

Attachment 1 - Notice to LEAs

From: NYSED P12INFO  
To: Supt-info@listserv.nysed.gov; charter@listserv.nysed.gov; distsup@listserv.nysed.gov; titlei@listserv.nysed.gov  
Date: 1/20/2012 4:53 PM  
Subject: Draft ESEA Waiver: Request for Public Comment

Colleagues,

In recent months, states across the country -- including New York -- have taken the lead in calling for changes to the Elementary and Secondary Education Act (ESEA). In September 2011, President Obama announced an ESEA regulatory flexibility initiative, which is based upon the Secretary of Education's authority to issue waivers. According to the USDE, "This flexibility rewards States that are showing the courage to raise their expectations in their academic standards." The USDE has stated that this process is "not a pass on accountability. There will be a high bar for states seeking flexibility within the law." States that do not apply for the waiver will have to comply with the current No Child Left Behind (NCLB) requirements.

New York's draft of its request for a waiver of ESEA requirements is now ready for review and public comment. By submitting this request, New York is requesting flexibility through the waiver of specific ESEA provisions and their associated regulatory, administrative, and reporting requirements.

New York's draft waiver proposal is the product of months of work by Department staff, partners from numerous key stakeholder organizations, and experts in accountability systems.

In submitting a waiver request, New York will be seeking to:

- Incorporate into New York's accountability system a growth component and standards that are better aligned with college- and career-readiness.
- Create a more coherent system of classification of school and districts with performance categories better matched to New York's needs.
- Better align supports and interventions for identified schools and districts with key components of the Regents' Reform Agenda, such as implementation of the Common Core State Standards (CCSS), creating a system of data driven inquiry in schools, and promotion of teacher and principal effectiveness through systemic professional development aligned to principal and teacher evaluations.
- Develop additional measures of school success and begin the immediate use of some of these for identifying Reward Schools.

In order to ensure that our application benefits from the input of stakeholders across the state, we are presenting the draft request (<http://www.p12.nysed.gov/esea-waiver/waiver.pdf>) in this document for additional public comment.

The proposed amendments have been discussed at the monthly Board of Regents meetings from October – January 2012. An overview of the proposed changes (<http://www.regents.nysed.gov/meetings/2012Meetings/January2012/112p12a2.pdf>) was presented at the January 9-10, 2012 Board of Regents meeting. A PowerPoint presentation (<http://www.p12.nysed.gov/esea-waiver/esea-waiver-overview.pdf>) that summarizes these key changes is

also available. The final ESEA Flexibility Request for New York must be submitted in mid-February. Therefore, the final version of the application will be presented to the Board of Regents for consideration at its February 13-14, 2012 meeting.

The New York State Education Department (NYSED) has posted its Draft ESEA Flexibility Request and is now accepting public comment on this draft on behalf of the NYS Board of Regents. Comments from the public regarding the draft must be received no later than 5:00 p.m., January 30, 2012, via email to the ESEA Think Tank at ([eseathnktank@mail.nysed.gov](mailto:eseathnktank@mail.nysed.gov)), or via mail to the NYSED Office of Accountability, 89 Washington Ave., 365 EBA, Albany, NY 12234.

Please note that while the application addresses four principle areas, the survey focuses on Principle 2, State-Developed Differentiated Recognition, Accountability, and Support, since this is the area in which New York will be seeking to make revisions to its current practices. The other sections of the application document New York's existing initiatives in these areas and do not articulate new policy direction or implementation strategies.

In submitting your comments, Department staff encourage you not only to provide your concerns and recommendations, but also to identify elements of the waiver request that you support.

Department staff will carefully review and consider all comments as they finalize the 2012 application materials for consideration by the Board of Regents at its February meeting.

If you have any questions regarding the ESEA waiver initiative, please direct them to:  
[eseathnktank@mail.nysed.gov](mailto:eseathnktank@mail.nysed.gov).

We look forward to your feedback.

Please also check <http://www.p12.nysed.gov/esea-waiver/> for upcoming details regarding a NYSED webcast on ESEA Flexibility. The webcast will take place on January 25, 2012 at 11:00 a.m.

Thank you.

Office of P-12 Education  
Education Building, EB 2M West  
89 Washington Avenue  
Albany, NY 12234  
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## Attachment 2

### Comments on Request Received from LEAs



**Department of  
Education**

*Dennis M. Walcott, Chancellor*

**Martin Kurzweil**  
Executive Director  
Office of School Performance

**52 Chambers Street  
Room 310  
New York, NY 10007**

**+1 212 374 7957 tel  
+1 212 374 5592 fax**

January 30, 2012

**Ira Schwartz**  
Assistant Commissioner, Accountability  
New York State Education Department  
89 Washington Avenue, Room 365 EBA  
Albany, NY 12234

Dear Mr. Schwartz:

The accountability system described in the New York State Education Department's (NYSED) Draft Application for ESEA Flexibility (Application) is a significant improvement over the existing New York State accountability framework under No Child Left Behind.

The incorporation of individual student growth into the identification of Priority, Focus, and Reward schools and the determination of Adequate Yearly Progress (AYP) would make the evaluations more accurate and fair as measures of school quality – which should be about the progress schools help students make from their starting place, wherever that is, in addition to their absolute level of proficiency – and it will improve the coherence of school evaluation for educators and the public in New York City.

We are also pleased with the proposal to create a single qualitative diagnostic tool, focused on key aspects of schools' organization, culture, and instructional practice. Streamlining the school inspection tools to focus more intently on the quality of instruction and student work across classrooms will improve the experience of the review for schools and will make the results more useful.

The Application's targeting of resources and districts' intervention efforts on Priority and Focus schools is a significant improvement over the status quo. Eliminating the mandatory set-asides for SES, public school choice, and professional development will allow those funds to be put to more productive uses. Allowing the transfer of Title I, Basic, Title IIA, and Title III funds will facilitate streamlined application of resources to educational priorities. Focusing interventions on the subset of schools that are most struggling and providing districts with increased flexibility to develop those interventions, while at the same time setting high expectations for the impact of those interventions, is likely to yield greater gains in student outcomes and school quality than the





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existing model of mandated interventions and expenditures for a broad swath of schools.

Although we appreciate the substantial benefits of the draft Application, we believe NYSED could have gone even further in its improvement of the system, in the following ways:

- (1) Incorporating growth measures is an important step, but those measures apply only to schools with grades 4-8 and a growth model without additional demographic adjustments is insufficient to meaningfully differentiate between schools serving high-need students well and schools serving those students poorly. The evaluation methodologies in the Application should include peering or other controls for student demographics.

The Focus district identification methodology in the Application presents a model for such demographic controls. Focus districts are to be identified based on the average Performance Index of students in demographic subgroups, but districts with a median growth percentile above the average for the subgroup will not be identified. Similarly, elementary or middle schools that would be identified as Priority schools on the basis of the Performance Index of the all students group could be removed from that status if the median growth percentile of each of its demographic subgroups was above the state average for the subgroup.

The same methodological principle could be applied to high schools. A high school that would be identified as a Priority school on the basis of the Performance Index of the all students group could be removed from that status if the Performance Index of its demographic subgroups was above the state average for the subgroup.

- (2) The Application proposes to use a measure of growth for school evaluation without demographic controls, while the measure of growth for principal and teacher evaluation must incorporate demographic controls, by state law. Multiple methodologies will be confusing for the field and could result in discrepant outcomes. NYSED should better align school and educator accountability by adopting a single growth percentile methodology that incorporates demographic controls.
- (3) The Application could have made the school evaluation more robust by expanding the measures of school quality beyond ELA, math, science and graduation, including real measures of college readiness, such as success in higher level courses and assessments (e.g., Advanced Placement, higher level Regents exams in math and science, and courses taken in high school for college credit) and even college enrollment. The Application also could have included measures for high schools that expand the focus of the evaluation to the success of students other than those in the schools' graduation cohort.



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- (4) The Application's reduction in set aside requirements improves the ability of schools to use funds to best serve their students. However, the proposed set-aside amounts based on student enrollment in Priority and Focus Schools are still overly restrictive. Limiting the set aside amounts even further, while maintaining rigorous standards and accountability for improved student outcomes at the Priority and Focus schools, will ensure that districts and schools can put those funds to their best uses in reforming the schools most in need.
- (5) The plan outlined in the Application to integrate all of the current review teams into a single entity is a positive move but can only yield more consistent outcomes if all members of the teams are trained in a uniformly rigorous manner, with the training goals and process controlled by NYSED (in conjunction with the local district, if appropriate), not outside consultants. It is essential that the underlying goals of all trainings are to norm two essential elements of the review: the application of the evaluation tool to the evidence gathered at the school and the protocols used to gather evidence. It is also important that this training is ongoing, with built in experiences for reviewers to norm and check their understanding of evidence against their colleagues' understanding of evidence. These norming experiences also provide valuable information to target areas in need of further norming at additional professional development sessions.
- (6) We are pleased to see that New York State continues to recognize the special circumstances faced by New York City's transfer high schools by extending the time horizon for evaluating graduation outcomes to six years from high school entry and limiting the calculation of Performance Index to students who have been in the school for at least a year. However, these allowances do not fully account for the challenges faced by schools that almost exclusively serve students who have become significantly off-track for on-time graduation before entering the transfer school. The best way to hold such schools accountable is to evaluate the results of their overage, undercredited students within a framework that controls for the varying ages and credit accumulation histories of the students at entry. A more appropriate accountability framework would hold transfer schools accountable solely for performance once a student arrives and compare this performance to the results of other overage, undercredited students
- (7) We support NYSED's commitments to reduce duplication and unnecessary burden. We would propose two specific reforms be included in the Application to make those commitments more concrete.

First, NYSED currently requires local districts to generate Title I Supplement Applications as well as Title I Verification Forms, which contain similar information. To reduce administrative burden, these forms should be consolidated.

In addition, NYSED should seek a waiver from 34 CFR 200.48. This regulation requires



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local districts to provide evidence of SES and public school choice services rendered in order to carryover accruals made available as a result of the mandate and the actual expenditures. It is an administrative burden that should be streamlined, particularly in light of the elimination of the SES mandate and the limitation of the public school choice mandate.

The Application in its current form represents an important evolution in New York State's accountability framework. Notwithstanding, we believe the additional steps identified here will make the accountability system more accurate, more fair, and more efficient, and encourage NYSED to address these recommendations in the final version of the Application.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin Kurzweil".

Martin Kurzweil  
Executive Director  
Office of School Performance  
New York City Department of Education

cc: John King, Jr.  
Dennis Walcott  
Shael Polakow-Suransky

**Comments by District Superintendents of the BOCES**  
**Regarding Proposed Federal Waiver on Flexibility Provisions**  
**January 30, 2012**

**Assessments and Other Academic Measures**

We support a differentiated accountability system that utilizes multiple measures. While we support the aspirational goals of the Board of Regents, adding those measures at a time when low wealth districts are having to cut non state mandated courses and programs, like AP & IB programs, will only further demonstrate the stark differences between high and low wealth districts' capacity to perform on the standards established in the accountability system. We support the attainment of a college and career ready CTE credential as a measure.

**Definition of Proficiency**

We support both the value added student growth and proficiency measures used to encourage ambitious yet attainable performance levels by the same subgroup cohort and the total population cohort over some reasonable period of time. It should offer special considerations for English Language Learners and Students with Disabilities. As noted, awarding districts partial credit for students who score between 55 & 64 on Regents exams or who pass Regents Competency Exams in Reading and Writing or Math is supported.

**Goals for Schools and Districts**

We support lengthening the time to reach the proficiency goals set by SED to 2019-20. We believe that for some students an extra year in school will be necessary for them to meet graduation requirements. What's important is reaching proficiency, not necessarily in 4 years. For school performance, graduation rate of the cohort should be measured after five years. Thus we can support as reasonable establishing a new baseline starting with the 2010-11 school year performance and setting a goal of reducing by half within six years the gap between the Performance Index for "all students" group and each subgroup as reasonable. We believe, however, that all students and subgroups should be afforded the same amount of time to reach proficiency for graduation.

**Role of Growth Measures**

Adding student growth measures is an important addition by giving full credit for any student who is proficient or is on track to be proficient using a normative growth measure. We also support the provision that schools would not be designated if above the median state student growth percentile in ELA and Math 4-8.

**School and District Classification and Support**

We support a classification system that is easier to understand by educators and the public alike. The accountability system envisioned here appears to be less confusing than the current system. That said, there needs to be great care in laying out the new system with readable language, flowcharts, matrices, etc. that clearly explains it.

We support a system of classification that creates a designation (label) of schools which denotes the degree of proficiency and growth rather than labels which identify schools as deficient and a failure, i.e. in "need of improvement and corrective action". Suggestions, for

example, include terms like "highly proficient, proficient, nearly proficient and not proficient" or "significant growth, expected growth, insufficient growth", or "highly effective, effective, developing and ineffective." The designation needs to be identified for each subgroup so that educators and the public have transparency in how subgroups are performing so as to avoid mislabeling an entire school as a poor performer. While we believe the labels "Priority" and "Focus" districts and schools is an improvement over labels as "in need of improvement", "corrective action" and "restructuring", we would have preferred the suggestions for reasons delineated above.

We can support the identification of Priority Schools as those below 60% for three consecutive years. The designation of Focus Districts as those among the lowest ten percent of subgroup performance in the State and subgroup graduation rate below the state average are improvements. Allowing districts some flexibility in targeting schools for intervention is appreciated.

#### Early Warning

We believe before any subgroup is initially labeled and its designation publicly reported, there should be an early warning when a school's performance is trending downward or not keeping up with the state's established expected gains in proficiency or growth. The early warning system puts the school on notice.

#### Supports and Role of District Superintendents/BOCES

SED, as part of an early warning exercise, should provide guidance, identify resources, professional development, provide links to best practices and include the use of District Superintendents and BOCES to provide informal technical assistance, absent all the compliance documents which are now required to be used and submitted to the state. It is advised that those schools first be given an opportunity to demonstrate positive movement in performance without SED automatically mandating specific interventions for schools. There should be a continuum of supports which depend on the severity of the problem. If the performance of a school continues to lag and the needs of the school are more systemic, then outside intervention coordinated by the District Superintendent and BOCES staff or a task force for the Big 5 will be needed. We support the use of BOCES in component districts for both Focus Schools, District and Priority Schools as stated in the waiver proposal, where targeted by SED for technical assistance and development of District Plans and Comprehensive Plans. It must provide necessary resources to BOCES for this to occur.

#### Reward Schools

Schools should be applauded for continuous improvement. We support rewards for exemplary school performance growth. Rewards for schools that display consistently high proficiency and/or significant growth could be given relief from some related state requirements which would be unnecessary because of the school's performance. Rewarding schools for level of proficiency and growth compared to other demographically similar schools should be publicly recognized. The staff from these schools should be used as mentors for struggling schools in the similar school category, and paid for sharing their expertise and know how. As a form of professional development, staff from struggling schools should visit the exemplars.

### Public School Choice

We support the proposal to allow parents the option of choosing a BOCES CTE school. This is consistent with our briefing papers to the Commissioner and Regents. However, the briefing papers would also include any full-time comprehensive BOCES educational program: CTE, alternative high school, themed high school (for example, one for the arts) and other regional high schools. They should be added as choice options.

### Use of ESEA Title 1 Funds

A broader set of options in use of Title I set aside funds should be available after a school is first designated. Currently school choice and supplemental educational services by only outside providers are available to parents. Evidence is lacking which demonstrates consistent, systemic and significant gains in performance of those students who participate in SES.

It is our belief that initially parents would prefer that its neighborhood school provides SES to their children before, during, or after school, individually or in student groups. Collectively a 10% set aside which is used to assist students individually or in groups within the school setting is a more cost effective way to operationalize the use of the funds. The school should be given the opportunity to improve the performance of identified subgroup(s) before other more drastic measures are taken.

### Required Plan(s) for Identified Schools and Districts

Instead of requiring a district improvement plan for each identified school, the district should be required to not only have a comprehensive district-wide plan for school improvement, but to amend it to incorporate its plans to address the general student performance improvement strategies across all identified schools and for any unique needs of specific schools. The layering of multiple plans outside the context of a district wide comprehensive plan creates unnecessary paperwork, is an exercise to meet a compliance requirement that usually gets shelved, but more importantly fragments efforts for whole system improvement.

### Other Changes

The proposal suggests that the State may combine the results of the past 2 years when a district has fewer than 30 students in an accountability group. Does combining multiple year performance of a statistically insignificant number of students in a subgroup, then make the results significant? We would request the research to validate this proposal.

### Timely Notification of Assessment Results

Schools need performance information shortly after the scoring of assessments so as to begin the work of early planning and initiating subgroup or total school improvement.

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**From:** "Jeff Matteson" <jmatteson@cgcsd.org>  
**To:** <eseathnktank@mail.nysed.gov>  
**Date:** 1/25/2012 12:25 PM  
**Subject:** Waiver Proposal

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I am VERY impressed with the new waiver proposal. It certainly makes more sense and seems much more fair. I particularly like the new language of "Priority" and "Focused" schools. It also takes away the draconian consequences of being labeled a "School In Need of Improvement" for a single subgroup. This has had many very negative unintended (therefore unfortunate) consequences.

One item that may be helpful to the field is to apply this standard to the current list of schools and districts so we all could get a feel for what it would look like if it applied to 2011-12.

Thank you for offering the informative webinar

Dr. Jeffrey A. Matteson  
Superintendent of Schools  
Canisteo-Greenwood CSD  
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Canisteo, NY 14823  
O - (607) 698-4225 ext 2403  
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**From:** "Deb Shea" <dshea@niskyschools.org>  
**To:** <eseathnktank@mail.nysed.gov>  
**Date:** 1/22/2012 1:32 PM  
**Subject:** feedback

I'd like to applaud this thoughtful work. Our district is a very high performing district (our high school is ranked 8th in the state) yet got stuck with the impact of the new cut scores on ONE subgroup-special education. We moved a self-contained program from one middle school to another, then two years later have to complete the entire SQR process. This process was terribly time-consuming, we had just completed a 18 month middle school review with outside consultants and so nothing new was learned. Yet, it consumed hours and hours of precious time that could have been devoted to classroom observations, continued work on the state's reform agenda, etc. Combined with budget difficulties, it hijacked our energy and work for three months-three montsh that we cannot get back.

Thank you.

D-

Dr. Deborah Shea, Assistant Supt. of Educational Programs & Instruction  
Niskayuna Central School District  
1239 Van Antwerp Road  
Niskayuna NY 12309  
518-377-4666 Ext. 50710



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**From:** Elizabeth Wood <WoodEliz@SHENET.ORG>  
**To:** "eseathnktank@mail.nysed.gov" <eseathnktank@mail.nysed.gov>  
**Date:** 1/24/2012 4:33 PM  
**Subject:** feedback on the Draft ESEA flexibility

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Thank you for allowing input from the field.

It seems the proposed changes will improve the current system, based on my review I have listed several reactions and concerns below, some of which may be beyond the current ESEA reauthorization, however, require attention to truly enhance our New York educational system.

- I appreciate the performance of student sub-groups will still be examined, though in a more realistic way.
- The revised formula for AYP will likely mean more of the same. In six years, I believe NYS will have to revisit the same issue again because this simply delays the implementation of the highest performance expectations which schools are finding unrealistic (currently) based on increased cut scores and rising AYP. Infusing jobs into communities, urban renewal, expansion of research-based social programs must also play a role in raising student achievement. It is not merely a school issue .
- Schools too can do more, but must be given the flexibility to do so. Give schools the option of extending the school day and school year – which must be addressed by lifting the tax cap or an agreement with NYSUT.
- The need to assess students is a reality and schools should be held accountable for results. At the same time please help us use our time and resources wisely. The 20% locally-selected assessment option for assessments and the SLOs have potential but the current restrictions (negotiation for locally-selected, cost, lack of relevance for students, narrow focus of exams) means we are assessing students for the wrong reasons and paying too much to do it (time and money.)
- Public schools should also not have to pay charter schools more than their own per/pupil allocation. In fact, they should pay less as the public school has to save a seat for the students that return (that sent out of charter schools).
- Allow public schools and charter schools to play by the same rules. Their schools, funded by public dollars, should be subjected to the same fiscal scrutiny and have to educate all students, not the ones they choose to educate. Allow public schools to hire teachers and hold them to the same expectations that charter schools are able to.
- Great idea to reward schools under the new system, but this may simply provide additional resources for the schools in more affluent communities where students already have many advantages.

Schools create opportunities for students and decisions contained within the ESEA reauthorization will have a potentially drastic impact on students and their ability to compete in a global economy.

Elizabeth Wood  
Assistant Superintendent for Curriculum, Instruction, and Assessment  
Shenendehowa Central Schools

**STATE EDUCATION DEPARTMENT RELEASES**

**DRAFT ESEA WAIVER REQUEST**

**AUTHORIZED BY THE BOARD OF REGENTS:**

**REQUEST FOR PUBLIC COMMENT**

In recent months, states across the country -- including New York State -- have taken the lead in calling for changes to the Elementary and Secondary Education Act (ESEA). In September 2011, President Obama announced an ESEA regulatory flexibility initiative, which is based upon the Secretary of Education's authority to issue waivers. According to the USDE, "This flexibility rewards States that are showing the courage to raise their expectations in their academic standards." The USDE has stated that this process is "not a pass on accountability. There will be a high bar for states seeking flexibility within the law." States that do not apply for the waiver will have to comply with the current No Child Left Behind (NCLB) requirements.

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In submitting a waiver request, New York State will be seeking to:

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We look forward to your feedback.

Evidence that the State has formally adopted college-and  
career-ready content standards consistent with the  
State's standards adoption process

## Appendix B 1 i 1: Memorandum of Agreement - Common Core Standards

### **The Council of Chief State School Officers and The National Governors Association Center for Best Practices**

#### **Common Core Standards Memorandum of Agreement**

**Purpose.** This document commits states to a state-led process that will draw on evidence and lead to development and adoption of a common core of state standards (common core) in English language arts and mathematics for grades K-12. These standards will be aligned with college and work expectations, include rigorous content and skills, and be internationally benchmarked. The intent is that these standards will be aligned to state assessment and classroom practice. The second phase of this initiative will be the development of common assessments aligned to the core standards developed through this process.

**Background.** Our state education leaders are committed to ensuring all students graduate from high school ready for college, work, and success in the global economy and society. State standards provide a key foundation to drive this reform. Today, however, state standards differ significantly in terms of the incremental content and skills expected of students.

Over the last several years, many individual states have made great strides in developing high-quality standards and assessments. These efforts provide a strong foundation for further action. For example, a majority of states (35) have joined the American Diploma Project (ADP) and have worked individually to align their state standards with college and work expectations. Of the 15 states that have completed this work, studies show significant similarities in core standards across the states. States also have made progress through initiatives to upgrade standards and assessments, for example, the New England Common Assessment Program.

**Benefits to States.** The time is right for a state-led, nation-wide effort to establish a common core of standards that raises the bar for all students. This initiative presents a significant opportunity to accelerate and drive education reform toward the goal of ensuring that all children graduate from high school ready for college, work, and competing in the global economy and society. With the adoption of this common core, participating states will be able to:

- Articulate to parents, teachers, and the general public expectations for students;
- Align textbooks, digital media, and curricula to the internationally benchmarked standards;
- Ensure professional development to educators is based on identified need and best practices;
- Develop and implement an assessment system to measure student performance against the common core; and
- Reevaluate policy changes needed to help students and educators meet the common core standards and "end-of-high-school" expectations.

