
- contain all required information including all appropriate signatures with appropriate dates.

If a plan is reviewed and rejected by the Commissioner because it was not properly and completely submitted, the 10 business day requirement for an expedited review does not apply until a new, properly and completely submitted material change is submitted to the Commissioner for approval.

*Districts/BOCES wishing to utilize this process can visit <http://www.engageny.org/regents-regulatory-changes-subpart-30-2-expedited-materials-change-form> for more information.*

*Please note that the deadline for submitting a material change to an approved APPR plan for the 2014-15 school year is March 1, 2015 (please see Section C8 of [APPR Guidance](#)).*

- **Certification of instructional time** – In order to implement the requirements of Chapter 56 of the Laws of 2010, effective May 10, 2014, any plan submitted to the Commissioner for approval for use in the 2014-15 school year and thereafter shall include a signed certification, on a form prescribed by the Commissioner by the superintendent, district superintendent, or chancellor, attesting that:
  1. the amount of time devoted to traditional standardized assessments that are not specifically required by state or federal law for each classroom or program within a grade level does not exceed, in the aggregate, ***one percent of the minimum in required annual instructional hours for the grade***; and
  2. the amount of time devoted to test preparation using traditional standardized

assessments under standardized testing conditions for each classroom or program within a grade level does not exceed, in the aggregate, ***two percent of the minimum required annual instructional hours for the grade.***

***Related,*** please note that time devoted to teacher administered classroom quizzes or exams, portfolio reviews, performance assessments, formative assessments, and diagnostic assessments is not included in this calculation. Additionally, these calculations do not supersede the requirements of a section of the 504 plan of a qualified student with a disability or federal law relating to English language learners or the individualized education program (IEP) of a student with a disability.

Please see the [Certifying Instruction Time FAQ](#) for more information.

The following table outlines the estimated timeline of updates that will be made to various resources by the Office of Teacher and Leader Effectiveness, Policy and Programs to reflect the above regulatory changes:

Currently in effect	<ul style="list-style-type: none"> <li>The <a href="#">State-approved third-party assessment list</a> has been updated to remove all third-party assessments for use in grades K-2 <b>only</b><sup>2</sup>.</li> </ul>
Week of April 28, 2014	<ul style="list-style-type: none"> <li><a href="#">Certifying Instructional Time FAQ</a></li> <li><a href="#">Expedited Material Change Process</a> form</li> </ul>
June 2014	<ul style="list-style-type: none"> <li><a href="#">APPR Guidance and Purple Memo</a></li> <li><a href="#">Task-by-Task Guidance</a></li> <li><a href="#">Review Room 2.0 Portal</a>: <ul style="list-style-type: none"> <li>Change the third-party assessment option for grades K-2 to remove traditional standardized assessments.</li> <li>Addition of an assurance as a checkbox that, as applicable, any third-party assessment being administered to students in grades K-2, and being used for APPR purposes, is consistent with the State’s APPR Assessment Guidance and is not a traditional standardized assessment.</li> <li>Addition of assurances as checkboxes and in the certification document that the district/BOCES will attest that: <ul style="list-style-type: none"> <li>no more than 1% of the minimum required instructional time for such grade level will be spent on traditional standardized assessments that are not required by state or federal law for each classroom</li> </ul> </li> </ul> </li> </ul>

<sup>2</sup> Effective March 2, 2014, the Department will no longer use the RFQ process to review and publish a list of any state-approved third party assessments for students in K-2 only. Instead, districts/BOCES who determine they wish to continue to use, or use a newly selected, third party assessment (developed by any vendor, third party, or other comparable entity) for APPR purposes must now follow the guidance in the [K-2 APPR Assessment Guidance Document](#) to ensure the third party assessment is consistent with Education Law §3012-c and Subpart 30-2 of the Rules of the Board of Regents, including the prohibition against the administration of traditional standardized assessments to these students.

	<p>or program within a grade level; and</p> <ul style="list-style-type: none"> <li>– no more than 2% of minimum required instructional time for such grade level will be spent on test preparation using traditional standardized assessments under standardized testing conditions for each classroom or program within a grade level.</li> </ul>
<p>* Please note that due to the large volume of material changes, all other materials will be updated on a rolling basis as soon as possible.</p>	

As always, the Office of Teacher and Leader Effectiveness looks forward to supporting you as we continue to work together in ensuring our students are college and career ready. We encourage you to use the resources found on EngageNY for improving teacher and leader effectiveness, available at <http://www.engageny.org/teacherleader-effectiveness>. If you have further questions about the teacher and principal evaluation system, please contact [educatoreval@nysed.gov](mailto:educatoreval@nysed.gov).