

## **NEW TEACHER & PRINCIPAL 'APPR' BUSIES EDUCATORS**

On May 28, 2010, the Governor signed Chapter 103 of the Education Law which added a new section §3012-c establishing a comprehensive evaluation system for classroom teachers and building principals. The new law requires each classroom teacher and building 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 composite score is determined as follows:

- **20%** NYS Student Growth Data (increased to 25% upon implementation of a post value-added growth model)
- **20%** Local measures of student achievement (decreased to 15% upon implementation of value-added growth model)
- **60%** Multiple measures (based on measures consistent with standards prescribed by the NYS Commissioner in regulation)

For the **2011-2012** school year, the law only applies to teachers of the common branch subjects, ELA or mathematics in grades 4-8 and the building principals of schools in which such teachers are employed. In the **2012-2013** school year, the law applies to all teachers and principals.

The new law requires the APPR to be a significant factor in employment decisions such as promotion, retention, tenure determinations, termination, supplemental compensation, and teacher and principal professional development.

If a teacher or principal is rated "developing" or "ineffective," the LEA is required to develop and implement a teacher or principal improvement plan (TIP or PIP). Tenured teachers and principals with a pattern of ineffective teaching or performance (defined as two consecutive annual "ineffective" ratings) may be charged with incompetence and considered for termination through an expedited hearing process.

The law provides further that all evaluators must be appropriately trained consistent with standards prescribed by the Commissioner and that appeals procedures must be locally developed in each school district.

This new evaluation system is described by the Commissioner of Education John B. King, Jr. as 'a critical element of the Regents reform agenda – an agenda aimed at improving (Con't. Page 2)

## NYS Education Department News



(Continued from Page 1) teaching and learning in New York and increasing the opportunity for all students to graduate from high school ready for college and careers.'

The primary objective of the APPR is to foster a culture of continuous professional growth. The system's three components are designed to complement one another:

- Statewide student growth measures to identify those educators whose students' progress exceeds that of similar students, as well as those whose students are falling behind.
- Locally selected measures of student achievement will reflect local priorities, needs, and targets.
- Teacher observations, school visits, and other measures will provide educators with detailed, structured feedback on their professional practice.

This information must be used to tailor the 175 hours of professional development that teachers are required to receive under §100.2(dd) of the Commissioner's regulations. The ultimate goal of the APPR is to ensure there is an effective teacher in every classroom and an effective leader in every school.

The new law and regulations provide for a "phasing in" of the new evaluation system versus the old, and provide further that the regulations do not override any conflicting provisions of any collective bargaining agreement in effect on Jul 1, 2010 until the agreement expires and a successor agreement is entered into. At that point, however, the new evaluation regulations apply.

### **TEACHER & PRINCIPAL PRACTICE RUBRICS POSTED**

A list of NYS Education Department **Approved Teacher Practice Rubrics** and **Approved Principal Practice Rubrics** can be found at [www.nysed.gov](http://www.nysed.gov). Reminder that the governing body of each school district is responsible for ensuring evaluators have training, including training on the application and use of the rubrics – before conducted an evaluation under §3012-c and the regulations. The governing body is also responsible for certifying a lead evaluator as qualified before that lead evaluator conducts or completes a teacher's or principal's evaluation.

### **ADDITIONAL APPR (§3012-c) WEB RESOURCES**

- Guidance on the New Law & Regulations <http://usny.nysed.gov/rttt/teachers-leaders/fieldguidance.pdf>
- New Law Regulations <http://www.regents.nysed.gov/meetings/2011Meetings/May2011/511bra4.pdf>

### **☛ TOPICAL POLICY BRIEFS on FBAs, BIPs & Time Out Rooms**

NYSED published "Policy Briefs" on Behavior Intervention Plans, Functional Behavioral Assessments and Use of Time Out Rooms. See <http://www.p12.nysed.gov/specialed/publications/topicalbriefs/home.html>



## CASE STUDY Is There an IDEA Claim for A Student Who Graduates?



The question presented in this case is whether a parent can pursue a legal claim for compensatory services for a student who has graduated from high school, or is the claim moot? The Impartial Hearing Office (IHO) in this case ruled that she could not given the student had graduated. The Parents appealed.

**Mootness** A dispute between parties must at all stages be “real and live” and not “academic” or it risks becoming “moot.” In general, cases dealing with issues such as desired changes in IEPs, specific placements, and implementation disputes may become moot at the end of the school year because no meaningful relief can be granted. Administrative decisions rendered in such cases concerning such issues arising out of school years that have since expired may no longer appropriately address the current needs of the student.