An important tenet of this work will be to increase the rigor and relevance of state standards across all participating states; therefore, no state will see a decrease in the level of student expectations that exist in their current state standards.

#### **Process and Structure**

- **Common Core State-Based Leadership.** The Council of Chief State School Officers (CCSSO) and the National Governors Association Center for Best Practices (NGA Center) shall assume responsibility for coordinating the process that will lead to state adoption of a common core set of standards. These organizations represent governors and state commissioners of education who are charged with defining K-12 expectations at the state level. As such, these organizations will

facilitate a state-led process to develop a set of common core standards in English language arts and math that are:



- Fewer, clearer, and higher, to best drive effective policy and practice;
  - Aligned with college and work expectations, so that all students are prepared for success upon graduating from high school;
  - Inclusive of rigorous content and application of knowledge through high-order skills, so that all students are prepared for the 21<sup>st</sup> century;
  - Internationally benchmarked, so that all students are prepared for succeeding in our global economy and society; and
  - Research and evidence-based.
- **National Validation Committee.** CCSSO and the NGA Center will create an expert validation group that will serve a several purposes, including validating end-of-course expectations, providing leadership for the development of K-12 standards, and certifying state adoption of the common core. The group will be comprised of national and international experts on standards. Participating states will have the opportunity to nominate individuals to the group. The national validation committee shall provide an independent review of the common core. The national validation committee will review the common core as it is developed and offer comments, suggestions, and validation of the process and products developed by the standards development group. The group will use evidence as the driving factor in validating the common core.
- **Develop End-of-High-School Expectations.** CCSSO and the NGA Center will convene Achieve, ACT and the College Board in an open, inclusive, and efficient process to develop a set of end-of-high-school expectations in English language arts and mathematics based on evidence. We will ask all participating states to review and provide input on these expectations. This work will be completed by July 2009.
- **Develop K-12 Standards in English Language Arts and Math.** CCSSO and the NGA Center will convene Achieve, ACT, and the College Board in an open, inclusive, and efficient process to develop K-12 standards that are grounded in empirical research and draw on best practices in standards development. We will ask participating states to provide input into the drafting of the common core and work as partners in the common core standards development process. This work will be completed by December 2009.
- **Adoption.** The goal of this effort is to develop a true common core of state standards that are internationally benchmarked. Each state adopting the common core either directly or by fully aligning its state standards may do so in accordance with current state timelines for standards adoption not to exceed three (3) years.

This effort is voluntary for states, and it is fully intended that states adopting the common core may choose to include additional state standards beyond the common core. States that choose to align their standards to the common core standards agree to ensure that the common core represents at least 85 percent of the state's standards in English language arts and mathematics.

Further, the goal is to establish an ongoing development process that can support continuous improvement of this first version of the common core based on research and evidence-based learning and can support the development of assessments that are aligned to the common core across the states, for accountability and other appropriate purposes.

- National Policy Forum.** CCSSO and the NGA Center will convene a National Policy Forum (Forum) comprised of signatory national organizations (e.g., the Alliance for Excellent Education, Business Roundtable, National School Boards Association, Council of Great City Schools, Hunt Institute, National Association of State Boards of Education, National Education Association, and others) to share ideas, gather input, and inform the common core initiative. The forum is intended as a place for refining our shared understanding of the scope and elements of a common core; sharing and coordinating the various forms of implementation of a common core; providing a means to develop common messaging between and among participating organizations; and building public will and support.
  
- Federal Role.** The parties support a state-led effort and not a federal effort to develop a common core of state standards; there is, however, an appropriate federal role in supporting this state-led effort. In particular, the federal government can provide key financial support for this effort in developing a common core of state standards and in moving toward common assessments, such as through the Race to the Top Fund authorized in the American Recovery and Reinvestment Act of 2009. Further, the federal government can incentivize this effort through a range of tiered incentives, such as providing states with greater flexibility in the use of existing federal funds, supporting a revised state accountability structure, and offering financial support for states to effectively implement the standards. Additionally, the federal government can provide additional long-term financial support for the development of common assessments, teacher and principal professional development, other related common core standards supports, and a research agenda that can help continually improve the common core over time. Finally, the federal government can revise and align existing federal education laws with the lessons learned from states' international benchmarking efforts and from federal research.

**Agreement.** The undersigned state leaders agree to the process and structure as described above and attest accordingly by our signature(s) below.

Signatures	
<b>Governor:</b>	
<b>Chief State School Officer:</b>	

## **PARTNERSHIP FOR ASSESSMENT OF READINESS FOR COLLEGE AND CAREERS MEMORANDUM OF UNDERSTANDING**

**Purpose.** This document commits states to participate in the Partnership for Assessment of Readiness for College and Career, a state-led consortium that will collaborate on the development of common, high-quality assessments aligned to the Common Core State Standards (CCSS) in English language arts and mathematics for grades 3-8 and high school. The primary goal of the Partnership's work is to measure and document students' college and career readiness against common academic standards and to measure students' progress toward this target throughout the rest of the system.

While participating in the Partnership demonstrates the state's commitment to pursue a common assessment system that enables comparisons against the CCSS across all Partnership states, it does not commit the state to a specific assessment design at this point. Partnership states are still considering several options for the design of a common assessment system in pursuit of the Race to the Top (RTTT) Comprehensive Assessments Grant and will not be asked to commit to the Partnership's application until a later date. Until that time, all participating states will have the opportunity to contribute to and shape the Partnership's proposal.

**Preliminary Design Principles.** Partnership states have identified the following major purposes and uses for the assessment system. As the Partnership collaborates to develop its application for the RTTT assessment competition, these purposes will guide its work.

- The primary purpose is to measure and document students' college and career readiness and to measure students' progress toward this target throughout the rest of the system. Students meeting the college and career readiness standards will be eligible for placement into entry-level credit-bearing, rather than remedial, courses in public 2- and 4-year postsecondary institutions in participating states.
- Additionally, the partnership is committed to ensuring that the assessment results:
  - Are comparable across states at the student level;
  - Meet internationally rigorous benchmarks;
  - Support valid assessment of student longitudinal growth; and
  - Serve as a signal for good instructional practices.
- The results must be able to support multiple levels and forms of accountability including:
  - Decisions about promotion and graduation for individual students,
  - Teacher and leader evaluations, and
  - School accountability determinations.

**Roles and Responsibilities of Partnership States.** The Partnership will employ a multi-level governance and management structure designed to guide the partnership through the submission of the proposal.


- The **Governing States** are comprised of a representative group of leaders from Partnership states that are committed to implementing the assessment system developed by the partnership, should it win a grant from the Race to the Top Comprehensive Assessment System competition, and are responsible for guiding the proposal development process. Each Governing State will commit a team comprised of the chief, assessment director, and other key officials from the SEA, Governor's office, and higher education as appropriate.
- The **Proposal Design Team** will include officials from partnership states who will work with an advisory group of national and international experts to create an assessment system design for the Partnership's proposal. The design team will include as many states as are interested in and capable of contributing to and shaping the design of the proposed next generation assessment system.



- **Participating States** will include other partnership states that are unable to provide staff time to the design team but will provide rapid feedback on drafts of the proposal through the development phase.

**State Commitment.** This memorandum of understanding is voluntary and non-binding for states. States signing this MOU should do so with the intent of continuing in the Partnership through the proposal development, assessment development, and implementation phases. However, there will be an opportunity for states re-assess their participation in the Partnership before it submits its application for a Race to the Top Comprehensive Assessment Systems Grant by June 23, 2010.

**Agreement.** The undersigned state leader agrees to the process and structure as described above and attests accordingly by his/her signature below.

Authorized State Signature: 	
Name: Commissioner of Education	Date: 5/11/2010
Title: New York State	



**THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234**

**TO:** Standards Work Group  
P-12 Education Committee

**FROM:** John B. King, Jr.

**SUBJECT:** Approval of recommended additions to the Common Core State Standards (CCSS) for English Language Arts & Literacy and CCSS for Mathematics and approval of new Prekindergarten Learning Standards

**DATE:** December 30, 2010

**AUTHORIZATION(S):**

### **SUMMARY**

#### **Issues for Decision**

Will the Board of Regents approve the recommended P-12 additions to the Common Core State Standards (CCSS) for English Language Arts & Literacy and CCSS for Mathematics?

Will the Board of Regents approve the recommended Prekindergarten Learning Standards?

#### **Proposed Handling**

This item will come before the Standards Work Group and the P-12 Education Committee for decision at the January 2011 meeting.

#### **Reasons for Consideration**

In July 2010, New York State adopted the Common Core State Standards (CCSS) for English Language Arts & Literacy in History/Social Studies, Science, and Technical Subjects and the CCSS for Mathematics to support the Regents Reform Agenda, with the understanding that additional K-12 expectations and prekindergarten standards may be added. According to the timeline adopted by the Board of Regents, the Board is scheduled to act on a decision to approve these recommended additions by January 2011.

Also supporting the Regents Reform Agenda and the Race to the Top initiative is the development of the New York State Prekindergarten (PreK) Learning Standards. These Learning Standards will strengthen instruction in PreK classrooms in all settings, as well as help administrators and educators align PreK Learning standards with the K-12 system.

In spring 2011, after Board action on the recommended additions and prekindergarten standards, the development of statewide P-12 curriculum models for English Language Arts and Mathematics will begin.

### Background Information

#### *P-12 additions to the Common Core*

In July 2010, groups of P-12 and higher education English Language Arts and Mathematics practitioners met in Albany to analyze the CCSS for ELA and Mathematics and make recommendations for additions. The proposed additions, which represent student achievement expectations for all students, were presented to the Board of Regents in October 2010, with a five-week period of public feedback during the fall. Over 800 teachers, parents, school administrators, and other stakeholders responded to the ELA and Mathematics surveys.

After the survey data was compiled, team leaders from the July Mathematics and ELA workgroups participated in a review and revision session with Department staff on December 6<sup>th</sup>, 2010. The group analyzed the survey results and made necessary edits based on public input. Included below is a summary of the revisions and final recommendations. The majority of the survey respondents were teachers, with the remainder representing parents, school administrators, and/or other stakeholders.

The drafts of the NYS P-12 Common Core Learning Standards for English Language Arts and Literacy and Mathematics documents will be available at the SED Common Core State Standards website: [http://www.p12.nysed.gov/ciai/common\\_core\\_standards/](http://www.p12.nysed.gov/ciai/common_core_standards/)

#### *Development of Prekindergarten Standards*

The Draft PreK Learning Standards have been developed collaboratively by a workgroup consisting of Department staff and representatives from the NYS Office of Children and Family Services, the NYS Council on Children and Families, and other statewide partners linked to the Early Childhood Advisory Council (ECAC). An earlier draft was vetted to early childhood administrators and practitioners representing all sectors of the kindergarten feeder system. The PreK Learning Standards include five domains: Approaches to Learning; Physical Development and Health; Social and Emotional Development; Communication, Language and Literacy; and Cognition and Knowledge of the World. The communication, language, and literacy as well as the mathematics sections are aligned with the NYS P-12 Common Core Learning Standards for ELA and Literacy and Mathematics. The adoption and subsequent dissemination of this set of standards will provide the impetus needed to begin to address high-quality early childhood education for children before entry to kindergarten.

The initial Board of Regents discussion of the adoption of these standards occurred on July 19, 2010.

The Draft PreK Learning Standards were presented to the Board of Regents in October 2010, followed by a three-week public comment period. Over 500 teachers, administrators, and other stakeholders submitted responses to the survey. A workgroup was then convened to review and revise the PreK Learning Standards based upon the responses to the survey.

### **Recommended Additions to the Common Core State Standards for English Language Arts & Literacy**

In July 2010, the ELA Workgroup recommended additions to the Common Core ELA Standards in the following areas:

- Responding to Literature (Reading P-12 and Writing grades 5-12)
- Grade-level expectations for student inquiry were added—embedded into the Reading, Writing, and Listening and Speaking strands, 5-12
- Grade-level expectations for culture and diversity were added—embedded into the Reading, Writing, and Listening and Speaking strands, P-12
- Prekindergarten standards in Reading, Writing, Speaking and Listening, and Language were developed in alignment with the K-12 expectations in the Common Core State Standards. These expectations will be included in the new P-12 English Language Arts and Literacy Standards that connect to the five domains in the stand-alone Prekindergarten Standards document.

During the December 2010 revision session, the workgroup reviewed the survey data and made the following decisions:

- For Responding to Literature Reading P-12, the majority of respondents agreed (over 80%) with the addition of a Responding to Literature anchor standard and related grade-level P-12 expectations. The group suggested adding this anchor standard as # 11 in the Common Core Reading for Literature section, under the heading “Responding to Literature.” Below is the proposed anchor standard:

“Respond to literature by employing knowledge of literary language, textual features, and forms to read and comprehend, reflect upon, and interpret literary texts from a variety of genres and a wide spectrum of American and world cultures.”

- For Responding to Literature Writing 5-12, the majority of the respondents (77%) agreed that these additions are necessary. Comments in the surveys indicated that there was some concern about why this anchor standard only started at grade 5, while the other Responding to Literature Reading Standard contains expectations for P-12. To ensure the two Responding to Literature standards are both P-12 and parallel, the group agreed to add Responding to Literature Writing grade-level standards for P-4 that connect with grades 5-12. The new draft

“Develop personal, cultural, textual, and thematic connections within and across genres as they respond to texts through written, digital, and oral presentations, employing a variety of media and genres.”

- No changes were made to the Prekindergarten additions. The majority of the respondents (85%) agreed that these are necessary additions. These prekindergarten ELA additions connect to the 32 anchor standards (plus the Responding to Literature recommended additions) and the kindergarten level of the Common Core.
- A majority of the respondents (76%) supported the student inquiry additions, with some suggestions for revisions. The group made slight edits to some grade-level additions, which should improve the clarity of the expectations.
- A majority of the respondents (76%) supported the culture and diversity additions. The workgroup made some minor revisions based on survey comments.

The proposed P-12 English Language Arts and Literacy Learning Standards will include 34 anchor (College- and Career-Readiness) standards, plus the related P-12 grade-level standards and recommended grade-level additions for inquiry and culture and diversity.

In addition to the revisions described above, the ELA Workgroup discussed the need for the development of supporting guidance documents to assist administrators and teachers with responding to the needs of English Language Learners and students with disabilities. Additional suggestions were made to develop guidance to support native language arts, digital literacy, metacognition, connections to the arts, and cross-content literacy. The Workgroup also highly recommended that the Department prepare a New York State introduction to the P-12 standards that provides more context to the new set of P-12 standards.

### **Recommended Additions to the Common Core State Standards for Mathematics**

The July 2010 Workgroup recommended additions to the Common Core Mathematics Standards in the following areas:

- One grade-level standard for Kindergarten: Develop understanding of ordinal numbers (first through tenth) to describe the relative position and magnitude of whole numbers.
- One grade-level standard for Grade one: Recognize and identify coins, their names, and their value.

- No new standards were recommended as additions to the rest of the grade levels (2-12).

The majority of respondents to the November public Mathematics survey agreed that the recommended additional grade level standards for Kindergarten (80%) and First grade (81%) were both necessary and appropriate. The majority of respondents (80%) also agreed that the proposed prekindergarten standards aligned with and supported the student achievement expectations included in the K-12 Common Core State Mathematics Standards. In addition, respondents agreed (61%) that the traditional pathway for the high school courses outlined in the executive summary was appropriate and the comments expressed that it is the preferred direction for New York State.

During the December 2010 revision meeting, the workgroup reviewed the survey data and made the following decisions.

- The two additional standards, added at the Kindergarten and First Grade levels, were necessary and appropriate additions to the Common Core State Standards.
- The Prekindergarten standards align and support the student achievement expectations included in the CCSS.
- The survey identified the preferred pathway for high school courses to be the traditional approach of Integrated Algebra, Geometry, and Algebra 2 and Trigonometry.
- General themes regarding additional resources were identified from the survey and will be included in developing supportive material for the sequenced, spiraled, content rich, curriculum frameworks.
- The survey responses expressed that no additional recommendations were needed.

### **Development and Revision of Prekindergarten Standards**

After the survey data was compiled, workgroup members participated in a review and revision session with Department staff. The group analyzed the survey results and made necessary edits based on public input. Included below is a summary of the revisions and final recommendations.

- For *Domain #1 Approaches to Learning*, the majority of the respondents agreed (90%) with the Benchmarks and Indicators as they were written. The workgroup made no changes to this section of the PreK Learning Standards other than to correct the dates of two research articles that were cited.
- For *Domain #2 Physical Development and Health*, the majority of respondents (90%) agreed with the Benchmarks and Indicators as they were written. While the workgroup did not make any changes to the text of this Domain, there was evidence in the comments that some children with physical disabilities may need

- For *Domain #3 Social and Emotional Development*, the majority of respondents (94%) agreed with the Benchmarks and Indicators as they were written. There were many strong comments from the respondents as well as the workgroup members regarding how to incorporate these kind of benchmarks within the K-12 standards system. Another significant comment was that strong home/school connections and parent involvement improve the social and emotional well being of children. The workgroup made no additions to this domain but will recommend that the previous comments be shared for guidance documents that will follow.
- For *Domain #4 Communication, Language and Literacy*, the majority of respondents (86%) agreed with the Benchmarks and Indicators as written. Suggestions were made to include the word “culture” in the introduction to this section so that it is included with background knowledge and word knowledge as a contributing factor to developing literacy, particularly for our young English Language Learners. Terms used in this domain need to be defined within the curriculum guidance for PreK and that guidance should offer explanations that communication, language and literacy development is integrated across all of the domains. The workgroup made only slight revisions to the indicators based upon the feedback from the survey.
- For *Domain #5 Cognition and Knowledge of the World*, the majority of the respondents (85%) agreed with the Benchmarks and Indicators as they were written. Some minor revisions were made to the introduction of this section and to some of the individual benchmark indicators so that they were more clearly stated. It was recommended that curriculum guidance that accompanies the PreK standards include a glossary of terms and a brief discussion of the importance of the classroom environment.
- Responses to the questions 6 and 7 on the survey regarding children with disabilities and English language learners included suggestions to take the time to give guidance not just to teachers but to administrators regarding the necessary approaches and supports needed by these children in a classroom setting. Other suggestions indicated the benchmark indicators should include allowing the use of communication through alternate means such as American Sign Language, pictures, gestures, and electronic communication devices.
- Question 8 on the survey asked the respondents to suggest the pre-service or in-service training that will be necessary for the implementation of the PreK Learning Standards. A very strong recommendation included the need to work with higher education to develop teacher training courses that support young learners. Other suggestions for ongoing professional development and joint training for teachers and administrators were made frequently. Many teachers suggested that to implement the PreK standards effectively kindergarten and grade 1 teachers must be included in the training and technical assistance, so that there is continuity between the grade levels.

- In general, throughout all eight of the survey questions, there were comments about the benchmarks being indicative of a rich Prekindergarten program. Comments clearly indicated that many of the benchmarks could be accomplished and observed through the play and active engagement of 4 year olds within a well-designed learning environment. Individualized, standards-based practices will support all learners in meeting the PreK Standards.

Next steps for implementation of P-12 standards and development of curriculum models.

### **Rollout of New York State P-12 Common Core Standards for English Language Arts and Literacy and Mathematics**

Throughout the fall, Department staff provided several presentations on the Common Core State Standards and proposed additions to curriculum specialists, teachers, and professional organizations. Additionally, a toolkit with Common Core resources, including a timeline with implications for school districts, was posted on the NYSED website to provide additional guidance to the field. Moving forward, specific training on implementation of the Common Core will be provided to LEAs via the RTTT Network Team structure. Specifically, a 3-5 day statewide summer training with Common Core experts will be provided to all Network Teams and this will be followed by quarterly trainings, the content of which will be based on continuous feedback from survey results and on-site observations in school districts.

Implementation of the new New York State standards (inclusive of the Common Core) will begin in all schools in 2011-12. The reporting of state assessment results for 2011-12 will include performance mapped to both the existing NYS standards and the new NYS standards (inclusive of the Common Core). In school year 2012-2013, classroom instruction is expected to be fully aligned and assessments will test to the New York State P-12 Common Core Learning Standards for English Language Arts & Literacy and Mathematics.

### **Development of Curriculum Models**

In December 2010, the Department posted a Request for Information (RFI) to gather input from stakeholders on the necessary components to include in the English Language Arts/Literacy and Mathematics curriculum models. After the RFI closes on January 31<sup>st</sup>, the Department will compile and analyze the information to help inform the development of a Request for Proposal for Curriculum Resource Centers to develop P-12 English Language Arts & Literacy and P-12 Mathematics Curriculum Models.

Based on priorities stated in both New York State's Race to the Top application and the Department's P-12 Strategic Vision, these curriculum models are expected to include:



- Grade-by-grade student expectations (standards, benchmarks and performance indicators), including the knowledge, skills, and understandings that students are expected to achieve at each grade.
- Month-by-month learning objectives/student expectations, organized in thematic units or genre-specific modules, which include formative instruction/assessment strategies to check for student understanding, and specific teaching activities and student tasks.
- Grade-level learning examples, which include developmentally appropriate instructional strategies and sample tasks to demonstrate how students can achieve the standards, including resources for teachers of students with disabilities and English language learners.
- An appendix of grade-by-grade recommended texts (fiction/nonfiction) that are representative of grade level readability as normed by various reading metrics to inform curriculum development.
- Formative instruction/assessment tools at each grade level to permit teachers to measure ongoing student grade-level achievement.
- Alignment tools to analyze existing programs and resources against new learning expectations.
- Supplemental curriculum guidance for teachers of English language learners, students with disabilities, and other student populations with diverse needs.
- Links to professional development resources throughout the models.

After the RFP is awarded in early spring, the curriculum resource centers will begin work on the development of the curriculum models with input from statewide stakeholders, including teachers, school administrators, higher education representatives, curriculum specialists, and representatives from various New York State professional organizations. The P-12 ELA & Literacy and Mathematics curriculum models will be created to facilitate student achievement of the new P-12 standards and are scheduled to be available to schools during the school year 2012-2013.

### Recommendation

VOTED: That the Board of Regents approves the New York State P-12 Common Core Learning Standards for English Language Arts (ELA) and Literacy; the New York State P-12 Common Core Learning Standards for Mathematics; and the New York State Prekindergarten Learning Standards.

Memorandum of Understanding of letter from a State network of institutions of higher education (IHEs) certifying that meeting the State's standards corresponds to being college- and career-ready without the need for remedial coursework at the postsecondary level



The Chancellor

May 28, 2010

The Honorable Arne Duncan  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Dear Secretary Duncan:

As chancellor of The City University of New York (CUNY), I would like to express strong support for the Partnership for Assessment of Readiness for College and Careers and pledge to work collaboratively with our K-12 state counterparts and our higher education colleagues across the partnership states to develop high school assessments that can serve as an indicator of readiness for non-remedial, credit-bearing, college-level coursework in mathematics and English. We value the promise of the new Common Core State Standards to improve college readiness rates of direct matriculation high school students and the vision outlined for developing a common college-ready assessment.

We further recognize that the diverse missions of postsecondary systems and institutions in the Partnership for Assessment of Readiness for College and Careers will determine the specific ways in which this new assessment will be used. We are, however, prepared to participate in the design, development, and standard setting process of the Partnership with the goal of using the new measure(s) as part of our course placement system once the Partnership has set the college readiness standards for the assessment(s).

In the 2008-09 school year, CUNY included 42,881 direct matriculation degree-seeking students who were within two years of high school graduation. We are committed to working with the Partnership for Assessment of Readiness for College and Careers to ensure that students who score college-ready on its end of high school assessments can enter credit-bearing coursework without remediation at this institution.



