

AGENDA ADDENDUM – August 24, 2011

7. i) **ANNUAL PROFESSIONAL PERFORMANCE REVIEW (APPR) PLAN**

Recommended Action: Upon a motion made by Tom Leggio, seconded by Mary Dennis, the following resolution is offered:

RESOLVED, that the Board of Education herewith adopts the attached documents in compliance with Education Law Section 3012-c, 8 N.Y.C.R.R. 30-2 and 8 N.Y.C.R.R. 100.2; and

BE FURTHER RESOLVED, that the Superintendent of Schools is directed to file the foregoing documents in the Office of the District Clerk and post the attached documents on the District website, on or after September 1, 2011 but before September 10, 2011.

Are there any questions or concerns?

Vote on the Motion:	Yes	5
	No	0
	Abstained	0

Motion Carried

ANNUAL PROFESSIONAL PERFORMANCE REVIEW (APPR) PLANS
PROPOSED BOARD RESOLUTION TO BE ADOPTED IN CONFORMITY
WITH
EDUCATION LAW 3012-c, 8 N.Y.C.R.R. 30 and 8 N.Y.C.R.R. 100.2

New York State has required the implementation of an Annual Professional Performance Review Plan (hereinafter "APPR") for teachers since 1999. The District has dutifully complied with the existing law, and has in place an APPR Plan for its teaching staff and evaluation program for its administrators. Section 3012-c of Education Law was enacted, effective July 1, 2010, by the New York State Legislature which amends the existing APPR requirements previously required by the Regulations of the Commissioner of Education in 8 NYCRR 100.2. The new statute, 3012-c of the Education Law, significantly modifies teacher and principal evaluations and has, as its primary goal, the introduction of student performance as a criterion.

In the spring of 2010, the Commissioner of Education, prior to the adoption of Education Law Section 3012-c, adopted an amendment to the then existing APPR regulations (8 NYCRR 100.2) which required the use of four categories of teacher performance, "ineffective, developing, effective and highly effective," as well as requiring the use of student performance effective in 2010 as a criterion for teacher evaluation.

Following the adoption of Education Law 3012-c, the Board of Regents adopted 8 NYCRR 30, again amending the Commissioner's APPR requirements establishing robust changes to the existing APPR requirements. These changes include the establishment of a composite effectiveness score and the introduction of student performance measured by both state and local assessment as a criterion for teacher evaluation, and the requirement of the adoption of a rubric for teacher evaluation, among many other provisions. The May 2011 amendments also included the following provision.

To the extent that any of the items required to be included in the annual professional performance review plan are not finalized by September 1, 2011 as a result of pending collective bargaining negotiations, the plan shall identify those specific parts of the plan and the school district shall file an amended plan upon completion of such negotiations.

In addition this legislation, Education Law Section 3012-c, contains a "safe harbor" provision, which provides:

Nothing in this section shall be construed to abrogate any conflicting provision of any collective bargaining agreement in effect on July first, two thousand ten during the term of such agreement and until the entry into a successor collective bargaining agreement, provided that notwithstanding any prior provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement the provisions of this section shall apply.

The practical effect of the above quoted "safe harbor" statutory provision is to require that the parties current APPR plan which is incorporated by reference in the labor

agreement between the District and the Islip Teachers Association will remain in effect until a new APPR plan compliant with 8 NYCRR 30 of the Commissioner's Regulations is negotiated. The District labor agreement between it and the Islip Teachers Association contains provisions substantially inconsistent with the requirements of Section 3012-c of the Education Law and Commissioner of Education regulations contained in 8 N.Y.C.R.R. 30 and 8 N.Y.C.R.R. 100.2.

Inconsistencies Between the District and the ITA

The current labor contract between the District and the ITA commenced on July 1, 2006 and expired on June 30, 2011. It remains in full force and effect as a result of Section 209-1(a) of the Taylor Law of the State of New York. The District and the ITA are currently engaged in collective negotiations.

There are significant inconsistencies between the current APPR, incorporated into the labor contract between the District and Islip Teachers Association, and Section 3012-c of the Education Law and Commissioner of Education regulations contained in 8 N.Y.C.R.R. 30 and 8 N.Y.C.R.R. 100.2.

1. Selection of Local Assessments:

The new statute requires the adoption and administration of local assessment of student performance.

2. Selection of Evaluation Rubrics:

The new statute mandates the adoption and administration of an evaluation rubric. The District acknowledges its obligation to select an evaluation rubric, however, the evaluative procedure is subject to negotiations and is inconsistent with the District's existing APPR guidelines.

3. Quality Rating Categories:

The new statute requires the adoption of four new rating categories: Highly Effective, Effective, Developing, and Ineffective. The ratings are inconsistent with the District's existing APPR Plan. The current designations are Outstanding, Consistent, Inconsistent, and In Need of Improvement.

4. Minimum and Maximum Scorers for Placement within Rating Categories:

Since there is no responsibility to bargain the implementation of the rating categories, there is no responsibility on the part of the District to negotiate overall cut scores. The District's existing APPR Plan, however, is inconsistent with Section 3012-c. The District's existing APPR Plan does not provide for rating categories or cut scores.

5. State and Local Student Performance Assessments:

The new statute requires that 20% of the new 100 point composite effectiveness score be based upon the quantified results of state established student performance assessment and 20% of locally established student performance assessment instruments. The District's existing APPR Plan is to be amended to reference student performance as an evaluative criterion.