However, an exception provides that a claim may not be moot, despite the end of a school year for which the student’s IEP was written, if the conduct complained of is “capable of repetition, yet evading review.” This exception applies only in limited situations. First, it must be apparent that “the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration. Second, controversies are “capable of repetition” when there is a reasonable expectation that the same complaining party would be subjected to the same action again. To create a reasonable expectation of recurrent, repetition must be more than theoretically possible. Mere speculation that the parties will be involved in a dispute over the same issue does not rise to the level of a reasonable expectation or demonstrated probability of recurrence.

In this case, the parent alleges a gross violation of the IDEA and seeks an award of compensatory education. As explained in greater detail below, compensatory education is instruction provided to a student after he or she is no longer eligible because of age or graduation to receive instruction. It may be awarded in certain limited circumstances. Thus, in the present case, the SRO ruled that the Impartial Hearing Officer erred in dismissing the case as moot because the parent asserted claims that were otherwise actionable.

**Compensatory Education** Compensatory education is an equitable remedy that is tailored to meet the unique circumstances of each case. Compensatory education may be awarded to a student with a disability who no longer meets the eligibility criteria for receiving instruction under the IDEA. In New York State, a student who is otherwise eligible as a student with a disability may continue to obtain services under the IDEA until he or she receives either a local or Regents high school diploma, or until the conclusion of the ten-month school year in which he or she turns age 21. Within the Second Circuit, compensatory education has been awarded to students who are ineligible by reason of age or graduation if there has been a gross violation of the IDEA resulting in the denial of, or exclusion from, educational services for a substantial period of time. Given that compensatory education is an equitable remedy within the broad forms of relief on the merits that are permissible under the IDEA, the SRO sustained the Parent’s appeal ruling that the Impartial Hearing Office erred in determining her case was moot.

**Case Note:** If a student with a disability reaches age 21 during the period commencing July 1<sup>st</sup> and ending on August 31<sup>st</sup> and is otherwise eligible, the student is entitled to continued in a July and August program until August 31<sup>st</sup> or until the termination of the summer program, whichever shall first occur (Educ. Law §4402[5][a]).  
[NYS Education Department SRO Decision No.11-044]

**CONTACT US AT 631-368-BLUE (2583) or by FAX 631-368-5357**

## **THERAPY PLACEMENT SERVICES/EVALUATIONS**

- OCCUPATIONAL THERAPY
- PHYSICAL THERAPY
- SPEECH LANGUAGE PATHOLOGY
- BEHAVIOR INTERVENTION SERVICES (HOME & SCHOOL-BASED)
- PARENT TRAINING
- PSYCHOLOGICAL , PSYCHIATRIC , NEUROLOGICAL TESTING
- SOCIAL WORK & COUNSELING
- SPECIAL & GENERAL EDUCATION TEACHERS/TUTORING & ENRICHMENT (ALL GRADES/CURRICULUMS)
- TRANSLATION/INTERPRETATION (ALL LANGUAGES)
- AMERICAN SIGN LANGUAGE
- BILINGUAL EVALUATIONS (ALL LANGUAGES)

## **STAFF DEVELOPMENT/EDUCATIONAL CONSULTING**

- SELF-CONTAINED AUTISM CONSULTING
- OT & SPEECH RELATED SERVICES PUSH-IN DEVELOPMENTAL SCREENING
- CLASSROOM MANAGEMENT TRAINING (GENERAL & SPECIAL EDUCATION)
- STUDENT CONFLICT MANAGEMENT (FOR STAFF, STUDENTS, PARENTS)
- BEHAVIOR INTERVENTION TRAINING (ABA)
- SCHOOL-WIDE POSITIVE BEHAVIOR INTERVENTIONS & SUPPORTS
- LEAST RESTRICTIVE ENVIRONMENT CONSULTING
- TRANSITION/LIFE-SKILLS PROGRAMMING & CONSULTING
- NEW YORK STATE MANDATED AUTISM TRAINING (3 HOUR )

## **SERVING**

- Nassau, Suffolk, & Westchester Counties
- Over 40 Client School Districts



**DISCLAIMER.** Information in this Newsletter is provided for informational purposes only, and is not legal advice and not warranted or guaranteed. Readers are cautioned not to rely on this information. Because laws change over time and in different jurisdictions, it is imperative that you consult an attorney in your area regarding legal matters.