We are prepared to participate with the Partnership for Assessment of Readiness for College and Careers in the following next steps:

- A collaborative and comprehensive effort by K-12 and higher education faculty and leaders across the Partnership for Assessment of Readiness for College and Careers on test design and development.
- A coordinated effort across the consortium to design and participate in validity studies and comparisons with current placement instruments to ensure that the assessments developed are an accurate measure of college readiness.

- A thorough, research-based process to establish common achievement standards on the new assessments that signal students' preparation for entry level, credit-bearing coursework.
- Use of the assessment in all partnership states' postsecondary institutions as an indicator of students' readiness for placement in non-remedial, credit-bearing college-level coursework.

We strongly support further work to establish a better aligned P-20 education system that will help all of New York's students graduate from high school ready for college and careers, by providing students, their parents and their teachers with clear and consistent information about what it means and what it takes to be ready for college. We further commit ourselves to work collaboratively with our K-12 counterparts to improve associated student outreach, intervention, and academic preparation programs to ensure all students have the opportunity to successfully transition into our postsecondary system.

Thank you for providing the students in our state with the opportunity to benefit from such an important collaboration.

<b>Signature(s) for the State of New York:</b>	
Authorized State Signature: 	
Name: David M. Steiner	Date: 6/11/10
Title: Commissioner of Education and President of the University of the State of New York	
Authorized State Signature: 	
Name: Matthew Goldstein	Date: May 28, 2010
Title: Chancellor, The City University of New York (CUNY)	



# THE STATE UNIVERSITY *of* NEW YORK

*Nancy L. Zimpher*  
Chancellor

June 4, 2010

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Mr. Arne Duncan  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-0001

Dear Secretary Duncan,

On behalf of the 64 campuses of the State University of New York (SUNY), the largest comprehensive system of higher education in the nation, I am pleased to express my strong support for the multi-state consortium called the Partnership for Assessment of Readiness for College and Career (“The Partnership”). SUNY would be pleased to work collaboratively with the K-12 education community in New York State and higher education colleagues in other Partnership states to develop high school assessments in English Language Arts and Mathematics based on the new Common Core State Standards so that these assessments can serve as valid indicators of readiness for credit-bearing, college-level study. The promise of these new assessments to improve the college readiness of high school graduates and smooth their transition to college is perfectly aligned with SUNY’s strategic plan, which has the goal of creating a seamless education pipeline from cradle through career for students in New York State.

Although the diverse missions of higher education systems and institutions in the Partnership will determine the specific ways in which the new college-readiness assessments will be used, the State University of New York is committed to participating, as appropriate, in the Partnership’s design, development, and standard setting process with the goal of using the new assessments for placing students in credit-bearing courses. We are committed to working with the Partnership toward the shared goal of ensuring that students with college-ready scores on end-of-high-school assessments can enroll in credit-bearing courses without remediation.

The Partnership’s assessments have the potential to benefit tens of thousands of “direct matriculation students” per year in New York State, defined for the Partnership as freshmen who had graduated from high school in the prior two years entering public higher education in the state for the first time. In academic year 2008-09, the State University of New York enrolled a total of 80,660 direct matriculation students.

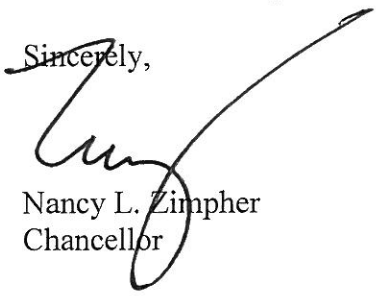
The State University of New York is prepared to participate, as appropriate, with the Partnership in the following next steps related to assessments:

- a collaborative and comprehensive effort by K-12 and higher education faculty and leaders across the Partnership on test design and development;
- a coordinated effort across the consortium to design and participate in validity studies and comparisons with current placement instruments to ensure that the assessments developed are an accurate measure of college readiness;
- a thorough, research-based process to establish common achievement standards on the new assessments that signal students' preparation for entry level, credit-bearing coursework; and
- use of the assessment, along with other placement requirements used by our campuses, as an indicator of students' readiness for placement in non-remedial, credit-bearing college-level coursework.

In addition, SUNY strongly supports an aligned P-20 education system that will help New York State's students graduate from high school ready for college and careers by providing students, their parents and their teachers with clear and consistent information about what it means and what it takes to be ready for college. To supplement the assessment work, the University will work collaboratively, as appropriate, with New York State's K-12 education community to improve student outreach, intervention, and academic preparation programs to ensure all students have the opportunity to make a successful transition to college.

Thank you for providing the students in New York State with the opportunity to benefit from the Partnership's collaboration.

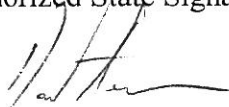

Sincerely,



Nancy L. Zimpher  
Chancellor

NLZ:zrr

cc: Dr. David K. Lavalley, Provost and Senior Vice Chancellor  
Ms. Johanna Duncan-Poitier, Chancellor's Deputy for the Education Pipeline  
Dr. Elizabeth Bringsjord, Associate Provost  
Dr. Nancy Willie-Schiff, Assistant Provost

Signature(s) for the State of: New York	
Authorized State Signature: 	
Name: David M. Steiner	Date: June 4, 2010
Title: Commissioner of Education and President of the University of the State of New York	
Authorized State Signature: 	
Name: Nancy L. Zimpher	Date: June 4, 2010
Title: Chancellor, State University of New York	

# State's Race to the Top Assessment Memorandum of Understanding



## **PARTNERSHIP FOR ASSESSMENT OF READINESS FOR COLLEGE AND CAREERS MEMORANDUM OF UNDERSTANDING**

**Purpose.** This document commits states to participate in the Partnership for Assessment of Readiness for College and Career, a state-led consortium that will collaborate on the development of common, high-quality assessments aligned to the Common Core State Standards (CCSS) in English language arts and mathematics for grades 3-8 and high school. The primary goal of the Partnership's work is to measure and document students' college and career readiness against common academic standards and to measure students' progress toward this target throughout the rest of the system.

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- The primary purpose is to measure and document students' college and career readiness and to measure students' progress toward this target throughout the rest of the system. Students meeting the college and career readiness standards will be eligible for placement into entry-level credit-bearing, rather than remedial, courses in public 2- and 4-year postsecondary institutions in participating states.
- Additionally, the partnership is committed to ensuring that the assessment results:
  - Are comparable across states at the student level;
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  - Serve as a signal for good instructional practices.
- The results must be able to support multiple levels and forms of accountability including:
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**Roles and Responsibilities of Partnership States.** The Partnership will employ a multi-level governance and management structure designed to guide the partnership through the submission of the proposal.

- The **Governing States** are comprised of a representative group of leaders from Partnership states that are committed to implementing the assessment system developed by the partnership, should it win a grant from the Race to the Top Comprehensive Assessment System competition, and are responsible for guiding the proposal development process. Each Governing State will commit a team comprised of the chief, assessment director, and other key officials from the SEA, Governor's office, and higher education as appropriate.
- The **Proposal Design Team** will include officials from partnership states who will work with an advisory group of national and international experts to create an assessment system design for the Partnership's proposal. The design team will include as many states as are interested in and capable of contributing to and shaping the design of the proposed next generation assessment system.

- **Participating States** will include other partnership states that are unable to provide staff time to the design team but will provide rapid feedback on drafts of the proposal through the development phase.

**State Commitment.** This memorandum of understanding is voluntary and non-binding for states. States signing this MOU should do so with the intent of continuing in the Partnership through the proposal development, assessment development, and implementation phases. However, there will be an opportunity for states re-assess their participation in the Partnership before it submits its application for a Race to the Top Comprehensive Assessment Systems Grant by June 23, 2010.

**Agreement.** The undersigned state leader agrees to the process and structure as described above and attests accordingly by his/her signature below.

Authorized State Signature: 	
Name: Commissioner of Education	Date: 5/11/2010
Title: New York State	

**2010-2011 Percent Proficient on Grades 3-8 English Language Arts (ELA) and Mathematics Exams by Subgroup**

Grades 3-8 ELA							
Group	Enrollment	Level 1	Level 2	Level 3	Level 4	Performance Index	% Level 3 and Level 4
All Students	1,173,267	113,337	429,824	580,793	49,313	144.0	53.71%
American Indian/Alaskan Native	5,710	739	2,567	2,254	150	129.2	42.10%
Asian or Pacific Islander	94,142	6,561	23,772	56,769	7,040	160.8	67.78%
Black (not Hispanic)	217,319	33,155	105,929	74,126	4,109	120.7	36.00%
Economically Disadvantaged	623,670	89,877	284,185	235,605	14,003	125.6	40.02%
Hispanic	256,947	38,503	120,664	92,725	5,055	123.1	38.05%
Limited English Proficient	114,839	30,952	55,571	26,577	1,739	97.7	24.66%
Multi-racial	7,219	562	2,281	3,931	445	152.8	60.62%
Students With Disabilities	204,892	65,612	96,478	33,762	9,040	88.9	20.89%
White	591,930	33,817	174,611	350,988	32,514	159.1	64.79%

Grades 3-8 Math							
Group	Enrollment	Level 1	Level 2	Level 3	Level 4	Performance Index	% Level 3 and Level 4
All Students	1,179,082	81,757	337,772	477,766	281,787	157.5	64.42%
American Indian/Alaskan Native	5,731	559	2,075	2,245	852	144.3	54.04%
Asian or Pacific Islander	95,905	2,543	12,371	34,540	46,451	181.8	84.45%
Black (not Hispanic)	217,566	28,120	91,059	75,026	23,361	132.3	45.22%
Economically Disadvantaged	629,108	64,513	232,550	233,275	98,770	142.5	52.78%
Hispanic	260,126	26,495	99,409	99,350	34,872	141.4	51.60%
Limited English Proficient	121,307	18,402	49,282	40,166	13,457	129.0	44.20%
Multi-racial	7,223	437	1,996	2,893	1,897	160.3	66.32%
Students With Disabilities	204,629	47,194	90,138	49,619	17,678	109.8	32.89%
White	592,531	23,603	130,862	263,712	174,354	169.9	73.93%

**2010-2011 Percent Proficient on Grades 3-8 English Language Arts (ELA) and Mathematics Exams by Subgroup**

High School ELA							
Group	Enrollment	Level 1	Level 2	Level 3	Level 4	Performance Index	% Level 3 and Level 4
All Students	198,622	20,520	46,132	87,136	44,834	156.1	66.44%
American Indian/Alaskan Native	897	134	279	376	108	139.0	53.96%
Asian or Pacific Islander	16,131	1,161	2,475	7,357	5,138	170.3	77.46%
Black (not Hispanic)	37,012	6,705	12,869	14,403	3,035	129.0	47.11%
Economically Disadvantaged	81,891	12,967	25,847	34,421	8,656	136.8	52.60%
Hispanic	38,287	6,835	12,186	15,781	3,485	132.5	50.32%
Limited English Proficient	11,867	4,090	4,451	3,021	305	93.6	28.03%
Multi-racial	492	33	112	216	131	163.8	70.53%
Students with Disabilities	27,376	9,061	10,687	6,046	1,582	94.8	27.86%
White	105,803	5,652	18,211	49,003	32,937	172.1	77.45%

High School Math							
Group	Enrollment	Level 1	Level 2	Level 3	Level 4	Performance Index	% Level 3 and Level 4
All Students	198,622	20,653	93,777	49,577	34,615	132.0	42.39%
American Indian/Alaskan Native	897	147	520	169	61	109.3	25.64%
Asian or Pacific Islander	16,131	746	4,717	4,708	5,960	161.5	66.13%
Black (not Hispanic)	37,012	7,293	23,612	4,759	1,348	96.8	16.50%
Economically Disadvantaged	81,891	12,947	48,010	14,416	6,518	109.8	25.56%
Hispanic	38,287	6,927	23,550	5,899	1,911	102.3	20.40%
Limited English Proficient	11,867	2,877	6,760	1,534	696	94.5	18.79%
Multi-racial	492	46	213	130	103	138.0	47.36%
Students with Disabilities	27,376	8,483	14,887	2,805	1,201	83.6	14.63%
White	105,803	5,494	41,165	33,912	25,232	150.7	55.90%

Attachment 8 - Listing of Reward, Priority, and Focus Schools

Code Legend:

A - Achievement Schools

B - Progress Schools

C - Priority Schools identified for PI

D - Priority Schools identified for Graduation Rate

E - PLA Schools

G - Focus Districts including Charter Schools

Sch BEDS ID	Sch NCES ID	School/LEA	LEA BEDS ID	LEA NCES ID	LEA	2011-12 Title I	Code	Reward	Priority	Focus
						Yes	B	Yes		
						No	A	Yes		
						No	A	Yes		
						Yes	A	Yes		
						No	A	Yes		
						Yes	B	Yes		
						No	A	Yes		
						Yes	A	Yes		
						No	A	Yes		
						Yes	A	Yes		
						No	A	Yes		
						Yes	A	Yes		
						No	A	Yes		
						No	A	Yes		
						No	A	Yes		
						No	A	Yes		
						Yes	B	Yes		
						No	A	Yes		
						Yes	A	Yes		
						No	A	Yes		
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Attachment 8 - Listing of Reward, Priority, and Focus Schools

						No	A	Yes		
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						No	A	Yes		
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						No	A/B	Yes		
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						Yes	A	Yes		
						Yes	A	Yes		

Attachment 8 - Listing of Reward, Priority, and Focus Schools

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Attachment 8 - Listing of Reward, Priority, and Focus Schools

						No	A	Yes		
						No	B	Yes		
						No	A	Yes		
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Attachment 8 - Listing of Reward, Priority, and Focus Schools

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						Yes	A	Yes		
						Yes	A	Yes		
						Yes	B	Yes		
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Attachment 8 - Listing of Reward, Priority, and Focus Schools

						Yes	G			Yes
						Yes	G			Yes
						No	G			Yes
						Yes	G			Yes
						Yes	G			Yes
						Yes	G			Yes

## Copy of guidelines that the SEA has developed for local teacher and principal evaluation and support systems

- p. 2 Current statute (Education Law section 3012-c)
- p. 6 Notice on NYSED website regarding proposed legislation and anticipated conforming amendments to the regulations
- p. 7 Commissioner's regulations subpart 30-2
- p. 22 Proposed legislation that would amend Education Law section 3012-c

## Current statute (Education Law section 3012-c)

§ 3012-c. Annual professional performance review of classroom teachers and building principals. 1. Notwithstanding any other provision of law, rule or regulation to the contrary, the annual professional performance reviews of all classroom teachers and building principals employed by school districts or boards of cooperative educational services shall be conducted in accordance with the provisions of this section. Such performance reviews which are conducted on or after July first, two thousand eleven, or on or after the date specified in paragraph c of subdivision two of this section where applicable, shall include measures of student achievement and be conducted in accordance with this section. Such annual professional performance reviews shall be a significant factor for employment decisions including but not limited to, promotion, retention, tenure determination, termination, and supplemental compensation, which decisions are to be made in accordance with locally developed procedures negotiated pursuant to the requirements of article fourteen of the civil service law. Such performance reviews shall also be a significant factor in teacher and principal development, including but not limited to, coaching, induction support and differentiated professional development, which are to be locally established in accordance with procedures negotiated pursuant to the requirements of article fourteen of the civil service law.

2. a. The annual professional performance reviews conducted pursuant to this section for classroom teachers and building principals shall differentiate teacher and principal effectiveness using the following quality rating categories: highly effective, effective, developing and ineffective, with explicit minimum and maximum scoring ranges for each category, as prescribed in the regulations of the commissioner. Such annual professional performance reviews shall result in a single composite teacher or principal effectiveness score, which incorporates multiple measures of effectiveness related to the criteria included in the regulations of the commissioner. Except for the student growth measures prescribed in paragraphs e, f and g of this subdivision, the elements comprising the composite effectiveness score shall be locally developed, consistent with the standards prescribed in the regulations of the commissioner, through negotiations conducted, pursuant to the requirements of article fourteen of the civil service law.

b. Annual professional performance reviews conducted by school districts on or after July first, two thousand eleven of classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals of schools in which such teachers are employed shall be conducted pursuant to this subdivision and shall use two thousand ten--two thousand eleven school year student data as the baseline for the initial computation of the composite teacher or principal effectiveness score for such classroom teachers and principals.

c. Annual professional performance reviews conducted by school districts or boards of cooperative educational services on or after July first, two thousand twelve of all classroom teachers and all building principals shall be conducted pursuant to this subdivision and shall use two thousand eleven--two thousand twelve school year student data as the baseline for the initial computation of the composite teacher or principal effectiveness score for such classroom teachers and principals. For purposes of this section, an administrator in charge of an instructional program of a board of cooperative educational services shall be deemed to be a building principal.

d. Prior to any evaluation being conducted in accordance with this section, each individual who is responsible for conducting an evaluation

of a teacher or building principal shall receive appropriate training in accordance with the regulations of the commissioner of education.

e. For annual professional performance reviews conducted in accordance with paragraph b of this subdivision in the two thousand eleven--two thousand twelve school year, forty percent of the composite score of effectiveness shall be based on student achievement measures as follows: (i) twenty percent of the evaluation shall be based upon student growth data on state assessments as prescribed by the commissioner or a comparable measure of student growth if such growth data is not available; and (ii) twenty percent shall be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms in accordance with the regulations of the commissioner and as are developed locally in a manner consistent with procedures negotiated pursuant to the requirements of article fourteen of the civil service law.

f. For annual professional performance reviews conducted in accordance with paragraph c of this subdivision in any school year prior to the first school year for which the board of regents has approved use of a value-added growth model, but not earlier than the two thousand twelve--two thousand thirteen school year, forty percent of the composite score of effectiveness shall be based on student achievement measures as follows: (i) twenty percent of the evaluation shall be based upon student growth data on state assessments as prescribed by the commissioner or a comparable measure of student growth if such growth data is not available; and (ii) twenty percent shall be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms in accordance with the regulations of the commissioner and as are developed locally in a manner consistent with procedures negotiated pursuant to the requirements of article fourteen of the civil service law.

g. For annual professional performance reviews conducted in accordance with paragraph c of this subdivision in the first school year for which the board of regents has approved use of a value-added growth model and thereafter, forty percent of the composite score of effectiveness shall be based on student achievement measures as follows: (i) twenty-five percent of the evaluation shall be based upon student growth data on state assessments as prescribed by the commissioner or a comparable measure of student growth if such growth data is not available; and (ii) fifteen percent shall be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms in accordance with the regulations of the commissioner and as are locally developed in a manner consistent with procedures negotiated pursuant to the requirements of article fourteen of the civil service law. The department shall develop the value-added growth model and shall consult with the advisory committee established pursuant to subdivision seven of this section prior to recommending that the board of regents approve its use in evaluations.

h. The remaining percent of the evaluations, ratings and effectiveness scores shall be locally developed, consistent with the standards prescribed in the regulations of the commissioner, through negotiations conducted pursuant to article fourteen of the civil service law.

i. For purposes of this section, student growth means the change in student achievement for an individual student between two or more points in time.

3. Nothing in this section shall be construed to excuse school districts or boards of cooperative educational services from complying with the standards set forth in the regulations of the commissioner for conducting annual professional performance reviews of classroom teachers or principals, including but not limited to required quality rating categories, in conducting evaluations prior to July first, two thousand eleven, or, for classroom teachers or principals subject to paragraph c

of subdivision two of this section, prior to July first, two thousand twelve.

4. Notwithstanding any other law, rule or regulation to the contrary, upon rating a teacher or a principal as developing or ineffective through an annual professional performance review conducted pursuant to subdivision two of this section, the school district or board of cooperative educational services shall formulate and commence implementation of a teacher or principal improvement plan for such teacher or principal as soon as practicable but in no case later than ten days after the date on which teachers are required to report prior to the opening of classes for the school year. Such improvement plan shall be consistent with the regulations of the commissioner and developed locally through negotiations conducted pursuant to article fourteen of the civil service law. Such improvement plan shall include, but need not be limited to, identification of needed areas of improvement, a timeline for achieving improvement, the manner in which improvement will be assessed, and, where appropriate, differentiated activities to support a teacher's or principal's improvement in those areas.

5. An appeals procedure shall be locally established in each school district and in each board of cooperative educational services by which the evaluated teacher or principal may only challenge the substance of the annual professional performance review, the school district's or board of cooperative educational services' adherence to the standards and methodologies required for such reviews, pursuant to this section, the adherence to the regulations of the commissioner and compliance with any applicable locally negotiated procedures, as well as the school district's or board of cooperative educational services' issuance and/or implementation of the terms of the teacher or principal improvement plan, as required under this section. The specifics of the appeal procedure shall be locally established through negotiations conducted pursuant to article fourteen of the civil service law. An evaluation which is the subject of an appeal shall not be sought to be offered in evidence or placed in evidence in any proceeding conducted pursuant to either section three thousand twenty-a of this article or any locally negotiated alternate disciplinary procedure, until the appeal process is concluded.

6. For purposes of disciplinary proceedings pursuant to sections three thousand twenty and three thousand twenty-a of this article, a pattern of ineffective teaching or performance shall be defined to mean two consecutive annual ineffective ratings received by a classroom teacher or building principal pursuant to annual professional performance reviews conducted in accordance with the provisions of this section.

7. The regulations adopted pursuant to this section shall be developed in consultation with an advisory committee consisting of representatives of teachers, principals, superintendents of schools, school boards, school district and board of cooperative educational services officials and other interested parties. The regulations shall also take into account any (i) professional teaching standards; (ii) standards for professional contexts; and (iii) standards for a continuum of system support for teachers and principals developed in consultation with the advisory committee. Regulations promulgated pursuant to this section shall be effective no later than July first, two thousand eleven, for implementation in the two thousand eleven--two thousand twelve school year.

8. Notwithstanding any other provision of law, rule or regulation to the contrary, all collective bargaining agreements applicable to classroom teachers or building principals entered into after July first, two thousand ten shall be consistent with requirements of this section. Nothing in this section shall be construed to abrogate any conflicting provisions 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 other 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. Furthermore, nothing in this section or in any rule or regulation promulgated hereunder shall in any way, alter, impair or diminish the rights of a local collective bargaining representative to negotiate evaluation procedures in accordance with article fourteen of the civil service law with the school district or board of cooperative educational services.




# Notice on NYSED website

NYSED / P-12 / Race to the Top / Great Teachers and Leaders

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## Great Teachers and Leaders - RTTT Assurance Area D

The Teacher and Leader Evaluation materials previously available on this page are being revised and will be reposted as soon as possible. Please see the news releases below for more information:

- [Governor Cuomo and Commissioner King Announce Agreement on Evaluation Guidelines That Will Make New York State a National Leader on Teacher Accountability](#) 
  - [Chancellor Tisch and Commissioner King Praise Evaluation Agreement](#)
- 

### APPR

#### Teacher and Principal Annual Professional Performance Review

On February 16, 2012, Governor Cuomo proposed budget legislation that would amend Education Law section 3012-c to resolve the issues in *New York State United Teachers, et. al v. Board of Regents*, the litigation challenging these regulations. The Department will be proposing amendments to Subpart 30-2 of the Regulations of the Commissioner to conform to the statutory changes and reflect the agreement to settle the litigation. We anticipate that amendments will be made that will substantially impact the conduct of Annual Professional Performance Reviews for the 2012-13 school year.