6. Multiple Measures of Non-Student Performance Evaluation Criteria:

The new statute requires that 60% of evaluations be based on multiple measures of non-student performance. The statute requires compliance with NYS Teaching Standards and multiple observations. The District's existing APPR Plan identifies nine (9) criteria by which teachers are evaluated and tiered observations for non-tenured and tenured teachers. There remains a significant inconsistency between the District's existing APPR Plan and Section 3012-c.

7. Teacher Improvement Plan:

The statute requires the establishment of a Teacher Improvement Plan (TIP) for teachers whose evaluative scores place them in the lower rating categories. The District's existing APPR Plan expressly provides for a teacher in need of Assistance Plan (Article XIII).

Upon recommendation of a supervisor, an improvement plan shall be developed and implemented for:

- Any non-tenured or tenured faculty member whose professional performance indicates a need for significant improvement.
- Any non-tenured or tenured faculty member whose end of the year evaluation indicates a need for significant improvement.
 - An inconsistent or in need of improvement will denote significant need.
- In cases where the evaluation indicates a need to become consistent or to improve, an informal improvement plan may be developed, if the evaluator denotes the need not significant enough for a formal improvement plan.
- In accordance with Article 27, Section 3b of the ITA contract, a teacher may be deemed eligible [for career increment] unless formally advised of unsatisfactory performance of his/her duties. And, in accordance with Article 27, Section 7, #6 of the ITA contract, *any increment above step 10 may be withheld in whole or in part by the Board for unsatisfactory service upon recommendation of the principal.*

The District's existing APPR Plan provides for support for teachers designated in need of assistance. It is somewhat aligned with Section 3012-c; however, it requires further articulation between the District and the ITA.

8. Appeals Procedure:

The new statute requires the adoption of an appeals process which requires negotiations of procedures for use of the APPR evaluation in all employment determinations. The District and the ITA have expressed opposing proposals regarding the Appeals Process garnering much public attention.

The District's existing APPR Plan has a clause that provides for a faculty member to comment on an observation or evaluation (Article XI, Section B), but does not afford the right to appeal. *Faculty members have the right to prepare comments in regard to a class visit or an observation report. Comments shall be attached to all copies of the report and shall be submitted within five (5) school days following review of the observation report. Any faculty member may request a conference after a class visit or observation by any supervisory and/or administrative personnel.*

Regarding the Appeals Process, a significant inconsistency exists between the District's existing APPR Plan and Section 3012-c.

9. Evaluator Training:

The new statute requires that persons conducting evaluations must be trained. The District's existing APPR Plan has no provision for evaluator training; identifying this requirement as inconsistent with Section 3012-c.

Having conducted a comprehensive review of the District's existing APPR Plan and the requirements of Section 3012-c and 8 N.Y.C.R.R. 30 and 8 N.Y.C.R.R. 100.2, in view of the detailed inconsistencies, the District is covered under the Safe Harbor of 8 N.Y.C.R.R. 30 until a new labor agreement is executed, at which time compliance is mandatory.

The District and the Islip Teachers Association are currently engaged in negotiations respecting the negotiable aspect of Education Law Section 3012-c, 8 N.Y.C.R.R. 30 and 8 N.Y.C.R.R. 100.2.

In addition, the District has invited its Administrator Association to commence negotiations concerning those provisions of the required APPR plan that are by law negotiable.

Inconsistencies Between the District and the Islip Association Of School Administrators

Building principals are currently evaluated by the Superintendent of Schools utilizing the Evaluation Report for Administrators encompassing: Instruction, Management, Leadership, Public Relations, and Professional Characteristics. The effectiveness of these characteristics is included in a narrative whereby evidence of demonstrated proficiency is detailed. No ratings are included.

The labor contract between the District and the Islip Association of School Administrators provides the guidelines for Administrative Evaluation: (Article VI, Sections A, B, C).

Annual evaluation process of all Administrators will be conducted by the Superintendent or his/her administrative designee.

When an evaluation is conducted, the Superintendent or his/her administrative designee shall hold a conference with each Administrator to review his/her evaluation. A written evaluation report will be made for each Administrator. The Administrator must sign the report and may provide a written response which shall be affixed to the report.

In the event of changes or new developments in the evaluation procedure, the Superintendent or his/her designee shall first consult with the Islip Association of School Administrators before such changes become effective.

This article is entirely inconsistent with the requirements of Section 3012-c and its implementing regulations.

In view of the inconsistency, the District is covered under Safe Harbor provisions of 8 NYCRR 30 and Education Law Section 3012-c and need not negotiate an APPR Plan until a new labor agreement is executed, at which time compliance is mandatory.

The District has commenced its own planning to comply with 3012-c to insure that its APPR evaluation process is fair and transparent and provides all teachers and principals with useful feedback on their performance.

Attached to this statement is the current District Teacher APPR Plan.

Upon completion of negotiations with the Islip Teachers Association and the Islip Association of School Administrators respecting the negotiation mandates of Education Law Section 3012-c, 8 N.Y.C.R.R. 30 and 8 N.Y.C.R.R. 100.2, the District will promulgate compliant APPR plans and the Board will act upon the adoption of such APPR plans for its teachers and administrators.