# Commissioner's Regulations subpart 30-2

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK  
TITLE 8. EDUCATION DEPARTMENT  
CHAPTER I. RULES OF THE BOARD OF REGENTS  
PART 30. TENURE AREAS AND ANNUAL PROFESSIONAL PERFORMANCE REVIEWS FOR CLASSROOM  
TEACHERS AND BUILDING PRINCIPALS  
SUBPART 30-2. ANNUAL PROFESSIONAL PERFORMANCE REVIEWS OF CLASSROOM TEACHERS AND  
BUILDING PRINCIPALS

\* Section 30-2.1.\* Applicability.

(a) For annual professional performance reviews conducted by school districts for the 2011-2012 school year, the governing body of each school district shall ensure that:

(1) reviews of all classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals of schools in which such teachers are employed are conducted in accordance with the requirements of section 3012-c of the Education Law and the provisions of this Subpart; and

(2) reviews of classroom teachers and building principals (other than classroom teachers in the common branch subjects or English language arts or mathematics in grades four to eight or the building principals in which such teachers are employed) are conducted in accordance with section 100.2(o) of this Title.

(b) For annual professional performance reviews conducted by school districts or BOCES in the 2012-2013 school year and any school year thereafter, the governing body of each school district and BOCES shall ensure that the reviews of all classroom teachers and building principals are conducted in accordance with the requirements of section 3012-c of the Education Law and the provisions of this Subpart.

(c) Nothing in this Subpart shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on July 1, 2010 during the term of such agreement and until entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement, all the provisions of this Subpart shall apply.

(d) Nothing herein shall be construed to affect the statutory right of a school district or BOCES to terminate a probationary teacher or principal or to restrict a school district's or BOCES' discretion in making a tenure determination pursuant to the law.

(e) Nothing in this Subpart shall be construed to preclude a school district or BOCES from adopting an annual professional performance review for the 2011-2012 school year that applies to all classroom teachers and building principals in accordance with this Subpart or for BOCES, for classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals in which such teachers are employed.

\* Section 30-2.2.\* Definitions.

As used in this Subpart:

(a) Approved teacher or principal practice rubric shall mean a rubric approved by the commissioner for inclusion on the State Education Department's list of approved rubrics in teacher or principal evaluations.

(b) Approved student assessment shall mean a standardized student assessment approved by the commissioner for inclusion in the State Education Department's lists of approved standardized student assessments for the locally selected measures subcomponent and/or to measure student growth in non-tested subjects for the State assessment or other comparable measures subcomponent.

(c) Building principal or principal shall mean a principal or co-principal of a registered public school or an administrator in charge of an instructional program of a school district or board of cooperative educational services.

(d) Classroom teacher or teacher shall mean a teacher in the classroom teaching service as that term is defined in section 80-1.1 of this Title, who is a teacher of record as defined in this section, except evening school teachers of adults enrolled in nonacademic, vocational subjects, and supplemental school personnel as defined in section 80-5.6 of this Title.

(e) Common branch subjects shall mean common branch subjects as defined in section 80-1.1 of this Title.

(f) Composite effectiveness score shall mean the total effectiveness score out of 100 points assigned to a teacher or principal for an evaluation conducted pursuant to this Subpart. This score shall be calculated based on the sum of the three subcomponent scores described below:

(1) student growth on State assessments or other comparable measures (0-20 points for the 2011-2012 school year and in subsequent school years for those grades/subjects where there is no value-added growth model approved by the Board of Regents, and 0-25 points for the 2012-2013 school year and thereafter for those grades/subjects where a value-added growth model is approved by the Board of Regents);

(2) locally selected measures of student achievement (0-20 points for the 2011- 2012 school year and in subsequent school years for those grades/subjects where there is no value-added growth model approved by the Board of Regents, and 0-15 points for the 2012-2013 school year and thereafter for those grades/subjects where a value-added growth model is approved by the Board of Regents); and

(3) other measures of teacher and principal effectiveness (0-60 points for the 2011-2012 school year and thereafter).

(g) Co-principal means a certified administrator under Part 80 of this Title, designated by the school's controlling authority to have executive authority, management, and instructional leadership responsibility for all or a portion of a school or BOCES-operated instructional program, in a situation in which more than one such administrator is so designated. The term co-principal implies equal line authority, with each designated administrator reporting to a district-level or comparable BOCES-level supervisor.

(h) Developing means a rating received by a teacher or building principal, wherein the teacher or principal receives a composite effectiveness score within the minimum and maximum scoring range for this rating category as prescribed by the commissioner in section 30-2.6 of this Subpart.

(i) Effective means a rating received by a teacher or building principal, wherein the teacher or building principal receives a composite effectiveness score within the minimum and maximum scoring range for this rating category as prescribed by the commissioner in section 30-2.6 of this Subpart.

(j) Evaluator shall mean any individual who conducts an evaluation of a classroom teacher or building principal under this Subpart.

(k) Highly effective means a rating received by a teacher or building principal, wherein the teacher or building principal receives a composite effectiveness score within the minimum and maximum scoring range for this rating category as prescribed by the commissioner in section 30-2.6 of this Subpart.

(l) Ineffective means a rating received by a teacher or building principal, wherein the teacher or building principal receives a composite effectiveness score between the minimum and maximum scoring ranges for this rating category, as prescribed by the commissioner in section 30-2.6 of this Subpart.

(m) Lead evaluator shall mean the primary individual responsible for conducting and completing an evaluation of a classroom teacher or building principal under this Subpart. To the extent practicable, the building principal, or his or her designee shall be the lead evaluator of a classroom teacher in this Subpart.

(n) Leadership standards shall mean the Educational Leadership Policy Standards: ISLLC 2008 as adopted by the National Policy Board for Educational Administration (Council of Chief State School Officers, Washington DC, One Massachusetts Avenue, NW, Suite 700, Washington, DC 20001-1431; 2008- available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, New York 12234).

(o) Student growth means the change in student achievement for an individual student between two or more points in time.

(p) Student growth percentile score shall mean the result of a statistical model that calculates each student's change in achievement between two or more points in time on a State assessment or other comparable measure and compares each student's performance to that of similarly achieving students.

(q) Subcomponents of the composite effectiveness score shall mean the three subcomponents of a teacher's or principal's evaluation and composite effectiveness score as described in subdivision (f) of this section.

(r) Teacher or principal student growth percentile score shall mean a measure of central tendency of the student growth percentile scores for a teacher's or principal's students after one or more of the following student characteristics are taken into consideration: poverty, students with disabilities and English language learners.

(s) Teacher(s) of record shall mean, for the 2011-2012 school year, those teachers who are primarily and directly responsible for a student's learning activities that are aligned to the performance measures of a course consistent with guidelines prescribed by the commissioner. For the 2012-2013 school year and school years thereafter, teachers of record shall be defined in a manner prescribed by the commissioner.

(t) Testing standards shall mean the "Standards for Educational and Psychological Testing" (American Psychological Association, National Council on Measurement in Education, and American Educational Research Association; 1999- available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, New York 12234).

(u) The governing body of each school district shall mean the board of education of each school district, provided that, in the case of the City School District of the City of New York, it shall mean the Chancellor of the City School District of the City of New York or, to the extent provided by law, the board of education of the City School District of the City of New York and, in the case of BOCES, it shall mean the board of cooperative educational services.

(v) Value-added growth score shall mean the result of a statistical model that incorporates a student's academic history and may use other student demographics and characteristics, school characteristics and/or teacher characteristics to isolate statistically the effect on student growth from those characteristics that are generally not in the teacher's or principal's control. The characteristics included may be different for teachers and principals, based on empirical evidence and policy determinations.

\* Section 30-2.3.\* Requirements for annual professional performance review plans submitted under this Subpart.

(a) Applicability.

(1) By September 1, 2011, the governing body of each school district shall adopt a plan in accordance with the requirements of this Subpart for the annual professional performance review of its classroom teachers of common branch subjects, English language arts or mathematics in grades four to eight and building principals of schools in which such teachers are employed. 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.

(2) By September 1, 2012, the governing body of each school district and BOCES shall adopt a plan in accordance with the requirements of this Subpart, which may be an annual or multi-year plan, for the annual professional performance review of all of its classroom teachers and building principals. To the extent that any of the items required to be included in the plan are not finalized by September 1, 2012, or by September 1 of any subsequent year, as a result of pending collective bargaining negotiations, the plan shall identify those specific parts of the plan and the school district or BOCES shall file an amended plan upon completion of such negotiations.

(3) Such plan shall be approved by the governing body of each school district or BOCES, filed in the district or BOCES office, as applicable, and made available to the public on its web-site no later

than September 10th of each school year, or within 10 days after its adoption, whichever shall later occur.

(b) Content of the plan. The annual professional performance review plan shall:

(1) describe the school district's or BOCES' process for ensuring that the department receives accurate teacher and student data, including enrollment and attendance data and any other student, teacher, school, course and teacher/student linkage data necessary to comply with this Subpart, in a format and timeline prescribed by the commissioner. This process shall also provide an opportunity for every classroom teacher and building principal to verify the subjects and/or student rosters assigned to them;

(2) describe how the district or BOCES will report to the department the individual subcomponent scores and the total composite effectiveness score for each classroom teacher and building principal in the school district or BOCES, in a format and timeline prescribed by the commissioner;

(3) describe the assessment development, security, and scoring processes utilized by the school district or BOCES. Such processes shall ensure that any assessments and/or measures used to evaluate teachers and principals under this section are not disseminated to students before administration and that teachers and principals do not have a vested interest in the outcome of the assessments they score;

(4) describe the details of the school district's or BOCES' evaluation system, which shall include, but not be limited to, the local measures of student achievement that will be used for the evaluation of teachers and principals, the name of the approved teacher and/or principal practices rubric that the district or BOCES uses or evidence that a variance has been granted from this requirement, any other instruments (such as observations, surveys, self-assessment, portfolios) that will be used to evaluate a teacher's or principal's performance for the remaining 60 points of the evaluation, and the district's or BOCES' scoring methodology for the assignment of points to the following subcomponents: locally selected measures of student achievement and other measures of teacher or principal effectiveness;

(5) describe how the school district or BOCES will provide timely and constructive feedback to classroom teachers and building principals on their annual professional performance review;

(6) describe the appeal procedures that the district or BOCES is using under section 30-2.11 of this section; and

(7) include any required certifications to be included in the plan under this Subpart.

\* Section 30-2.4.\* Standards and criteria for conducting annual professional performance reviews and for scoring the subcomponents of such reviews in the 2011-2012 school year for classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals employed in such schools.

(a) Composite effectiveness score. Annual professional performance reviews conducted pursuant to this section shall differentiate teacher and principal effectiveness using a composite effectiveness score. Based on such composite effectiveness score, a classroom teacher or building principal shall be rated as highly effective, effective, developing or ineffective as defined in this Subpart.

(b) State assessments or other comparable measures subcomponent. Twenty points of the teacher's or principal's composite effectiveness score shall be based upon the teacher's or principal's student growth percentile score on State assessments in English language arts and/or mathematics in grades four to eight.

(c) Locally selected measures.

(1) Twenty points of the teacher's or principal's composite effectiveness score shall be based upon locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms.

(2) For purposes of this section:

(i) rigorous shall mean that the locally selected measure is aligned to the New York State learning standards or, in instances where there are no such standards that apply to a subject/grade level, evidence of alignment to research-based learning standards and, to the extent practicable, the locally selected measure must be valid and reliable as defined by the testing standards;

(ii) comparable across classrooms shall mean that the same locally selected measure(s) of student achievement or growth is used across a subject and/or grade level within the school district or

BOCES. For principals, the same locally selected measure(s) must be used for all principals in the same or similar program or grade configuration in that school district or BOCES.

(3) Classroom teachers.

(i) Except as otherwise provided in subparagraphs (ii) and (iii) of this paragraph, one or more of the following types of locally selected measures of student achievement or growth may be used for the evaluation of classroom teachers:

(a) a student assessment approved by the department pursuant to the request for qualification process described in section 30-2.8 of this Subpart;

(b) a district, regional or BOCES-developed assessment;

(c) a school-wide, group or team metric based on a State assessment, an approved student assessment or a district, regional or BOCES-developed assessment, across multiple classrooms in a grade level or subject area (e.g., school-wide growth on a locally selected math assessment or grade-level growth on the grade four English language arts State assessment);

(d) student achievement on State assessments, Regents examinations and/or department approved alternative examinations as described in section 100.2(f) of this Title (including, but not limited to, advanced placement examinations, International Baccalaureate examinations, SAT II, etc.); or

(e) a structured district-wide student growth goal-setting process to be used with any State assessment, an approved student assessment, or other school or teacher-created assessment.

(ii) For school districts or BOCES that use one of the measures enumerated in clause (i)(b), (c) or (e) of this paragraph, the superintendent, district superintendent or chancellor shall certify, in the annual professional performance review plan, that the measure is rigorous and comparable across classrooms as defined in this subdivision and explain how the locally selected measure meets these requirements.

(iii) For school districts or BOCES that use more than one of the local measures described in subparagraph (i) of this paragraph for a grade/subject (e.g., one measure is utilized for some of the district's fifth grade math classes and another measure is utilized for the other fifth grade math classes in the district), the superintendent, district superintendent or chancellor shall certify in the annual professional performance review plan that the measures are comparable, in accordance with the testing standards.

(4) Principals.

(i) Except as otherwise provided in subparagraph (ii) of this paragraph, one or more of the following types of local measures of student achievement or growth may be used for the evaluation of principals, provided that each measure is rigorous and comparable across classrooms as defined in this section:

(a) student achievement levels on State assessments in English language arts and/or mathematics in grades four to eight (e.g., percentage of students in the school whose performance levels on State assessments are proficient or advanced, as defined in section 100.2(p)(1)(v) of this Title);

(b) student growth or achievement on State or other assessments in English language arts and/or mathematics in grades four to eight for students in each of the performance levels described in section 100.2(p)(1)(v) of this Title;

(c) student growth or achievement on State assessments in English language arts and/or mathematics in grades four to eight for students with disabilities and English language learners in grades four to eight;

(d) student performance on any or all of the district-wide locally selected measures approved for use in teacher evaluations as described in paragraph (3) of this subdivision;

(e) four, five and/or six-year high school graduation and/or dropout rates for principals employed in a school with high school grades;

(f) percentage of students who earn a Regents diploma with advanced designation and/or honors as defined in section 100.5(b)(7) of this Title, for principals employed in a school with high school grades;

(g) percentage of a cohort of students that achieve specified scores on Regents examinations and/or department approved alternative examinations as described in section 100.2(f) of this Title (including, but not limited to, advanced placement examinations, International Baccalaureate examinations, SAT II, etc.), for principals employed in a school with high school grades (e.g., the

percentage of students in the 2009 cohort that scored at least a 3 on an advanced placement examination since entry into the ninth grade); and/or

(h) students' progress toward graduation in the school using strong predictive indicators, including but not limited to 9th and/or 10th grade credit accumulation and/or the percentage of students that pass 9th and/or 10th grade subjects most commonly associated with graduation and/or students' progress in passing the number of required Regents examinations for graduation, for principals employed in a school with high school grades.

(ii) For school districts or BOCES that choose to use more than one set of locally selected measures described in this paragraph for principals in the same or similar grade configuration or program (e.g., one set of locally selected measures is used to evaluate principals in some K-5 schools and another set of locally selected measures is used to evaluate principals in the other K-5 schools in the district), the superintendent or district superintendent shall, in their professional performance review plan, certify that the sets of measures are comparable, in accordance with the testing standards.

(d) Other measures of teacher and principal effectiveness.

(1) Classroom teacher.

(i) Sixty points of a teacher's composite effectiveness score shall be based on multiple measures, using the criteria prescribed in this subdivision. Such measures shall be aligned with the New York State teaching standards, which are enumerated below, and their related elements and performance indicators:

(a) the teacher acquires knowledge of each student, and demonstrates knowledge of student development and learning to promote achievement for all students;

(b) the teacher knows the content they are responsible for teaching, and plans instruction that ensures growth and achievement for all students;

(c) the teacher implements instruction that engages and challenges all students to meet or exceed the learning standards;

(d) the teacher works with all students to create a dynamic learning environment that supports achievement and growth;

(e) the teacher uses multiple measures to assess and document student growth, evaluate instructional effectiveness, and modify instruction;

(f) the teacher demonstrates professional responsibility and engages relevant stakeholders to maximize student growth, development, and learning; and

(g) the teacher sets informed goals and strives for continuous professional growth.

(ii) Rubric. A teacher's performance under this subcomponent must be assessed based on a teacher practice rubric(s) approved by the department in accordance with section 30-2.7 of this Subpart. The same rubric(s) shall be used for all classroom teachers in a specific grade/subject across the district.

(a) Variance for use of existing rubrics. A variance may be granted to a school district or BOCES that seeks to use a rubric that is either a close adaptation of a rubric on the approved list, or a rubric that was self-developed or developed by a third-party, upon a finding by the commissioner that the rubric meets the criteria described in section 30-2.7 of this Subpart and the school district or BOCES has demonstrated that it has made a significant investment in the rubric and has a history of use that would justify continuing the use of that rubric.

(b) Variance for use of new innovative rubrics. A variance may be granted to a school district or BOCES that seeks to use a newly developed rubric, upon a finding by the commissioner that the rubric meets the criteria described in section 30-2.7 of this Subpart and the school district or BOCES has demonstrated how it will ensure inter-rater reliability and the rubric's ability to provide differentiated assessments over time.

(iii) Classroom observations. In order to support continuous professional growth, at least 40 of these 60 points shall be based on classroom observations, which may be performed in-person or by video and shall include multiple observations by a principal or other trained administrator. Some of these points may also be based on one or more observations by independent trained evaluators or in-school peer teachers.

(iv) The remaining points of the 60 points shall be based on a combination of any of the following criteria:

- (a) evidence of student development and performance through structured reviews of student work and/or artifacts of teacher practice using portfolios or evidence binder processes;
  - (b) evidence that the teacher develops effective relationships with students, parents, caregivers and relevant stakeholders to maximize student growth, development and learning through the use of surveys and/or feedback from students, parents/caregivers and/or their peers using structured survey tools; or
  - (c) evidence that the teacher sets informed professional growth goals and strives for continuous professional growth as demonstrated through teacher self-reflections and teacher progress on professional growth goals, provided that no more than five points shall be attributed to this criterion.
  - (v) Any teaching standards that are not addressed in the classroom observations shall be assessed by the district at least once a year.
- (2) Building principals.
- (i) Sixty points of a building principal's composite effectiveness score shall be based on multiple measures, using the criteria prescribed in this subdivision. Such measures shall be aligned with the leadership standards, enumerated below, and their related functions: An education leader promotes the success of every student by:
    - (a) facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community;
    - (b) advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional growth;
    - (c) ensuring management of the organization, operations and resources for a safe, efficient, and effective learning environment;
    - (d) collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;
    - (e) acting with integrity, fairness, and in an ethical manner; and
    - (f) understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.
  - (ii) Rubric. A principal's performance under this subcomponent must be assessed based on an approved principal practice rubric in accordance with section 30- 2.7 of this Subpart. Such rubric shall be used for all building principals across the district or BOCES.
    - (a) Variance for use of existing rubrics. A variance may be granted to a school district or BOCES that seeks to use a rubric that is either a close adaptation of a rubric on the approved list, or a rubric that was self-developed or developed by a third-party, upon a finding by the commissioner that the rubric meets the criteria described in section 30-2.7 of this Subpart and the school district or BOCES has demonstrated that it has made a significant investment in the rubric and has a history of use that would justify continuing the use of that rubric.
    - (b) Variance for use of new innovative rubrics. A variance may be granted to a school district or BOCES that seeks to use a newly developed rubric, upon a finding by the commissioner that the rubric meets the criteria described in section 30-2.7 of this Subpart and the school district or BOCES has demonstrated how it will ensure inter-rater reliability and the rubric's ability to provide differentiated assessments over time.
  - (iii) At least 40 of the 60 points assigned to this subcomponent shall be based on a broad assessment of the principal's leadership and management actions by the building principal's supervisor or a trained independent evaluator. This assessment must incorporate one or more school visits by a supervisor and at least two other sources of evidence from the following options: structured feedback from teachers, students, and/or families; school visits by other trained evaluators; review of school documents, records, state accountability processes and/or other locally-determined sources.
  - (iv) Any remaining points shall be assigned based on the results of one or more ambitious and measurable goals set collaboratively with principals and their superintendents or district superintendents as follows:
    - (a) at least one goal must address the principal's contribution to improving teacher effectiveness, which may include, but need not be limited to: improved retention of high performing teachers, the correlation between student growth scores of teachers granted tenure as opposed to those denied tenure, quality of feedback provided to teachers throughout the year, facilitation of teacher



participation in professional development opportunities made available by the school district or BOCES and/or the quality and effectiveness of teacher evaluations conducted under this section; and

(b) any other goals shall address quantifiable and verifiable improvements in academic results or the school's learning environment resulting from the principal's leadership and commitment to their own professional growth.

(v) Any leadership standards not addressed in the assessment of the principal's leadership and management actions by the building principal's supervisor or a trained independent evaluator shall be assessed at least once a year.

\* Section 30-2.5.\* Standards and criteria for conducting annual professional performance reviews and for scoring the subcomponents for such reviews in the 2012-2013 school year and each school year thereafter.

(a) Composite effectiveness score. Annual professional performance reviews conducted pursuant to this section shall differentiate teacher and principal effectiveness using a composite effectiveness score. Based on such composite effectiveness score, a classroom teacher or building principal shall be rated as highly effective, effective, developing or ineffective as defined in this Subpart.

(b) State assessments or other comparable measures of student growth.

(1) Classroom teachers:

(i) For classroom teachers who teach English language arts or mathematics in grades four to eight or teach a subject in any grade for which there is a State assessment with an approved value-added growth model (e.g., Regents examinations, State assessments in science in grades four and eight or any other State assessment that may be created), a score from 0 to 25 points will be generated for the State assessment subcomponent of the teacher's composite effectiveness score based on the teacher's value-added growth score on such assessment(s).

(ii) In the event the Board of Regents has not approved a value-added growth model for English language arts or mathematics in grades four to eight, a score from 0-20 points will be generated for this subcomponent using the teacher's student growth percentile score on such assessments for the 2012-2013 school year and thereafter until a value-added growth model is approved by the Board of Regents.

(iii) Except as otherwise provided in subparagraphs (i) and (ii) of this paragraph, for classroom teachers who teach one of the core subjects, as defined in this subparagraph, where there is no approved growth or value-added growth model at that grade level or in that subject, the school district or BOCES shall measure student growth based on a State-determined district- or BOCES-wide student growth goal setting process using a State assessment if one exists, or a Regents examination or department-approved alternative examination as described in section 100.2(f) of this Title (including, but not limited to, advanced placement examinations, International Baccalaureate examinations, SAT II, etc.). If there is no State assessment or Regents examination for these grades/subjects, the district or BOCES must measure student growth based on the State determined goal-setting process with an approved student assessment, or a department-approved alternative examination as described in section 100.2(f) of this Title. For purposes of this subparagraph, core subjects shall be defined as science and social studies in grades six to eight and high school courses in English language arts, mathematics, science and social studies that lead to a Regents examination in the 2010-2011 school year, or a State assessment in the 2012-2013 school year or thereafter. A school district or BOCES shall generate a score from 0 to 20 points for this subcomponent.

(iv) For all other classroom teachers who teach grades/subjects where there is no value-added growth model approved by the Board of Regents, the school district or BOCES shall generate a score from 0 to 20 points for this subcomponent based on a State-determined district- or BOCES-wide student growth goal-setting process to be used with one or more of the following types of district-selected student assessments for each subject:

(a) State-approved student assessments;

(b) district-, regional- or BOCES- developed student assessments, provided that the district or BOCES verifies comparability and rigor as defined in section 30-2.4 of this Subpart;

(c) school- or BOCES- wide, group or team results based on State assessment(s); or

(d) school- or teacher-created student assessments.

(v) The school district or BOCES shall measure student growth using the same measure(s) of student growth for all classroom teachers in a course and/or grade level in a district or BOCES.

(vi) If the classroom teacher is responsible for teaching one or more course(s) for which there is an approved value-added growth model and one or more other course(s) for which no student growth or value-added growth model has been approved, a score shall be generated for this subcomponent based on a methodology prescribed by the commissioner.

(2) Building principals.

(i) For a building principal employed in a school or program where the English language arts and/or mathematics State assessments in grades four to eight were administered in that school year or in any other subject in any grade for which there is an assessment with an approved value-added growth model (e.g., Regents examinations, State assessments in science in grades four and eight or any other State assessment that may be created), the principal shall be assigned a score from 0-25 points for this subcomponent based on a formula prescribed by the commissioner.

(ii) In the event the Board of Regents has not approved a value-added growth model for English language arts and/or mathematics State assessments in grades four to eight in the 2012-2013 school year, a score from 0-20 points will be generated using the principal's student growth percentile score on such assessments.

(iii) For a building principal employed in a school or program where core subjects as described in section 30-2.4(b)(1)(iii) of this Subpart are taught where there is no approved student growth or value-added growth model, principals must be evaluated based on a State-determined district- or BOCES-wide school- or program-wide goal setting process in accordance with the requirements in section 30-2.4(b)(1)(iii) of this Subpart. The school district or BOCES shall measure student growth using the same district selected measure for all building principals employed in a school within the same grade configuration or program.

(iv) For a building principal employed in a school or program where there is no value-added growth model approved by the Board of Regents for any course and/or subject taught in the school and there are no core subjects taught in such school or program, a score from 0 to 20 points will be generated based on school- or BOCES-level student growth on one or more of the district selected measures approved by the commissioner to evaluate teachers as part of the locally selected measures subcomponent of the evaluation as defined in section 30-2.4(c)(3)(i) of this Subpart.

(v) If the building principal is employed in a school where there are subjects being taught that have an approved value-added growth model and there are other course(s) for which no value-added growth model has been approved, the building principal's score on this subcomponent shall be based on a methodology prescribed by the commissioner.

(c) Locally selected measures.

(1) The score for the locally selected measures subcomponent shall be based on the State subcomponent score (e.g., if 0-25 points assigned to State subcomponent based on value-added growth model, a score of 0-15 points will be assigned to this subcomponent; and if 0-20 points is assigned to State subcomponent because there is no approved value-added growth model, a score of 0-20 points will be assigned to this subcomponent).

(2) A teacher's or principal's score for this subcomponent shall be based upon one or more of the approved locally selected measures of student achievement listed in section 30-2.4(c) of this Subpart, provided that such measures are rigorous and comparable across classrooms as defined in such section.

(d) The remaining 60 points of a teacher's or principal's composite effectiveness score shall be based on the standards prescribed in section 30- 2.4(d) of this Subpart.

\* Section 30-2.6.\* Scoring ranges for rating categories.

(a) The governing body of each school district and BOCES shall ensure that the rating category assigned to each classroom teacher and building principal is determined by a single composite effectiveness score that is calculated based on the scores received by the teacher or principal in each of the subcomponents in accordance with the requirements of this section.

(1) Overall ratings. A classroom teacher and building principal shall be deemed to be:

(i) Highly effective if they achieve a composite effectiveness score of 91-100.

(ii) Effective if they achieve a composite effectiveness score of 75-90.

- (iii) Developing if they achieve a composite effectiveness score of 65-74.
- (iv) Ineffective if they achieve a composite effectiveness score of 0-64.
- (2) The commissioner will review the specific scoring ranges for each of the rating categories annually before the start of each school year and will recommend any changes to the Board of Regents for approval.
  - (b) State assessments or other comparable measures subcomponent.
    - (1) A classroom teacher and building principal shall receive:
      - (i) a highly effective rating in this subcomponent if the teacher's or principal's results are well-above the State average for similar students and they achieve a subcomponent score of 18-20;
      - (ii) an effective rating in this subcomponent if the teacher's or principal's results meet the State average for similar students and they achieve a subcomponent score of 12-17;
      - (iii) a developing rating in this subcomponent if the teacher's or principal's results are below the State average for similar students and they achieve a subcomponent score of 3-11; or
      - (iv) an ineffective rating in this subcomponent, if the teacher or principal's results are well-below the State average for similar students and they achieve a subcomponent score of 0-2.
    - (2) The commissioner will review the specific scoring ranges for each of the quality review categories annually before the start of each school year and will recommend any changes to the Board of Regents for approval.
  - (c) Locally selected measures.
    - (1) A classroom teacher and building principal shall receive:
      - (i) a highly effective rating in this subcomponent if the results are well-above district-adopted expectations for student growth or achievement and they achieve a subcomponent score of 18-20;
      - (ii) an effective rating in this subcomponent if the results meet district-adopted expectations for growth or achievement and they achieve a subcomponent score of 12-17;
      - (iii) a developing rating in this subcomponent if the results are below district-adopted expectations for growth or achievement and they achieve a subcomponent score of 3-11; or
      - (iv) an ineffective rating in this subcomponent, if the results are well-below district-adopted expectations for growth or achievement and they achieve a subcomponent score of 0-2.
    - (2) The commissioner will review the specific scoring ranges for each of the quality review categories annually before the start of each school year and will recommend any changes to the Board of Regents for approval.
  - (d) Other measures of teacher and principal effectiveness. The district or BOCES shall prescribe specific minimum and maximum scoring ranges for each performance level within this subcomponent before the start of each school year and shall assign points to a teacher or principal for this subcomponent based on the following standards:
    - (1) A teacher or principal shall receive:
      - (i) a highly effective rating in this subcomponent if the teacher's or principal's overall performance and results exceed the New York State teaching or leadership standards;
      - (ii) an effective rating in this subcomponent if the teacher's or principal's overall performance and results meet the New York State teaching or leadership standards;
      - (iii) a developing rating in this subcomponent if the teacher's or principal's overall performance and results need improvement to meet the New York State teaching or leadership standards; or
      - (iv) an ineffective rating in this subcomponent if the teacher's or principal's overall performance and results do not meet the New York State teaching or leadership standards.
    - (e) The process by which points are assigned in subcomponents and the scoring ranges for the subcomponents must be transparent and available to those being rated before the beginning of each school year.

\* Section 30-2.7.\* Approval process for approved teacher and principal practice rubrics.

- (a) A provider who seeks to place a teacher or principal practice rubric on the list of approved rubrics under this section shall submit to the commissioner a written application in a form and within the time prescribed by the commissioner.
- (b) Teacher practice rubric. The commissioner shall evaluate a rubric for inclusion on the department's list of approved practice rubrics for classroom teachers pursuant to a request for

qualification ("RFQ") process. Such proposals shall meet the following minimum criteria and any supplemental criteria outlined by the commissioner in the RFQ process:

- (1) the rubric must broadly cover the teaching standards and their related elements;
- (2) the rubric must be grounded in research about teaching practice that supports positive student learning outcomes;
- (3) the rubric must have four performance rating categories. If a rubric does not have four levels that match the rating categories of highly effective, effective, developing and ineffective, the rubric's summary ratings must be easily convertible to the four rating categories that New York State has adopted;
- (4) the rubric must clearly define the expectations for each rating category. The highly effective and effective rating categories must encourage excellence beyond a minimally acceptable level of effort or compliance;
- (5) to the extent possible, the rubric should rely on specific, discrete, observable, and/or measurable behaviors by students and teachers in the classroom with direct evidence of student engagement and learning;
- (6) the rubric must use clear and precise language that facilitates common understanding among teachers and administrators;
- (7) the rubric must be specifically designed to assess the classroom effectiveness of teachers;
- (8) the rubric must include descriptions of any specific training and implementation details that are required for the rubric to be effective; and
- (9) the rubric shall be applicable to all grades and subjects or if designed explicitly for specific grades and/or subjects, a rubric will only be approved for use in the grades or subjects for which it is designed.

(c) Principal practice rubric. The commissioner shall evaluate a rubric for inclusion on the department's list of approved practice rubrics for building principals pursuant to a request for qualification ("RFQ") process. Such proposals shall meet the following minimum criteria and any supplemental criteria outlined by the commissioner in the RFQ process:

- (1) the rubric must broadly cover the leadership standards and their related functions;
- (2) the rubric must be grounded in research about leadership practice that supports positive student learning outcomes;
- (3) the rubric must have four performance rating categories. If a rubric does not have four levels that match the rating categories of highly effective, effective, developing, and Ineffective, the rubric's summary ratings must be easily convertible to the four rating categories that New York State has adopted;
- (4) the rubric must clearly define the expectations for each rating category. The highly effective and effective rating categories must encourage excellence beyond a minimally acceptable level of effort or compliance;
- (5) to the extent possible, the rubric should rely on specific, discrete, observable, and/or measurable behaviors by principals and their staff and students;
- (6) the rubric must use clear and precise language that facilitates common understanding among building principals and their evaluators;
- (7) the rubric must be specifically designed to assess the effectiveness of school leaders; and
- (8) the rubric must include descriptions of any specific training and implementation details that are required for the rubric to be effective.

(d) Termination of approval of a teacher or principal scoring rubric.

(1) Approval for inclusion on the department's list of approved rubrics may be withdrawn for good cause, including, but not limited to, a determination by the commissioner that the rubric:

- (i) does not comply with one or more of the criteria for approval set forth in this section or the criteria set forth in the request for qualification;
- (ii) the department determines that the practice rubric is not identifying meaningful and/or observable differences in performance levels across schools and classrooms; and/or
- (iii) high-quality academic research calls into question the correlation between high performance on this rubric and positive student learning outcomes.

(2) Termination of a rubric from the approved list shall be conducted in accordance with the following procedures:

(i) The commissioner or his/her designee shall notify the provider of the approved rubric in writing of the intent to terminate approval at least 30 calendar days prior to the effective date of the termination. Such notification shall include a list of the identified deficiencies.

(ii) The provider may reply in writing within 10 calendar days of receipt of the commissioner's notification, addressing the commissioner's statement of reasons, indicating whether deficiencies and/or violations exist, what steps have been taken to correct conceded deficiencies and/or violations, and the time period and steps by which deficiencies and/or violations will be corrected. If no reply is received, termination and removal from the list will become effective 30 calendar days from the date of receipt of the commissioner's notification.

(iii) Within three business days of receipt of the commissioner's notification, the provider may request oral argument before the commissioner or his/her designee.

(iv) After consideration of any written response and of any oral argument, a determination shall be made whether approval shall be terminated. Notice of such determination shall be provided in writing to the provider.

\* Section 30-2.8.\* Approval process for student assessments.

(a) Approval of student assessments for the evaluation of classroom teachers and building principals. An assessment provider who seeks to place an assessment on the list of approved student assessments under this section shall submit to the commissioner a written application in a form and within the time prescribed by the commissioner.

(b) The commissioner shall evaluate a student assessment for inclusion on the department's list of approved student assessments for the locally selected measures subcomponent, based on the following minimum criteria and any supplemental criteria established by the commissioner in the request for qualification ("RFQ"):

(1) the assessment is aligned with the New York State learning standards or, in instances where there are no such standards that apply to a subject/grade level, evidence of alignment to research-based learning standards; and

(2) the provider must demonstrate that there is strong evidence that the assessment is aligned with industry standards of reliability and validity as defined in the testing standards.

(c) The commissioner shall also evaluate student assessment for inclusion on the department's list of approved student assessments for student growth in non-tested subjects based on the following minimum criteria and any supplemental criteria established by the commissioner in the RFQ process:

(1) the assessment is aligned with the New York State learning standards or, in instances where there are no such standards that apply to a subject/grade level, evidence of alignment to research-based learning standards;

(2) the provider must demonstrate that there is strong evidence that the assessment is aligned with industry standards of reliability and validity as defined in the testing standards;

(3) the provider must demonstrate to the department, with a detailed procedure for measuring growth using the student assessment, that such assessment will result in normative inferences about each individual's student growth; and

(4) the provider must provide information to the department on the one or more norming groups used to calculate normative growth as well as the required test administration procedure, including a recommended testing timeline when using the instrument to measure growth, including the potential use of a pre-test or other tool in the first year of implementation.

(d) Termination of approval.

(1) Approval shall be withdrawn for good cause, including, but not limited to, a determination by the commissioner that:

(i) the assessment does not comply with one or more of the criteria for approval set forth in this section or the criteria set forth in the RFQ;

(ii) the department determines that the assessment is not identifying meaningful and/or observable differences in performance levels across schools and classrooms; and/or

(iii) high quality academic research calls into question the correlation between high performance on the assessment and positive student learning outcomes.

(2) Termination of a student assessment from the approved list shall be conducted in accordance with the following procedures:

(i) The commissioner or his/her designee shall notify the provider of the approved assessment in writing of the intent to terminate approval at least 30 calendar days prior to the effective date of the termination, including a list of the identified deficiencies.

(ii) The provider may reply in writing within 10 calendar days of receipt of the commissioner's notification, addressing the commissioner's statement of reasons, indicating whether deficiencies and/or violations exist, what steps have been taken to correct conceded deficiencies and/or violations, and the time period and steps by which deficiencies and/or violations will be corrected. If no reply is received, termination and removal from the list will become effective 30 calendar days from the date of receipt of the commissioner's notification.

(iii) Within three business days of receipt of the commissioner's notification, the provider may request oral argument before the commissioner or his/her designee.

(iv) After consideration of any written response and of any oral argument, a determination shall be made whether approval shall be terminated. Notice of such determination shall be provided in writing to the provider.

\* Section 30-2.9.\* Training of evaluators and lead evaluators.

(a) The governing body of each school district and BOCES shall ensure that evaluators have appropriate training before conducting an evaluation under this section. The governing body shall also ensure that any lead evaluator has been certified by such governing body as a qualified lead evaluator before conducting and/or completing a teacher's or principal's evaluation in accordance with the requirements of this Subpart, except as otherwise provided in this subdivision. Nothing herein shall be construed to prohibit a lead evaluator who is properly certified by the State as a school administrator or superintendent of schools from conducting classroom observations or school visits as part of an annual professional performance review under this Subpart prior to completion of the training required by this section provided such training is successfully completed prior to completion of the evaluation.

(b) To qualify for certification as a lead evaluator under this section, individuals shall successfully complete a training course that meets the minimum requirements prescribed in this subdivision. The training course shall provide training on:

(1) the New York State teaching standards, and their related elements and performance indicators and the leadership standards and their related functions, as applicable;

(2) evidence-based observation techniques that are grounded in research;

(3) application and use of the student growth percentile model and the value-added growth model as defined in section 30-2.2 of this Subpart;

(4) application and use of the State-approved teacher or principal rubric(s) selected by the district or BOCES for use in evaluations, including training on the effective application of such rubrics to observe a teacher or principal's practice;

(5) application and use of any assessment tools that the school district or BOCES utilizes to evaluate its classroom teachers or building principals, including but not limited to, structured portfolio reviews; student, parent, teacher and/or community surveys; professional growth goals and school improvement goals, etc.;

(6) application and use of any State-approved locally selected measures of student achievement used by the school district or BOCES to evaluate its teachers or principals;

(7) use of the statewide instructional reporting system;

(8) the scoring methodology utilized by the department and/or the district or BOCES to evaluate a teacher or principal under this Subpart, including how scores are generated for each subcomponent and the composite effectiveness score and application and use of the scoring ranges prescribed by the commissioner for the four designated rating categories used for the teacher's or principal's overall rating and their subcomponent ratings; and

(9) specific considerations in evaluating teachers and principals of English language learners and students with disabilities.

(c) Training shall be designed to certify lead evaluators. Districts shall describe in their annual professional performance review plan the duration and nature of the training they provide to evaluators and lead evaluators and their process for certifying lead evaluators under this section.

(d) School districts and BOCES shall also describe in their annual professional performance review plan their process for ensuring that lead evaluators maintain inter-rater reliability over time (such as data analysis to detect disparities on the part of one or more evaluators; periodic comparisons of a lead evaluator's assessment with another evaluator's assessment of the same classroom teacher or building principal; annual calibration sessions across evaluators) and their process for periodically recertifying all lead evaluators.

(e) Any individual who fails to achieve required training or certification or re-certification, as applicable, by a school district or BOCES pursuant to the requirements of this section shall not conduct or complete an evaluation under this Subpart.

\* Section 30-2.10.\* Teacher or principal improvement plans.

(a) Upon rating a teacher or a principal as developing or ineffective through an annual professional performance review conducted pursuant to this Subpart, a school district or BOCES shall develop and commence implementation of a teacher or principal improvement plan for such teacher or principal as soon as practicable but in no case later than 10 days after the date on which teachers are required to report prior to the opening of classes for the school year.

(b) Such improvement plan shall be developed locally through negotiations pursuant to article 14 of the Civil Service Law and shall include, but need not be limited to, identification of needed areas of improvement, a timeline for achieving improvement, the manner in which the improvement will be assessed, and, where appropriate, differentiated activities to support a teacher's or principal's improvement in those areas.

\* Section 30-2.11.\* Appeal procedures.

(a) A professional performance plan under this Subpart shall describe the appeals procedure utilized by a school district or BOCES through which an evaluated teacher or principal may challenge their annual professional performance review. Pursuant to section 3012-c of the Education Law, a teacher or principal may only challenge the following in an appeal:

(1) the substance of the annual professional performance review;

(2) the school district's or BOCES' adherence to the standards and methodologies required for such reviews, pursuant to this Subpart;

(3) the adherence to the regulations of the commissioner and compliance with any applicable locally negotiated procedures, as well as the school district's or BOCES' issuance and/or implementation of the terms of the teacher or principal improvement plan, as required under this Subpart.

(b) Appeal procedures shall provide for the timely and expeditious resolution of any appeal under this section.

(c) Nothing in this section shall be construed to alter or diminish the authority of the governing body of a school district or BOCES to terminate probationary teachers or deny tenure to a probationary teacher during the pendency of an appeal pursuant to this section.

\* Section 30-2.12.\* Monitoring and consequences for non-compliance.

(a) The department will annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify districts, BOCES and/or schools where evidence suggests that a more rigorous evaluation system is needed to improve educator effectiveness and student learning outcomes. The department will analyze data submitted pursuant to this Subpart to identify:

(1) schools, districts or BOCES with unacceptably low correlation results between student growth on the State assessment or other comparable measures subcomponent and any other measures of teacher and principal effectiveness used by the district or BOCES to evaluate its teachers and principals; and/or

(2) schools, districts or BOCES whose teacher and principal composite scores and/or subcomponent scores and/or ratings show little differentiation across educators and/or the lack of differentiation is not justified by equivalently consistent student achievement results.

(b) A school, district or BOCES identified by the department in one of the categories enumerated above may be highlighted in public reports and/or the commissioner may order a corrective action plan, which may include, but not be limited to, a requirement that the district or BOCES utilize independent trained evaluators, where appropriate.



# Proposed legislation

## STATE OF NEW YORK

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S. 6257--B

A. 9057--B

### SENATE - ASSEMBLY

January 17, 2012

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IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to annual professional performance review of classroom teachers and building principals (Part A-1); to amend the education law, in relation to teacher evaluation appeal process in the city of New York(Part A-2);

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

47

PART A-1

48 Section 1. Subdivision 1 of section 3012-c of the education law, as  
49 added by chapter 103 of the laws of 2010, is amended to read as follows:  
50 1. Notwithstanding any other provision of law, rule or regulation to  
51 the contrary, the annual professional performance reviews of all class-  
52 room teachers and building principals employed by school districts or  
53 boards of cooperative educational services shall be conducted in accord-  
54 ance with the provisions of this section. Such performance reviews which

1 are conducted on or after July first, two thousand eleven, or on or  
 2 after the date specified in paragraph c of subdivision two of this  
 3 section where applicable, shall include measures of student achievement  
 4 and be conducted in accordance with this section. Such annual profes-  
 5 sional performance reviews shall be a significant factor for employment  
 6 decisions including but not limited to, promotion, retention, tenure  
 7 determination, termination, and supplemental compensation, which deci-  
 8 sions are to be made in accordance with locally developed procedures  
 9 negotiated pursuant to the requirements of article fourteen of the civil  
 10 service law where applicable. Provided, however, that nothing in this  
 11 section shall be construed to affect the statutory right of a school  
 12 district or board of cooperative educational services to terminate a  
 13 probationary teacher or principal for statutorily and constitutionally  
 14 permissible reasons other than the performance of the teacher or princi-  
 15 pal in the classroom or school, including but not limited to misconduct.  
 16 Such performance reviews shall also be a significant factor in teacher  
 17 and principal development, including but not limited to, coaching,  
 18 induction support and differentiated professional development, which are  
 19 to be locally established in accordance with procedures negotiated  
 20 pursuant to the requirements of article fourteen of the civil service  
 21 law.

22 § 2. Paragraph a of subdivision 2 of section 3012-c of the education  
 23 law, as added by chapter 103 of the laws of 2010, is amended to read as  
 24 follows:

25 a. (1) The annual professional performance reviews conducted pursuant  
 26 to this section for classroom teachers and building principals shall  
 27 differentiate teacher and principal effectiveness using the following  
 28 quality rating categories: highly effective, effective, developing and  
 29 ineffective, with explicit minimum and maximum scoring ranges for each  
 30 category, for the state assessments and other comparable measures  
 31 subcomponent of the evaluation and for the locally selected measures of  
 32 student achievement subcomponent of the evaluation, as prescribed in the  
 33 regulations of the commissioner. There shall be: (i) a state assessments  
 34 and other comparable measures subcomponent which shall comprise twenty  
 35 or twenty-five percent of the evaluation; (ii) a locally selected meas-  
 36 ures of student achievement subcomponent which shall comprise twenty or  
 37 fifteen percent of the evaluation; and (iii) an other measures of teach-  
 38 er or principal effectiveness subcomponent which shall comprise the  
 39 remaining sixty percent of the evaluation, which in sum shall constitute  
 40 the composite teacher or principal effectiveness score. Such annual  
 41 professional performance reviews shall result in a single composite  
 42 teacher or principal effectiveness score, which incorporates multiple  
 43 measures of effectiveness related to the criteria included in the regu-  
 44 lations of the commissioner.

45 (2) For annual professional performance reviews conducted in accord-  
 46 ance with paragraph b of this subdivision for the two thousand eleven--  
 47 two thousand twelve school year and for annual professional performance  
 48 reviews conducted in accordance with paragraphs f and g of this subdivi-  
 49 sion for the two thousand twelve--two thousand thirteen school year, the  
 50 overall composite scoring ranges shall be in accordance with this  
 51 subparagraph. A classroom teacher and building principal shall be deemed  
 52 to be:

53 (A) Highly Effective if they achieve a composite effectiveness score  
 54 of 91-100.

55 (B) Effective if they achieve a composite effectiveness score of  
 56 75-90.

1 (C) Developing if they achieve a composite effectiveness score of  
2 65-74.

3 (D) Ineffective if they achieve a composite effectiveness score of  
4 0-64.

5 (3) For annual professional performance reviews conducted in accord-  
6 ance with paragraph b of this subdivision for the two thousand eleven--  
7 two thousand twelve school year and for annual professional performance  
8 reviews conducted in accordance with paragraph f of this subdivision for  
9 the two thousand twelve--two thousand thirteen school year for classroom  
10 teachers in subjects and grades for which the board of regents has not  
11 approved a value-added model and for building principals employed in  
12 schools or programs for which there is no approved principal value-added  
13 model, the scoring ranges for the student growth on state assessments or  
14 other comparable measures subcomponent shall be in accordance with this  
15 subparagraph. A classroom teacher and building principal shall receive:

16 (A) a highly effective rating in this subcomponent if the teacher's or  
17 principal's results are well-above the state average for similar  
18 students and they achieve a subcomponent score of 18-20;

19 (B) an effective rating in this subcomponent if the teacher's or prin-  
20 icipal's results meet the state average for similar students and they  
21 achieve a subcomponent score of 9-17; or

22 (C) a developing rating in this subcomponent if the teacher's or prin-  
23 icipal's results are below the state average for similar students and  
24 they achieve a subcomponent score of 3-8; or

25 (D) an ineffective rating in this subcomponent, if the teacher's or  
26 principal's results are well-below the state average for similar  
27 students and they achieve a subcomponent score of 0-2.

28 (4) For annual professional performance reviews conducted in accord-  
29 ance with paragraph g of this subdivision for the two thousand twelve--  
30 two thousand thirteen school year for classroom teachers in subjects and  
31 grades for which the board of regents has approved a value-added model  
32 and for building principals employed in schools or programs for which  
33 there is an approved principal value-added model, the scoring ranges for  
34 the student growth on state assessments or other comparable measures  
35 subcomponent shall be in accordance with this subparagraph. A classroom  
36 teacher and building principal shall receive:

37 (A) a highly effective rating in this subcomponent if the teacher's or  
38 principal's results are well-above the state average for similar  
39 students and they achieve a subcomponent score of 22-25;

40 (B) an effective rating in this subcomponent if the teacher's or prin-  
41 icipal's results meet the state average for similar students and they  
42 achieve a subcomponent score of 10-21; or

43 (C) a developing rating in this subcomponent if the teacher's or prin-  
44 icipal's results are below the state average for similar students and  
45 they achieve a subcomponent score of 3-9; or

46 (D) an ineffective rating in this subcomponent, if the teacher's or  
47 principal's results are well-below the state average for similar  
48 students and they achieve a subcomponent score of 0-2.

49 (5) For annual professional performance reviews conducted in accord-  
50 ance with paragraph b of this subdivision for the two thousand eleven--  
51 two thousand twelve school year and for annual professional performance  
52 reviews conducted in accordance with paragraph f of this subdivision for  
53 the two thousand twelve--two thousand thirteen school year for classroom  
54 teachers in subjects and grades for which the board of regents has not  
55 approved a value-added model and for building principals employed in  
56 schools or programs for which there is no approved principal value-added

1 model, the scoring ranges for the locally selected measures of student  
 2 achievement subcomponent shall be in accordance with this subparagraph.  
 3 A classroom teacher and building principal shall receive:

4 (A) a highly effective rating in this subcomponent if the results are  
 5 well-above district-adopted expectations for student growth or achieve-  
 6 ment and they achieve a subcomponent score of 18-20; or

7 (B) an effective rating in this subcomponent if the results meet  
 8 district-adopted expectations for growth or achievement and they achieve  
 9 a subcomponent score of 9-17; or

10 (C) a developing rating in this subcomponent if the results are below  
 11 district-adopted expectations for growth or achievement and they achieve  
 12 a subcomponent score of 3-8; or

13 (D) an ineffective rating in this subcomponent if the results are  
 14 well-below district-adopted expectations for growth or achievement and  
 15 they achieve a subcomponent score of 0-2.

16 (6) For annual professional performance reviews conducted in accord-  
 17 ance with paragraph b of this subdivision for the two thousand eleven--  
 18 two thousand twelve school year and for annual professional performance  
 19 reviews conducted in accordance with paragraph g of this subdivision for  
 20 the two thousand twelve--two thousand thirteen school year for classroom  
 21 teachers in subjects and grades for which the board of regents has  
 22 approved a value-added model and for building principals employed in  
 23 schools or programs for which there is an approved principal value-added  
 24 model, the scoring ranges for the locally selected measures of student  
 25 achievement subcomponent shall be in accordance with this subparagraph.  
 26 A classroom teacher and building principal shall receive:

27 (A) a highly effective rating in this subcomponent if the results are  
 28 well-above district-adopted expectations for student growth or achieve-  
 29 ment and they achieve a subcomponent score of 14-15; or

30 (B) an effective rating in this subcomponent if the results meet  
 31 district-adopted expectations for growth or achievement and they achieve  
 32 a subcomponent score of 8-13; or

33 (C) a developing rating in this subcomponent if the results are below  
 34 district-adopted expectations for growth or achievement and they achieve  
 35 a subcomponent score of 3-7; or

36 (D) an ineffective rating in this subcomponent if the results are  
 37 well-below district-adopted expectations for growth or achievement and  
 38 they achieve a subcomponent score of 0-2.

39 (7) For the two thousand thirteen--two thousand fourteen school year  
 40 and thereafter, the commissioner shall review the specific scoring rang-  
 41 es for each of the rating categories annually before the start of each  
 42 school year and shall recommend any changes to the board of regents for  
 43 consideration.

44 (8) Except for the student growth measures on the state assessments or  
 45 other comparable measures of student growth prescribed in paragraphs e,  
 46 f and g of this subdivision, the elements comprising the composite  
 47 effectiveness score and the process by which points are assigned to  
 48 subcomponents shall be locally developed, consistent with the standards  
 49 prescribed in the regulations of the commissioner and the requirements  
 50 of this section, through negotiations conducted, pursuant to the  
 51 requirements of article fourteen of the civil service law.

52 § 3. Paragraphs b and c of subdivision 2 of section 3012-c of the  
 53 education law, as added by chapter 103 of the laws of 2010, are amended  
 54 to read as follows:

55 b. (1) Annual professional performance reviews conducted by school  
 56 districts [~~on or after July first, two thousand eleven~~] or boards of

1 cooperative educational services for the two thousand eleven--two thou-  
 2 sand twelve school year of classroom teachers of common branch subjects  
 3 or English language arts or mathematics in grades four to eight and all  
 4 building principals of schools in which such teachers are employed shall  
 5 be conducted pursuant to this subdivision and shall use two thousand  
 6 ten--two thousand eleven school year student data as the baseline for  
 7 the initial computation of the composite teacher or principal effective-  
 8 ness score for such classroom teachers and principals.

9 (2) Subject to paragraph k of this subdivision the entire annual  
 10 professional performance review shall be completed and provided to the  
 11 teacher or principal as soon as practicable but in no case later than  
 12 September first, two thousand twelve. The provisions of subparagraphs  
 13 two and three of paragraph c of this subdivision shall apply to such  
 14 reviews.

15 c. (1) Annual professional performance reviews conducted by school  
 16 districts or boards of cooperative educational services [~~on or after~~  
 17 July first, two thousand twelve] for the two thousand twelve--two thou-  
 18 sand thirteen school year and thereafter of all classroom teachers and  
 19 all building principals shall be conducted pursuant to this subdivision  
 20 and shall use two thousand eleven--two thousand twelve school year  
 21 student data as the baseline for the initial computation of the compos-  
 22 ite teacher or principal effectiveness score for such classroom teachers  
 23 and principals. For purposes of this section, an administrator in charge  
 24 of an instructional program of a board of cooperative educational  
 25 services shall be deemed to be a building principal.

26 (2) Subject to paragraph k of this subdivision the entire annual  
 27 professional performance review shall be completed and provided to the  
 28 teacher or principal as soon as practicable but in no case later than  
 29 September first of the school year next following the school year for  
 30 which the classroom teacher or building principal's performance is being  
 31 measured. The teacher's and principal's score and rating on the locally  
 32 selected measures subcomponent, if available, and on the other measures  
 33 of teacher and principal effectiveness subcomponent for a teacher's or  
 34 principal's annual professional performance review shall be computed and  
 35 provided to the teacher or principal, in writing, by no later than the  
 36 last day of the school year for which the teacher or principal is being  
 37 measured. Nothing in this subdivision shall be construed to authorize a  
 38 teacher or principal to trigger the appeal process prior to receipt of  
 39 his or her composite effectiveness score and rating.

40 (3) Each such annual professional performance review shall be based on  
 41 the state assessments or other comparable measures subcomponent, the  
 42 locally selected measures of student achievement subcomponent and the  
 43 other measures of teacher and principal effectiveness subcomponent,  
 44 determined in accordance with the applicable provisions of this section  
 45 and the regulations of the commissioner, for the school year for which  
 46 the teacher's or principal's performance is measured.

47 § 4. Paragraphs e, f and g of subdivision 2 of section 3012-c of the  
 48 education law, as added by chapter 103 of the laws of 2010, are amended  
 49 to read as follows:

50 e. (1) For annual professional performance reviews conducted in  
 51 accordance with paragraph b of this subdivision [~~in~~] for the two thou-  
 52 sand eleven--two thousand twelve school year, forty percent of the  
 53 composite score of effectiveness shall be based on student achievement  
 54 measures as follows: (i) twenty percent of the evaluation shall be  
 55 based upon student growth data on state assessments as prescribed by the  
 56 commissioner or a comparable measure of student growth if such growth

1 data is not available; and (ii) twenty percent shall be based on other  
2 locally selected measures of student achievement that are determined to  
3 be rigorous and comparable across classrooms in accordance with the  
4 regulations of the commissioner and as are developed locally in a manner  
5 consistent with procedures negotiated pursuant to the requirements of  
6 article fourteen of the civil service law.

7 (2) Such locally selected measures may include measures of student  
8 achievement or growth on state assessments, regents examinations and/or  
9 department approved equivalent, provided that such measures are differ-  
10 ent from those prescribed by the commissioner pursuant to clause (i) of  
11 subparagraph one of this paragraph. The regulations of the commissioner  
12 shall describe the types of measures of student growth or achievement  
13 that may be locally selected. The selection of the local measure(s) as  
14 described in this paragraph to be used by the school district or board  
15 of cooperative educational services shall be determined through collec-  
16 tive bargaining.

17 f. (1) For annual professional performance reviews conducted in  
18 accordance with paragraph c of this subdivision [~~in any school year~~  
19 ~~prior to the first school year for which the board of regents has~~  
20 ~~approved use of a value-added growth model, but not earlier than]~~ for  
21 the two thousand twelve--two thousand thirteen school year and thereaft-  
22 er for classroom teachers in subjects and grades for which the board of  
23 regents has not approved a value-added model and for building principals  
24 employed in schools or programs for which there is no approved principal  
25 value-added model, forty percent of the composite score of effectiveness  
26 shall be based on student achievement measures as follows: (i) twenty  
27 percent of the evaluation shall be based upon student growth data on  
28 state assessments as prescribed by the commissioner or a comparable  
29 measure of student growth if such growth data is not available; and (ii)  
30 twenty percent shall be based on other locally selected measures of  
31 student achievement that are determined to be rigorous and comparable  
32 across classrooms in accordance with the regulations of the commissioner  
33 and as are developed locally in a manner consistent with procedures  
34 negotiated pursuant to the requirements of article fourteen of the civil  
35 service law.

36 (2) One or more of the following types of locally selected measures of  
37 student achievement or growth may be used for the evaluation of class-  
38 room teachers:

39 (i) student achievement or growth on state assessments, regents exam-  
40 inations and/or department approved alternative examinations as  
41 described in the regulations of the commissioner including, but not  
42 limited to, advanced placement examinations, international baccalaureate  
43 examinations, and SAT II, using a measure that is different from the  
44 growth score prescribed by the department for student growth on such  
45 assessments or examinations for purposes of the state assessment or  
46 other comparable measures subcomponent that is either:

47 (A) the change in percentage of a teacher's students who achieve a  
48 specific level of performance as determined locally, on such  
49 assessments/examinations compared to those students' level of perform-  
50 ance on such assessments/examinations in the previous school year such  
51 as a three percentage point increase in students earning the proficient  
52 level (three) or better performance level on the seventh grade math  
53 state assessment compared to those same students' performance levels on  
54 the sixth grade math state assessment, or an increase in the percentage  
55 of a teacher's students earning the advanced performance level (four) on  
56 the fourth grade English language arts or math state assessments

1 compared to those students' performance levels on the third grade  
2 English language arts or math state assessments; or

3 (B) a teacher specific growth score computed by the department based  
4 on the percent of the teacher's students earning a department determined  
5 level of growth. The methodology to translate such growth into the  
6 state-established subcomponent scoring ranges shall be determined local-  
7 ly; or

8 (C) a teacher-specific achievement or growth score computed in a  
9 manner determined locally based on a measure of student performance on  
10 the state assessments, regents examinations and/or department approved  
11 alternative examinations other than the measure described in item (A) or  
12 (B) of this subparagraph;

13 (ii) student growth or achievement computed in a manner determined  
14 locally based on a student assessment approved by the department pursu-  
15 ant to a request for qualification process established in the regu-  
16 lations of the commissioner;

17 (iii) student growth or achievement computed in a manner determined  
18 locally based on a district, regional or BOCES-developed assessment that  
19 is rigorous and comparable across classrooms;

20 (iv) a school-wide measure of either student growth or achievement  
21 based on either:

22 (A) a state-provided student growth score covering all students in the  
23 school that took the state assessment in English language arts or math-  
24 ematics in grades four through eight;

25 (B) a school-wide measure of student growth or achievement computed in  
26 a manner determined locally based on a district, regional or board of  
27 cooperative educational services developed assessment that is rigorous  
28 and comparable across classrooms or a department approved student  
29 assessment or based on a state assessment; or

30 (v) where applicable, for teachers in any grade or subject where there  
31 is no growth or value-added growth model approved by the board of  
32 regents at that grade level or in that subject, a structured district-  
33 wide student growth goal-setting process to be used with any state  
34 assessment or an approved student assessment or a district, regional or  
35 BOCES-developed assessment that is rigorous and comparable across class-  
36 rooms.

37 (3) One or more of the following types of locally selected measures of  
38 student achievement or growth may be used for the evaluation of princi-  
39 pals, provided that each measure is rigorous and comparable across  
40 classrooms and that any such measure shall be different from that used  
41 for the state assessment or other comparable measures subcomponent:

42 (i) student achievement levels on state assessments in English  
43 language arts and/or mathematics in grades four to eight such as  
44 percentage of students in the school whose performance levels on state  
45 assessments are proficient or advanced, as defined in the regulations of  
46 the commissioner;

47 (ii) student growth or achievement on state or other assessments in  
48 English language arts and/or mathematics in grades four to eight for  
49 students in each of the performance levels described in the regulations  
50 of the commissioner;

51 (iii) student growth or achievement on state assessments in English  
52 language arts and/or mathematics in grades four to eight for students  
53 with disabilities and English language learners in grades four to eight;

54 (iv) student performance on any or all of the district-wide locally  
55 selected measures approved for use in teacher evaluations;

1 (v) for principals employed in a school with high school grades, four,  
 2 five and/or six-year high school graduation and/or dropout rates;

3 (vi) percentage of students who earn a regents diploma with advanced  
 4 designation and/or honors as defined in the regulations of the commis-  
 5 sioner, for principals employed in a school with high school grades;

6 (vii) percentage of a cohort of students that achieve specified scores  
 7 on regents examinations and/or department approved alternative examina-  
 8 tions including, but not limited to, advanced placement examinations,  
 9 international baccalaureate examinations and SAT II, for principals  
 10 employed in a school with high school grades such as the percentage of  
 11 students in the two thousand nine cohort that scored at least a three on  
 12 an advanced placement examination since entry into the ninth grade;  
 13 and/or

14 (viii) students' progress toward graduation in the school using strong  
 15 predictive indicators, including but not limited to ninth and/or tenth  
 16 grade credit accumulation and/or the percentage of students that pass  
 17 ninth and/or tenth grade subjects most commonly associated with gradu-  
 18 ation and/or students' progress in passing the number of required  
 19 regents examinations for graduation, for principals employed in a school  
 20 with high school grades.

21 (ix) For school districts or boards of cooperative educational  
 22 services that choose to use more than one set of locally selected meas-  
 23 ures described in this paragraph for principals in the same or similar  
 24 grade configuration or program such as one set of locally selected meas-  
 25 ures is used to evaluate principals in some K-5 schools and another set  
 26 of locally selected measures is used to evaluate principals in the other  
 27 K-5 schools in the district, the superintendent or district superinten-  
 28 dent shall, in their professional performance review plan, certify that  
 29 the sets of measures are comparable, in accordance with the testing  
 30 standards as defined in regulations of the commissioner.

31 (x) For building principals employed in schools or programs for which  
 32 there is no approved principal value-added model, the types of locally  
 33 selected measures of student achievement or growth specified in subpara-  
 34 graph three of paragraph g of this subdivision may be used. In addition,  
 35 a structured district-wide student growth goal-setting process to be  
 36 used with any state assessment or an approved student assessment or a  
 37 district, regional or BOCES-developed assessment that is rigorous and  
 38 comparable across classrooms may be a locally selected measure.

39 (4) The selection of the local measure or measures as described in  
 40 subparagraphs two and three of this paragraph to be used by the school  
 41 district or board of cooperative educational services shall be deter-  
 42 mined through collective bargaining.

43 g. (1) For annual professional performance reviews conducted in  
 44 accordance with paragraph c of this subdivision [~~in~~] for the [~~first~~  
 45 ~~school year for which the board of regents has approved use of a value-~~  
 46 ~~added growth model] two thousand twelve--two thousand thirteen school~~  
 47 ~~year~~ and thereafter for classroom teachers in subjects and grades in  
 48 which there is a value-added growth model approved by the board of  
 49 regents and for building principals employed in schools or programs for  
 50 which there is an approved principal value-added model, forty percent of  
 51 the composite score of effectiveness shall be based on student achieve-  
 52 ment measures as follows: (i) twenty-five percent of the evaluation  
 53 shall be based upon student growth data on state assessments as  
 54 prescribed by the commissioner or a comparable measure of student growth  
 55 if such growth data is not available; and (ii) fifteen percent shall be  
 56 based on other locally selected measures of student achievement that are



1 determined to be rigorous and comparable across classrooms in accordance  
2 with the regulations of the commissioner and as are locally developed in  
3 a manner consistent with procedures negotiated pursuant to the require-  
4 ments of article fourteen of the civil service law. The department shall  
5 develop the value-added growth model and shall consult with the advisory  
6 committee established pursuant to subdivision seven of this section  
7 prior to recommending that the board of regents approve its use in eval-  
8 uations.

9 (2) One or more of the following types of locally selected measures of  
10 student achievement or growth may be used for the evaluation of class-  
11 room teachers:

12 (i) student achievement or growth on state assessments, regents exam-  
13 inations and/or department approved alternative examinations as  
14 described in the regulations of the commissioner including, but not  
15 limited to, advanced placement examinations, international baccalaureate  
16 examinations and SAT II, using a measure that is different from the  
17 growth score prescribed by the department for student growth on such  
18 assessments or examinations for purposes of the state assessment or  
19 other comparable measures subcomponent that is either:

20 (A) the change in percentage of a teacher's students who achieve a  
21 specific level of performance as determined locally, on such  
22 assessments/examinations compared to those students' level of perform-  
23 ance on such assessments/examinations in the previous school year such  
24 as a three percentage point increase in students earning the proficient  
25 level (three) or better performance level on the seventh grade math  
26 state assessment compared to those same students' performance levels on  
27 the sixth grade math state assessment, or an increase in the percentage  
28 of a teacher's students earning the advanced performance level (four) on  
29 the fourth grade English language arts or math state assessments  
30 compared to those students' performance levels on the third grade  
31 English language arts or math state assessments; or

32 (B) a teacher specific growth score computed by the state based on the  
33 percent of the teacher's students earning a state determined level of  
34 growth. The methodology to translate such growth into the state-estab-  
35 lished subcomponent scoring ranges shall be determined locally; or

36 (C) a teacher-specific achievement or growth score computed in a  
37 manner determined locally based on a measure of student performance on  
38 the state assessments, regents examinations and/or department approved  
39 alternative examinations other than the measure described in item (A) or  
40 (B) of this subparagraph;

41 (ii) student growth or achievement computed in a manner determined  
42 locally based on a student assessment approved by the department pursu-  
43 ant to a request for qualification process established in the regu-  
44 lations of the commissioner;

45 (iii) student growth or achievement computed in a manner determined  
46 locally based on a district, regional or BOCES-developed assessment that  
47 is rigorous and comparable across classrooms;

48 (iv) a school-wide measure of either student growth or achievement  
49 based on either:

50 (A) a state-provided student growth score covering all students in the  
51 school that took the state assessment in English language arts or math-  
52 ematics in grades four through eight; or

53 (B) a school-wide measure of student growth or achievement computed in  
54 a manner determined locally based on a district, regional or board of  
55 cooperative educational services developed assessment that is rigorous

1 and comparable across classrooms or a department approved student  
2 assessment or based on a state assessment.

3 (3) One or more of the following types of locally selected measures of  
4 student achievement or growth may be used for the evaluation of princi-  
5 pals, provided that each measure is rigorous and comparable across  
6 classrooms and that any such measure shall be different from that used  
7 for the state assessment or other comparable measures subcomponent:

8 (i) student achievement levels on state assessments in English  
9 language arts and/or mathematics in grades four to eight such as  
10 percentage of students in the school whose performance levels on state  
11 assessments are proficient or advanced, as defined in the regulations of  
12 the commissioner;

13 (ii) student growth or achievement on state or other assessments in  
14 English language arts and/or mathematics in grades four to eight for  
15 students in each of the performance levels described in the regulations  
16 of the commissioner;

17 (iii) student growth or achievement on state assessments in English  
18 language arts and/or mathematics in grades four to eight for students  
19 with disabilities and English language learners in grades four to eight;

20 (iv) student performance on any or all of the district-wide locally  
21 selected measures approved for use in teacher evaluations;

22 (v) for principals employed in a school with high school grades, four,  
23 five and/or six-year high school graduation and/or dropout rates;

24 (vi) percentage of students who earn a regents diploma with advanced  
25 designation and/or honors as defined in the regulations of the commis-  
26 sioner, for principals employed in a school with high school grades;

27 (vii) percentage of a cohort of students that achieve specified scores  
28 on regents examinations and/or department approved alternative examina-  
29 tions including, but not limited to, advanced placement examinations,  
30 international baccalaureate examinations and SAT II, for principals  
31 employed in a school with high school grades such as the percentage of  
32 students in the two thousand nine cohort that scored at least a three on  
33 an advanced placement examination since entry into the ninth grade;  
34 and/or

35 (viii) students' progress toward graduation in the school using strong  
36 predictive indicators, including but not limited to ninth and/or tenth  
37 grade credit accumulation and/or the percentage of students that pass  
38 ninth and/or tenth grade subjects most commonly associated with gradu-  
39 ation and/or students' progress in passing the number of required  
40 regents examinations for graduation, for principals employed in a school  
41 with high school grades.

42 (ix) For school districts or boards of cooperative educational  
43 services that choose to use more than one set of locally selected meas-  
44 ures described in this paragraph for principals in the same or similar  
45 grade configuration or program, the superintendent or district super-  
46 intendent shall, in their professional performance review plan, certify  
47 that the sets of measures are comparable, in accordance with the testing  
48 standards as defined in regulations of the commissioner.

49 (4) The selection of the local measure or measures as described in  
50 subparagraphs two and three of this paragraph to be used by the school  
51 district or board of cooperative educational services shall be deter-  
52 mined through collective bargaining.

53 (5) The department shall develop the value-added growth model and  
54 shall consult with the advisory committee established pursuant to subdi-  
55 vision seven of this section prior to recommending that the board of  
56 regents approve its use in evaluations.

1 § 5. Paragraph h of subdivision 2 of section 3012-c of the education  
2 law, as added by chapter 103 of the laws of 2010, is amended to read as  
3 follows:

4 h. The remaining sixty percent of the evaluations, ratings and effec-  
5 tiveness scores shall be locally developed, consistent with the stand-  
6 ards prescribed in the regulations of the commissioner, through negoti-  
7 ations conducted pursuant to article fourteen of the civil service law.

8 (1) A majority of the sixty points for classroom teachers shall be  
9 based on multiple classroom observations conducted by a principal or  
10 other trained administrator, which may be performed in-person or by  
11 video. For evaluations for the two thousand twelve--two thousand thir-  
12 teen school year and thereafter, at least one such observation shall be  
13 an unannounced visit.

14 (2) For the remaining portion of these sixty points for evaluations  
15 for the two thousand eleven--two thousand twelve school year, the  
16 commissioner's regulation shall prescribe the other forms of evidence of  
17 teacher and principal effectiveness that may be used.

18 (3) For evaluations of classroom teachers for the two thousand twelve-  
19 -two thousand thirteen school year and thereafter, the remaining portion  
20 of these sixty points shall be based on one or more of the following:

21 (i) one or more classroom observations by independent trained evalu-  
22 ators selected by the school district or board of cooperative educa-  
23 tional services who are teachers or former teachers with a demonstrated  
24 record of effectiveness and have no prior affiliation with the school in  
25 which they are conducting the evaluation and no other relationship with  
26 the teachers being evaluated that would affect their impartiality;

27 (ii) classroom observations by trained in-school peer teachers; and/or

28 (iii) use of a state-approved instrument for parent or student feed-  
29 back; and/or

30 (iv) evidence of student development and performance through lesson  
31 plans, student portfolios and other artifacts of teacher practices  
32 through a structured review process.

33 (4) A majority of these sixty points for building principals shall be  
34 based on a broad assessment of the principal's leadership and management  
35 actions based on the principal practice rubric by the building princi-  
36 pal's supervisor, a trained administrator or a trained independent eval-  
37 uator, with one or more visits conducted by the supervisor, and, for  
38 evaluations for the two thousand twelve--two thousand thirteen school  
39 year and thereafter, that such assessment must incorporate multiple  
40 school visits by a supervisor, a trained administrator or other trained  
41 evaluator, with at least one visit conducted by the supervisor and at  
42 least one unannounced visit. For the remaining portion of these sixty  
43 points for evaluations for the two thousand eleven--two thousand twelve  
44 school year, such regulations shall also prescribe the other forms of  
45 evidence of principal effectiveness that may be used consistent with the  
46 standards prescribed by the commissioner.

47 (5) For evaluations of building principals for the two thousand  
48 twelve--two thousand thirteen school year and thereafter, the remaining  
49 portion of these sixty points shall include, in addition to the require-  
50 ments of subparagraph three of this paragraph, at least two other sourc-  
51 es of evidence from the following options: feedback from teachers,  
52 students, and/or families using state-approved instruments; school  
53 visits by other trained evaluators; and/or review of school documents,  
54 records, and/or state accountability processes. Any such remaining  
55 points shall be assigned based on the results of one or more ambitious

1 and measurable goals set collaboratively with principals and their  
 2 superintendents or district superintendents as follows:

3 (i) at least one goal must address the principal's contribution to  
 4 improving teacher effectiveness, which shall include one or more of the  
 5 following: improved retention of high performing teachers, the corre-  
 6 lation between student growth scores of teachers granted tenure as  
 7 opposed to those denied tenure; or improvements in the proficiency  
 8 rating of the principal on specific teacher effectiveness standards in  
 9 the principal practice rubric.

10 (ii) any other goals shall address quantifiable and verifiable  
 11 improvements in academic results or the school's learning environmental  
 12 such as student or teacher attendance.

13 (6) The district or board of cooperative educational services shall  
 14 establish specific minimum and maximum scoring ranges for each perform-  
 15 ance level within this subcomponent before the start of each school year  
 16 and shall assign points to a teacher or principal for this subcomponent  
 17 based on the standards prescribed in the regulations of the commission-  
 18 er, all in accordance with, and subject to, the requirements of para-  
 19 graph j of this subdivision.

20 § 6. Subdivision 2 of section 3012-c of the education law is amended  
 21 by adding a new paragraph j to read as follows:

22 j. (1) The process by which points are assigned in subcomponents and  
 23 the scoring ranges for the subcomponents must be transparent and avail-  
 24 able to those being rated before the beginning of each school year. The  
 25 process by which points are assigned in the respective subcomponents are  
 26 to be determined as follows:

27 (i) For the state assessment or other comparable measures subcompo-  
 28 nent, that process shall be formulated by the commissioner with the  
 29 approval of the board of regents.

30 (ii) For the locally selected measures of the student achievement  
 31 subcomponent, that process shall be established locally through negoti-  
 32 ations conducted under article fourteen of the civil service law.

33 (iii) For the other measures of teacher and principal effectiveness  
 34 subcomponent, that process shall be established locally through negoti-  
 35 ations conducted under article fourteen of the civil services law.

36 (2) Such process must ensure that it is possible for a teacher or  
 37 principal to obtain each point in the applicable scoring ranges, includ-  
 38 ing zero, for the state assessment or other comparable measures subcompo-  
 39 nent, the locally selected measures of student achievement subcompo-  
 40 nent and the overall rating categories. The process must also ensure  
 41 that it is possible for a teacher or principal to obtain each point in  
 42 the scoring ranges prescribed by the district or board of cooperative  
 43 educational services for the other measures of teacher and principal  
 44 effectiveness subcomponent.

45 (3) The superintendent, district superintendent or chancellor and the  
 46 president of the collective bargaining representative (where one exists)  
 47 shall certify in its plan that the process will use the narrative  
 48 descriptions of the standards for the scoring ranges provided in the  
 49 regulations of the commissioner to effectively differentiate a teacher  
 50 or principal's performance in each of the subcomponents and in their  
 51 overall ratings to improve student learning and instruction.

52 (4) The scoring ranges for the other measures of teacher and principal  
 53 effectiveness subcomponent shall be established locally through negoti-  
 54 ations conducted under article fourteen of the civil service law.

55 § 7. Subdivision 2 of section 3012-c of the education law is amended  
 56 by adding a new paragraph k to read as follows:

1 k. Notwithstanding any other provision of law, rule or regulation to  
 2 the contrary, by July first, two thousand twelve, the governing body of  
 3 each school district and board of cooperative educational services shall  
 4 adopt a plan, on a form prescribed by the commissioner, for the annual  
 5 professional performance review of all of its classroom teachers and  
 6 building principals in accordance with the requirements of this section  
 7 and the regulations of the commissioner, and shall submit such plan to  
 8 the commissioner for approval. The plan may be an annual or multi-year  
 9 plan, for the annual professional performance review of all of its  
 10 classroom teachers and building principals. The commissioner shall  
 11 approve or reject the plan by September first, two thousand twelve, or  
 12 as soon as practicable thereafter. The commissioner may reject a plan  
 13 that does not rigorously adhere to the provisions of this section and  
 14 the regulations of the commissioner. Should any plan be rejected, the  
 15 commissioner shall describe each deficiency in the submitted plan and  
 16 direct that each such deficiency be resolved through collective bargain-  
 17 ing to the extent required under article fourteen of the civil service  
 18 law. If any material changes are made to the plan, the school district  
 19 or board of cooperative educational services must submit the material  
 20 changes, on a form prescribed by the commissioner, to the commissioner  
 21 for approval. To the extent that by July first, two thousand twelve, or  
 22 by July first of any subsequent year, if all the terms of the plan have  
 23 not been finalized as a result of unresolved collective bargaining nego-  
 24 tiations, the entire plan shall be submitted to the commissioner upon  
 25 resolution of all of its terms, consistent with article fourteen of the  
 26 civil service law.

27 § 8. Subdivision 4 of section 3012-c of the education law, as added by  
 28 chapter 103 of the laws of 2010, is amended to read as follows:

29 4. Notwithstanding any other law, rule or regulation to the contrary,  
 30 upon rating a teacher or a principal as developing or ineffective  
 31 through an annual professional performance review conducted pursuant to  
 32 subdivision two of this section, the school district or board of cooper-  
 33 ative educational services shall formulate and commence implementation  
 34 of a teacher or principal improvement plan for such teacher or principal  
 35 as soon as practicable but in no case later than ten school days after  
 36 [~~the date on which teachers are required to report prior to~~] the opening  
 37 of classes for the school year. Such improvement plan shall be consist-  
 38 ent with the regulations of the commissioner and developed locally  
 39 through negotiations conducted pursuant to article fourteen of the civil  
 40 service law. Such improvement plan shall include, but need not be limit-  
 41 ed to, identification of needed areas of improvement, a timeline for  
 42 achieving improvement, the manner in which improvement will be assessed,  
 43 and, where appropriate, differentiated activities to support a teacher's  
 44 or principal's improvement in those areas.

45 § 9. Subdivision 5 of section 3012-c of the education law, as added by  
 46 chapter 103 of the laws of 2010, is amended to read as follows:

47 5. a. An appeals procedure shall be locally established in each school  
 48 district and in each board of cooperative educational services by which  
 49 the evaluated teacher or principal may only challenge the substance of  
 50 the annual professional performance review, the school district's or  
 51 board of cooperative educational services' adherence to the standards  
 52 and methodologies required for such reviews, pursuant to this section,  
 53 the adherence to the regulations of the commissioner and compliance with  
 54 any applicable locally negotiated procedures, as well as the school  
 55 district's or board of cooperative educational services' issuance and/or  
 56 implementation of the terms of the teacher or principal improvement

1 plan, as required under this section. Appeal procedures shall provide  
2 for the timely and expeditious resolution of any appeal under this  
3 subdivision. The specifics of the appeal procedure shall be locally  
4 established through negotiations conducted pursuant to article fourteen  
5 of the civil service law. An evaluation which is the subject of an  
6 appeal shall not be sought to be offered in evidence or placed in  
7 evidence in any proceeding conducted pursuant to either section three  
8 thousand twenty-a of this article or any locally negotiated alternate  
9 disciplinary procedure, until the appeal process is concluded.

10 b. Nothing in this section shall be construed to alter or diminish  
11 the authority of the governing body of a school district or board of  
12 cooperative educational services to grant or deny tenure to or terminate  
13 probationary teachers or probationary building principals during the  
14 pendency of an appeal pursuant to this section for statutorily and  
15 constitutionally permissible reasons other than the teacher's or princi-  
16 pal's performance that is the subject of the appeal.

17 c. Nothing in this section shall be construed to authorize a teacher  
18 or principal to trigger the appeal process prior to receipt of their  
19 composite effectiveness score and rating from the district or board of  
20 cooperative educational services.

21 § 10. Section 3012-c of the education law is amended by adding a new  
22 subdivision 9 to read as follows:

23 9. a. The department shall annually monitor and analyze trends and  
24 patterns in teacher and principal evaluation results and data to identi-  
25 fy school districts, boards of cooperative educational services and/or  
26 schools where evidence suggests that a more rigorous evaluation system  
27 is needed to improve educator effectiveness and student learning  
28 outcomes. The criteria for identifying school districts, boards of coop-  
29 erative educational services and/or schools shall be prescribed in the  
30 regulations of the commissioner.

31 b. A school, school district or board of cooperative educational  
32 services identified by the department in one of the categories enumer-  
33 ated in paragraph a of this subdivision may be highlighted in public  
34 reports and/or the commissioner may order a corrective action plan,  
35 which may include, but not be limited to, requirements that the district  
36 or board of cooperative educational services arrange for additional  
37 professional development, provide additional in-service training and/or  
38 utilize independent trained evaluators to review the efficacy of the  
39 evaluation system, provided that the plan shall be consistent with law  
40 and not in conflict with any applicable collective bargaining agreement.

41 § 11. This act shall take effect immediately.

Attachment 10 Evidence That The SEA Has Adopted One Or More Guidelines Of Local Teacher And Principal Evaluation And Support Systems



NEW YORK STATE EDUCATION DEPARTMENT

News

**For Immediate Release May 11, 2010**

For More Information Contact:

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New York State Education Department Proposes Race to the Top Legislative Reforms with Support of New York State United Teachers and the United Federation of Teachers

The New York State Education Department today proposed legislation with the backing of the statewide teachers' union, New York State United Teachers, and its largest local, the United Federation of Teachers, to advance key areas in the state's Race to the Top application. The reforms will be presented to both houses of the legislature later today.

The proposal would establish a comprehensive evaluation system for teachers and principals based on multiple measures. Student standardized test scores would initially be limited to 20 percent of the teacher evaluation, while other measures of student achievement would count for an additional 20 percent of the rating. Provisions to streamline the discipline procedures, while preserving due process, are also included.

"New York's chances of winning Round 2 of the federal Race to the Top competition will rise dramatically if the legislature acts rapidly on this proposal," said Merryl H. Tisch, Chancellor of the New York State Board of Regents. "The proposed reforms, and the Regents' recent move to transform teacher and principal preparation through a focus on clinical practice, are a fundamental shift that will lead to a better education for the state's three million students."

"The proposed evaluation system will help ensure that we have an effective teacher in every classroom and an effective leader in every school," said New York State Education Commissioner David M. Steiner.

Senior Deputy Commissioner John King said, "A teacher evaluation system with four distinct levels will help educators improve their craft by focusing on their specific needs and recognizing outstanding teaching."

"NYSUT remains committed to a fair evaluation system that supports positive educational outcomes," said NYSUT President Richard C. Iannuzzi. "This legislative proposal advances that process."

UFT President Michael Mulgrew said, "The current teacher evaluation system doesn't work for teachers – it's too subjective, lacks specific criteria, and is too dependent on the whims and prejudices of principals. We worked with the State Education Department to create a more objective system that would apply across the state, with strict limits on the role of standardized tests."

Under the proposed system, teachers and principals would receive one of four ratings: "highly effective," "effective," "developing," or "ineffective." The evaluations would play a significant role in a wide array of employment decisions, including professional development, tenure determinations, selection for leadership opportunities, supplemental compensation based on a career ladder, and termination. The goal is to construct an evaluation system that can be customized to the professional development needs of every teacher.

Under the proposed system, those rated "developing" and "ineffective" would receive additional support through a customized improvement plan. Teachers and principals with a pattern of





NEW YORK STATE EDUCATION DEPARTMENT

News

**For Immediate Release May 28, 2010**

For More Information Contact:

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**BOARD OF REGENTS AND EDUCATION DEPARTMENT LEADERSHIP  
STATEMENTS REGARDING PASSAGE OF  
EDUCATION REFORM LEGISLATION**

"Today's comprehensive legislative action is a landmark moment that will improve educational results for children in New York State for years to come," said Regents Chancellor Merryll H. Tisch. "The Regents and I thank the Legislature and its leadership -- Assembly Speaker Silver, his staff, Assemblywoman Nolan, Senate Majority Conference Leader Sampson, Senator Oppenheimer, and Senate Minority Leader Skelos -- for their leadership and passionate commitment to creating the best educational opportunities for our children. We offer a special thank you to our partners in the State's education system who worked so hard to come to agreement on very challenging issues. We thank Mayor Bloomberg and Chancellor Klein who demonstrated their commitment to our Race to the Top application and their support for the Regents reform agenda. NYSUT President Richard Iannuzzi and UFT President Michael Mulgrew deserve enormous credit for their invaluable leadership in developing a fair and equitable teacher evaluation system that will enhance the quality of education across New York State."

"Today the Legislature has taken a major step forward for the children of New York State," said Education Commissioner David M. Steiner. "We believe that today's action will support the Regents reform agenda to improve teaching and learning, increasing the opportunity of all students to graduate from high school ready for higher education and employment. New York's competitiveness for Race to the Top funding is greatly enhanced by these legislative reforms. We commend the many stakeholders -- the state's school superintendents, school board members, BOCES district superintendents, local union leaders and charter school leaders -- who have strengthened the state's application by submitting signed memoranda of understanding."

"Each of the laws approved today will drive student achievement throughout the state," said John King, Senior Deputy Commissioner. "The new teacher evaluation system will help educators improve their craft by focusing professional development and coaching on their specific needs and recognizing outstanding teaching. And the new law authorizing Educational Partnership Organizations -- non-profits with a demonstrated history of raising the achievement of high needs students -- to manage schools, will help turnaround our lowest performing schools. Finally, by raising the cap on the number of charter schools, and by improving the existing charter school law to add greater accountability and transparency, the Legislature has acknowledged the role these public schools can play in lifting student achievement. We believe that these reforms taken together will improve the education of children in all of New York's public schools and build on the many excellent educational models in public schools across the state. "

-30-

New York State Board of Regents

The State Education Department / The University of the State of New York / Albany, NY 12234

Office of Communications / (518) 474-1201

ineffective teaching or performance – defined as two consecutive "ineffective" ratings – could be charged with incompetence and considered for termination through an expedited hearing:

- A pattern of ineffective teaching would constitute very significant evidence of incompetence and could provide the basis for removal;
- The hearing would have to be completed within 60 days – compared with the current state average of 274 days, as reported in the New York State School Boards Association's most recent survey.

Under the proposal, 40 percent of the evaluation score would be based on student achievement measures, with the portion based on student growth phased in as follows:

- **Year one:** 20 percent student growth on state assessments or comparable measures *for teachers in the common branch subjects or ELA and Math in grades four to eight only*, and 20 percent other locally selected measures that are rigorous and comparable across classrooms;
- **Subsequent years before Regents approval of a value-added model:** 20 percent student growth on state assessments or comparable measures *for all teachers*, and 20 percent other locally selected measures that are rigorous and comparable across classrooms;
- **Subsequent years following Regents approval of a value-added model:** 25 percent student growth on state assessments or comparable measures, and 15 percent other locally selected measures that are rigorous and comparable across classrooms.

The remaining 60 percent of the evaluation score would be based on locally negotiated processes (e.g., classroom observations by trained evaluators), according to standards developed by the Commissioner.

School districts that sign on to the state's Race to the Top plan can use their share of the \$700 million to reward effective educators and to target professional development to those whose skills need improvement.

Under Race to the Top rules, the proposed changes will add points to New York's score only if the Legislature adopts them by the end of the month.

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New York State Board of Regents

The State Education Department / The University of the State of New York / Albany, NY 12234

Office of Communications / (518) 474-1201



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** The Honorable the Members of the Board of Regents  
**FROM:** Anthony Lofrumento  
**SUBJECT:** Summary of the May 2011 Meeting  
**DATE:** June 14, 2011  
**AUTHORIZATION(S):**

### **Executive Summary**

#### **Issue for Decision**

Review of the Summary of the May 2011 Meeting of the Board of Regents.

#### **Proposed Handling**

Approval of the Summary of May 2011 meeting.

#### **Procedural History**

This document summarizes the actions of the Board of Regents during the monthly meeting and is brought before the Board the following month for approval.

#### **Recommendation**

Approval of the Summary of the May 2011 meeting.

#### **Timetable for Implementation**

Effective June 21, 2011.

**VOTED**, that the Summary of the May 2011 Meeting of the Board of Regents of The University of the State of New York be approved.



**SUMMARY OF THE MAY MEETING  
OF THE BOARD OF REGENTS  
OF  
THE UNIVERSITY OF THE STATE OF NEW YORK**

***Held at the State Education Building***

***Albany, New York  
May 16 and 17, 2011***

***Anthony Lofrumento, Secretary  
Board of Regents***

## ***THE BOARD OF REGENTS***

The Board of Regents of The University of the State of New York held public sessions on Monday, May 16 at 9:50 a.m. pursuant to a call to duty sent to each Regent.

### **MEETING OF THE FULL BOARD, Monday, May 16 at 9:50 a.m.**

#### **Board Members in Attendance:**

Chancellor Merryl H. Tisch  
Vice Chancellor Milton L. Cofield  
Robert M. Bennett, Chancellor Emeritus  
James C. Dawson  
Anthony S. Bottar  
Geraldine D. Chapey  
Harry Phillips, 3<sup>rd</sup>  
James R. Tallon, Jr.  
Roger Tilles  
Charles R. Bendit  
Betty A. Rosa  
Lester W. Young, Jr.  
Christine D. Cea  
Wade S. Norwood  
James O. Jackson  
Kathleen M. Cashin  
James E. Cottrell

Also present were the Commissioner of Education, David M. Steiner, Senior Deputy Commissioner for P-12 Education, John King, Counsel and Deputy Commissioner for Legal Affairs, Richard J. Trautwein, and the Secretary, Board of Regents, Anthony Lofrumento.

Chancellor Merryl H. Tisch called the meeting to order at 9:50 a.m.

### **PRESENTATIONS**

#### **State Education Department Budget Update**

##### **Oral**

Chief Operating Officer Val Grey presented an update on the State Education Department Budget.

#### **Common Core Standards Update**

##### **Oral**

Senior Deputy Commissioner for P-12 Education, John King presented an update on the Common Core Standards.

## **ACTION ITEM**

### **Transition Update**

Regent Anthony S. Bottar provided an update on Transition Committee activities. The Transition Committee included: Vice Chancellor Cofield, Co-Chair, Regent Bottar, Co-Chair, Chancellor Emeritus Bennett, Regent Dawson, Regent Young, Regent Cea and Regent Jackson.

### **Selection of Commissioner of Education and President of The University of the State of New York**

**VOTED**, that the Board of Regents elect John B. King, Jr. as Commissioner of Education and President of The University of the State of New York, effective, July 15, 2011, at an annual salary of \$212,500 computed as follows: \$136,000 for his position as Commissioner of Education and \$76,500 for his position as President of The University of the State of New York.

<b>Motioned by:</b>	Regent Wade S. Norwood
<b>Seconded by:</b>	Regent Harry Phillips 3 <sup>rd</sup>
<b>Action:</b>	Motion carried unanimously
<b>Absent:</b>	All present

Full Board adjourned at 10:20 a.m.

### **MEETING OF THE FULL BOARD, Monday, May 16 at 4:45 p.m.**

#### **Board Members in Attendance:**

Chancellor Merryl H. Tisch  
Vice Chancellor Milton L. Cofield  
Robert M. Bennett, Chancellor Emeritus  
James C. Dawson  
Anthony S. Bottar  
Geraldine D. Chapey  
Harry Phillips, 3<sup>rd</sup>  
James R. Tallon, Jr.  
Roger Tilles  
Charles R. Bendit  
Betty A. Rosa  
Lester W. Young, Jr.  
Christine D. Cea  
Wade S. Norwood  
James O. Jackson  
Kathleen M. Cashin  
James E. Cottrell

Also present were the Commissioner of Education, David M. Steiner, Senior Deputy Commissioner for P-12 Education, John King, Counsel and Deputy Commissioner for Legal Affairs, Richard J. Trautwein, and the Secretary, Board of Regents, Anthony Lofrumento.

Chancellor Meryll H. Tisch called the meeting to order at 4:45 p.m.

### **ACTION ITEM**

#### **Amendment to Section 100.2(o) of the Commissioner's Regulations and Addition of a New Subpart 30-2 to the Rules of the Board of Regents Relating to Annual Professional Performance Reviews of Classroom Teachers and Building Principals BR (A) 4**

**VOTED**, that paragraph (1) of subdivision (o) be repealed and paragraph (2) of subdivision (o) be renumbered paragraph (1) of subdivision (o), subparagraph (ii) of renumbered paragraph (1) of subdivision (o) be amended, subclause (1) of clause (a) of subparagraph (iv) of renumbered paragraph (1) of subdivision (o) be amended, subclauses (v) through (vii) of renumbered paragraph (1) of subdivision (o) be renumbered subparagraphs (vi) through (viii) of renumbered paragraph (1) of subdivision (o) and that a new subparagraph (v) of renumbered paragraph (1) of subdivision (o) of section 100.2 of the Regulations of the Commissioner of Education be added, effective July 1, 2011, and that a new Subpart 30-2 of the Rules of the Board of Regents be added, as submitted, effective May 20, 2011, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to timely implement the provisions of section 3012-c of the Education Law and to ensure that school districts and BOCES are given sufficient notice of the new APPR requirements for classroom teachers and building principals and to provide school district and BOCES with time to locally negotiate certain provisions in the proposed amendments before the 2011-2012 school year.

**Motioned by:** Chancellor Emeritus Robert M. Bennett  
**Seconded by:** Regent James R. Tallon, Jr.  
**Action:** Motion carried with 14 'yes' votes and 3 'opposed' votes (Opposed were Regents Tilles, Rosa and Cashin.)

**MEETING OF THE FULL BOARD, Tuesday, May 17 at 12:40 p.m.**

**Board Members in Attendance:**

Chancellor Merryl H. Tisch  
Vice Chancellor Milton L. Cofield  
Anthony S. Bottar  
Geraldine D. Chapey  
Harry Phillips, 3<sup>rd</sup>  
James R. Tallon, Jr.  
Roger Tilles  
Charles R. Bendit  
Betty A. Rosa  
Lester W. Young, Jr.  
Christine D. Cea  
Wade S. Norwood  
James O. Jackson  
Kathleen M. Cashin  
James E. Cottrell

Also present were the Commissioner of Education, David M. Steiner, Senior Deputy Commissioner for P-12 Education, John King, Acting Counsel and Deputy Commissioner for Legal Affairs, Erin O'Grady-Parent, and the Secretary, Board of Regents, Anthony Lofrumento. Chancellor Emeritus Robert M. Bennett and Regent James C. Dawson were absent and excused.

Chancellor Merryl H. Tisch called the meeting to order at 12:40 p.m.

**TRANSITIONS**

Commissioner David M. Steiner provided an overview of his tenure as Commissioner

Chief of Staff James Baldwin provided parting words as he leaves the Department to return to his position as BOCES Superintendent.

**ACTION ITEMS**

**Charter Applications for May 2011**

**BR (A) 1**

**MOVED**, that the Regents approve each application in accordance with the recommendations contained in the respective summaries.



**Summary of the April 2011 Meeting of the Board of Regents  
BR (A) 2**

**MOVED**, that the Summary of the April 2011 Meeting of the Board of Regents of The University of the State of New York be approved.

**Regents Monthly Meeting Dates, January - December 2012  
BR (A) 5**

**MOVED**, that the Regents approve the following meeting dates for 2012.

2012 Regents Monthly Meeting Dates

January 9 - 10	Monday – Tuesday
February 13 - 14	Monday – Tuesday
March 19 - 20	Monday – Tuesday
April 23 - 24	Monday – Tuesday
May 21 - 22	Monday – Tuesday
June 18 - 19	Monday – Tuesday
July 16 - 17	Monday – Tuesday
August	Recess
September 10 - 11	Monday – Tuesday
October 9 - 10	Tuesday – Wednesday
November 5 - 6	Monday – Tuesday
December 10 - 11	Monday – Tuesday

**Motion by:** Regent Roger Tilles  
**Seconded by:** Vice Chancellor Milton L. Cofield  
**Action:** Motion carried unanimously

**ACTION ITEMS**

**PROGRAM AREA CONSENT ITEMS**

**Adult Career and Continuing Education Services (ACCES)**

**Amendment to Section 100.8 of the Regulations of the Commissioner of  
Education Relating to Local High School Equivalency Diplomas based upon  
experimental programs  
BR (CA) 1**

**MOVED**, that section 100.8 of the Regulations of the Commissioner of Education be amended, as submitted, effective May 24, 2011, as an emergency action upon a

finding of the Board of Regents that such action is necessary for the preservation of the general welfare in order to prevent a lapse in the existing provision allowing boards of education to award a local high school equivalency diploma based upon experimental programs approved by the Commissioner of Education, by extending such provision through June 30, 2012, and thereby ensure that students currently enrolled in the National External Diploma Program (NEDP) can complete their programs without disruption.

**Amendment to the State Plan for Vocational Rehabilitation and Supplement for Supported Employment Services Program  
BR (CA) 2**

**MOVED**, that the Amendment to the State Plan for Vocational Rehabilitation and Supported Employment Services, effective October 1, 2011, is approved.

**Cultural Education**

**Amendment of Regents Rule §3.27, Relating to Museum Collections Management Policies  
BR (CA) 3 – Revised**

**MOVED**, that paragraphs (6) and (7) of subdivision (c) and subdivision (e) of section 3.27 of the Rules of the Board of Regents, be amended, as submitted, effective on June 8, 2011.

**Higher Education**

**Master Plan Amendment: Medaille College, Doctor of Psychology (Psy.D.), Clinical Psychology, at its Amherst campus  
BR (CA) 4**

**MOVED**, that the Board of Regents approve a master plan amendment for Medaille College, Buffalo, to authorize the College to offer its first doctoral program, a Doctor of Psychology (Psy.D.) in Clinical Psychology, at its Amherst campus. The amendment will be effective until May 31, 2012, unless the Department registers the program prior to that date, in which case master plan amendment shall be without term.

**State University of New York, College at Buffalo: Regents Authorization to Award the Master of Public Administration (M.P.A.) Degree  
BR (CA) 5**

**MOVED**, that the Board of Regents authorize the State University of New York Board of Trustees to award the Master of Public Administration (M.P.A.) degree on students successfully completing registered programs at the State University College at Buffalo effective May 17, 2011.

**Proposed Amendment of Section 52.21 of the Regulations of the Commissioner  
Relating to the Graduate Level Clinically Rich Principal Preparation Pilot  
Programs  
BR (CA) 6**

**MOVED**, that subclause (3) of clause (d) of subparagraph (v) of paragraph (7) of subdivision (c) of section 52.21 of the Regulations of the Commissioner of Education is amended, effective June 8, 2011.

**Proposed Amendment of Section 52.21 of the Regulations of the Commissioner  
Relating to the Graduate Level Clinically Rich Teacher Preparation Pilot Programs  
BR (CA) 7**

**MOVED**, that clause (d) of subparagraph (iv) of paragraph (5) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education be amended, effective May 24, 2011 as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to timely implement the provisions of the proposed amendment to provide program providers with notice of the degree requirements before the 2011-2012 school year.

**P-12 Education**

**Proposed Technical Amendment of Section 100.2(ee)(2) of the Regulations of the  
Commissioner  
BR (CA) 8**

**MOVED**, that paragraph (2) of subdivision (ee) of section 100.2 of the Regulations of the Commissioner be amended as submitted, effective June 1, 2011; and it is further

**MOVED**, that paragraph (2) of subdivision (ee) of section 100.2 of the Regulations of the Commissioner be amended as submitted, effective May 17, 2011, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to ensure that the emergency rule adopted at the February 2011 Regents meeting remains continuously in effect until the effective date of its permanent adoption.

**Professional Practice**

**(Re)Appointments of Members to the State Boards for the Professions and  
(Re)Appointments of Extended Members to the State Boards for the Professions  
for Service on Licensure Disciplinary and/or Licensure Restoration and Moral  
Character Panels  
BR (CA) 9**

**MOVED**, that the Regents should approve the proposed (re)appointments.

**Report of the Committee on the Professions Regarding Licensing Petitions  
BR (CA) 10**

**MOVED**, that the Regents approve the recommendations of the Committee on the Professions regarding licensing petitions.

**Hunter College of The City University of New York: Authorization to Award the  
Doctor of Nursing Practice (D.N.P.) Degree  
BR (CA) 11**

**MOVED**, the Board of Regents authorize The City University of New York Board of Trustees to confer the D.N.P. degree on duly qualified students successfully completing registered D.N.P. programs at Hunter College of The City University of New York effective May 17, 2011.

**Motion by:** Regent Anthony S. Bottar  
**Seconded by:** Regent Harry Phillips, 3<sup>rd</sup>  
**Action:** Motion carried unanimously

**STANDING COMMITTEE REPORTS**

**Joint P-12 Education/State Aid**

Your P-12 Education Committee and Subcommittee on State Aid held a joint meeting on May 16, 2011. All members were present, except for Regent Bendit, who was excused.

**Action Items**

**Mandate Relief and Flexibility**

Your Committee recommends that the Regents approve the mandate relief and flexibility option recommendations, as described in Appendix A, of which several were reviewed at the February meeting, and issue a vote of support for Department staff to seek further public comment on the special education options, as described in Appendix B. [P-12/SA (A) 1]

**Motion for Action By Full Board**

Madam Chancellor and Colleagues: Your P-12 Education Committee and State Aid Subcommittee recommend, and we move, that the Board of Regents act affirmatively

upon the recommendation in the written report of the Committees' deliberations at their meeting on May 17, 2011, copies of which have been distributed to each Regent.

### **Cultural Education**

Regent Roger Tilles, Chair of the Cultural Education Committee, submitted the following written report.

Your Committee on Cultural Education Committee had its scheduled meeting on May 16, 2011.

In attendance were committee members: Tilles and Dawson. Absent were Regents Rosa and Bendit.

In addition to CE Committee Members, in attendance were: Regents Cea, Norwood, and Cottrell and Chief Operating Officer Valerie Grey.

### **Items for Discussion**

**Chair's Remarks:** Regent Tilles welcomed everyone and opened the meeting. He noted that at tomorrow's full-board meeting, the Board will consider final adoption of a modification of Regents Regulations section 3.27 relating to the management of Museums and Historical Societies holding collections. The modifications were developed with the assistance and consensus support of a broad based committee, led by Carole Huxley.

### ***CE (D) 1 – Annual Report of the Regents Advisory Council on Libraries to the Board of Regents***

Gerald Nichols, vice chair of the Regents Advisory Council (RAC) on Libraries briefed the committee on the Annual Report of the RAC. Chair of the Committee, Bridget Quinn-Carey was unable to attend today's meeting. Printed copies of the report were distributed to committee members prior to the meeting. The in-depth report included the status of current programs, services, recommendations and potential opportunities that would continually improve library services for all New Yorkers and to meet customers' ever-changing needs, advancing technologies and trends and challenges faced by libraries. Mr. Nichols indicated that libraries across the state are thriving, but are "starving" for resources. Mr. Nichols asked the committee to designate a liaison between the committee and the RAC. He also asked for input from committee members on the future vision for libraries. RAC member John Hammond briefed the committee on his work in developing a "20/20 Vision" report that establishes an agenda for libraries for the coming decade. He indicated that his working group will have a draft vision document by the end of the summer and that they would solicit input and feedback from the field at the New York Library Association annual meeting and hopefully in meetings throughout the state, within each Regent region.

Regent Tilles agreed to act as the liaison to the RAC. He also suggested that libraries would benefit from greater partnerships and increasing their visibility within the communities they serve. Regent Norwood suggested that the RAC solicit Board of Regents members for their input directly. He also suggested that he would assist the committee in reaching out to the library community in the finger lakes region. Finally, he suggested that the committee develop a plan and a vision that breaks down silos, that incorporates strong partnerships with the P-12 and higher education communities and that libraries follow the model of banks, being seen, not as buildings, but as omnipresent services.

### **CE (D) 2– *Summer School of the Arts***

Chief Operating Officer Val Grey briefed the committee on the financial status of the Summer School of the Arts and the recent transition of the program from the Office of P-12 to the Office of Cultural Education. The nationally recognized Summer School for the Arts' program is unique in itself, providing opportunities for professional training and instruction to qualifying high school students with special talents. By enriching students' experiences, these programs may help them define and elevate their talents and aid them in choosing a field in the fine arts and/or the performing arts. Regent Tilles indicated that the committee would like additional information on each of the individual schools, specifically where the students come from and what the need for each school is in order to advocate for additional support for the school.

### **Joint P-12 Education/College and Career Readiness Working Group**

Your P-12 Education Committee and College and Career Readiness Working Group held a joint meeting on May 16, 2011. All members were present.

### **Action Items**

#### **Options for Funding the Regents Examination System**

Your Committees recommends that the Board of Regents direct staff to take the action steps listed in Chart A and Chart B in the Regents Item. The Committee endorsed the long-term action steps proposed by staff which include the securing of exams after they are given so that the questions can be reused, looking at other cost-effective options other than printing and shipping the tests, and piloting online testing to gauge the capacity of the Department and the field to administer tests electronically. Regent Roger Tilles voted in opposition on these proposed action steps. [P-12/CCR (A) 1]

### **Motion for Action By Full Board**

Madam Chancellor and Colleagues: Your P-12 Education Committee and College and Career Readiness Working Group recommend, and I ove, that the Board of Regents act affirmatively upon the recommendation in the written report of the Committees' deliberations at their meeting on May 17, 2011, copies of which have been distributed to each Regent.

### **Matters Not Requiring Board Action**

Common Core Transition Strategy – The Committees discussed strategies to revise the State's assessment programs to ensure that they measure the knowledge and skills that are required for students to stay on track to college and career readiness from elementary school through graduation. The strategies discussed include:

- Possible revisions to the existing state standards in Science and Social Studies/History to ensure that they reflect rigorous expectations in each grade level and that they reflect a learning trajectory that ensures students graduate college and career ready.
- Creation of four domain-specific advisory panels and an implementation panel to advise on each step in the assessment design and validation process.
- Assessment design activities including conducting an analysis of the gap between the knowledge and skills currently measured by each of our exams and the knowledge and skills our exams need to make sure students are on track for college and career readiness.
- Creation of an ongoing empirical validation strategy to collect a variety of evidence regarding our assessments to be used to evaluate the quality and improve the rigor of our assessments.
- Changing the score scale to one which is consistent with the 3–8 testing program scale and reports student performance as a performance category.

Staff will begin the research and work necessary to build on this comprehensive assessment transition strategy and will return at a later date with a proposal for a coherent sequenced system that is aligned with the Common Core standards. [P-12/CCR (D) 1]

Earning Additional Course Credit through Integrated CTE Courses – The Committees discussed staff recommendations to provide additional integrated options in grades 9-10, where currently most BOCES districts offer CTE courses in middle-level and grades 11-12. Specific career pathways available in grades 11-12 in approved CTE programs could be expanded downward to reflect specific academic and technical skill sets necessary to provide the foundational content knowledge needed for success in college and careers. The Committee discussed a multi-year phase-in approach with the option for some districts to begin as early as the 2011-12 school year, by identifying existing CTE courses at the high school level that have the potential for integrated academic enhancement. Staff will begin to further develop the implementation plan and come back to a future meeting to update the Regents. [P-12/CCR (D) 2]

CTE Program Approval Process – the Committees discussed the Regents approved CTE policy permitting students to earn up to one unit each of required credit in English, science, and mathematics, and the combined unit of economics and government through integrated CTE courses in approved CTE programs. This allows students to pursue career and technical education through coursework that also offers credit for commencement-level academic skills and content. Department staff will review the existing Regents CTE policy to identify ways to expand access to high-quality CTE programs. Staff will return to the Regents at a future date with considerations for policy decisions. [P-12/CCR (D) 3]

## CTE Panel Presentation - Academic Integration in Approved CTE Programs

### Panel Members

- David Arntsen, Career and Technical Education Director, Madison-Oneida BOCES
- Ms. Gene Silverman, Executive Director, Department of Career and Technical Education Nassau BOCES
- James Weimer, Principal, Emerson High School of Hospitality, Buffalo City Schools
- Shirley Ware, Career and Technical Education Teacher, North Syracuse Central School District

The panel presented overviews of their programs and answered questions relating to how academic integration is operationalized in their CTE approved programs. Discussion focused on current options for students to earn academic credit through integrated CTE coursework and how integrated CTE coursework improves student learning and achievement. [P-12/CCR (D) 4]

Graduation Rate Reporting – the Committees discussed several approaches to developing valid and rigorous aspirational performance standards that are aligned with college- and career-readiness. Among the approaches discussed were the Regents Diploma with Advanced Designation, the ELA/Math Aspirational Performance Measure and using additional course and achievement differentiation for Math. Since fewer students pursue advanced math courses, the latter approach will need further development. In the next few weeks, the Department will release the graduation rate for students who entered grade 9 in the 2006-07 school year. This release will make clear the percentage of students in the cohort – by school and district – that met the following aspirational performance standards discussed in the meeting (which can be viewed as possible indicators of potential postsecondary success): Regents Diploma with Advanced Designation and the ELA/Math Aspirational Performance Measure. [P-12/CCR (D) 5]

### Professional Practice

Your Professional Practice Committee held its scheduled meeting on May 17, 2011. All Committee members were present, except for Vice Chancellor Milton L. Cofield, who was excused. Chancellor Merryl H. Tisch, Regent James O. Jackson,



Regent Kathleen M. Cashin and Regent James E. Cottrell were also present but did not vote on any case or action.

## **Action Items**

### Professional Discipline Cases

Your Committee recommends that the reports of the Regents Review Committees, including rulings, findings of fact, determinations as to guilt, and recommendations, by unanimous or majority vote, contained in those reports which have been distributed to you, be accepted in 6 cases. In addition, your Committee recommends, upon the recommendation of the Committee on the Professions, that 20 consent order applications and 3 surrender applications be granted, with four members of the Committee voting acceptance of the consent application in the case of Mary Ann Lester, Dentist, Calendar No. 25522, and Regent Wade S. Norwood recusing himself from any consideration of this matter. [PPC EXS (A) 1-3]

In the case of John E. Walden, under Calendar No. 24917, we recommend that the April 5, 2011 Vote and Order in this matter, the Application For Consent Order granted in this matter, and the terms of probation attached as Exhibit "B" to the Application For Consent Order in this matter each be deemed corrected solely insofar as the calendar number of 25486 shown on each of said documents shall reflect the correct calendar number in this matter and be deemed to read the correct calendar number of "Cal. No. 24917"; and that the determination rendered on April 5, 2011 shall otherwise remain in full force and effect.

In the case of James Michael Werner, under Calendar No. 25495, we recommend that the terms of probation set forth in Exhibit "B" to the Application For Consent Order previously submitted by James Michael Werner and accepted by the Board of Regents on April 5, 2011 be deemed corrected solely insofar as the presently existing caption and headers in said Exhibit "B" indicates the name of James William Werner and the caption and headers in said Exhibit "B", therefore, each be deemed to read the applicant's correct name of "James Michael Werner"; and that the determination rendered on April 5, 2011 shall otherwise remain in full force and effect.

In the case of Ronald J. Peters, Veterinarian, Calendar No. 25612, we recommend the correction that, in view of respondent's clear, relevant conviction for the crime of "Animal Cruelty", the word "Forgery" at the beginning of line 19 on page 10 of the report of the Regents Review Committee in this matter be deemed deleted and the word "Cruelty" be deemed substituted therefore.

These recommendations are made following the review of 29 cases involving six licensed practical nurses, four registered professional nurses, three veterinarians, two certified public accountants, two dentists, two licensed practical nurses who are also registered professional nurses, one architect, one chiropractor, one clinical laboratory

technician, one certified dietitian/nutritionist, one licensed mental health counselor, one physical therapist, one professional engineer, and one psychologist.

### Restoration Cases

Your Committee recommends: That, upon completion of an evaluation and, if necessary, treatment by a psychiatrist or psychologist and the submission of proof of his fitness to practice satisfactory to the Director of the Office of Professional Discipline, the execution of the order of revocation of the license of Allen Koral to practice as a dentist in the State of New York be stayed; that, upon his return to the practice of dentistry in this state, he be placed on probation for a period of two years in accordance with the Terms of Probation set forth in Exhibit A annexed the report of the Peer Committee, provided that the period of probation shall be tolled during periods in which the applicant is not engaged in the active practice of dentistry in New York State; and that, upon satisfactory completion of the probationary period, his license be fully restored. [PPC EXS (A) 4]

That the execution of the Order of Surrender of the license of P. Kithsen Dias to practice as a physician in New York State be stayed; that he placed on probation for five years under the Terms of Probation attached to the Report of the Committee on the Professions as Exhibit A; and that, upon satisfactory completion of the probationary period, his license be fully restored. [PPC EXS (A) 5]

That the application of Nicolette Francey for restoration of her license to practice as a physician in the State of New York be denied. [PPC EXS (A) 6]

That the application of Khaja Naseeruddin for restoration of his license to practice as a physician in the State of New York be denied. [PPC EXS (A) 7]

That the application of Rameshwar Pathak for restoration of his license to practice as a physician in the State of New York be denied. [PPC EXS (A) 8]

That the application of Abraham I. Sokol for restoration of his license to practice as a physician in the State of New York be denied. [PPC EXS (A) 9]

That the application of Donald R. Werner for restoration of his license to practice as a physician in the State of New York be denied. [PPC EXS (A) 10]

That application of Steven B. Wilkins for restoration of his license to practice as a physician in the State of New York be tabled. [PPC EXS (A) 11]

### **Motion for Action By Full Board**

Your Professional Practice Committee recommends, and we move, that the Board of Regents act affirmatively upon each recommendation in the written report of

the Committee's deliberations at its meeting on May 17, 2011, copies of which have been distributed to each Regent.

### **Matters Not Requiring Board Action**

Your Committee discussed several topics of interest, including:

Acting Deputy Commissioner's Report/Update [Oral] – The Acting Deputy Commissioner reported on the following issues:

- Deputy Commissioner recruitment
- Overview of PPC Consent Agenda items scheduled for action by the Full Board
- Document Scanning
- E-licensing
- Licensing staffing
- International Medical School Advisory Committee
- Social Work Issues
- New York participation in the national nursing disciplinary and licensure data bank (NURSYS) through membership in the National Council of State Boards of Nursing (NCSBN)
- Institute of Medicine (IOM) report on The Future of Nursing

Update on the Professions [PPC (D) 1] – This overview of the Office of the Professions was provided as an introduction for a series of reports to the Professional Practice Committee about the status of and important issues relating to the various professions.

Amendment of Regents Rule Relating to Customized Patient Packaging of Medications for Patients on Complex Medication Regimens [PPC (D) 2] – This proposed amendment to the Rules of the Board of Regents would authorize pharmacists to package different medications together for administration at the same time. The proposed amendment will come before the Board of Regents for action at its July 2011 meeting.

### **Higher Education**

Your Higher Education Committee held its scheduled meeting on May 17, 2011. All members were present with the exception of Chancellor Emeritus Bennett.

### **Action Items**

**Tenure and Seniority Rights for Teachers Performing Instructional Support Services in a BOCES.** Your Committee discussed and approved an amendment to Subpart 30-1 of the Rules of the Board of Regents and section 80-1.8 of the Regulations of the Commissioner of Education, to authorize teachers employed by a board of cooperative educational services (BOCES) that perform instructional support services to accrue tenure and seniority rights in new tenure areas within the BOCES that are aligned with their instructional support duties. Your Committee voted that

subdivision (b) of section 30-1.2 of the Rules of the Board of Regents be amended; that subdivisions (c) and (d) of section 30-1.2 shall be renumbered to subdivisions (d) and (e), a new subdivision (c) be added, and renumbered subdivision (d) shall be amended and a new subdivision (e) shall be added to section 30-1.2 of the Rules of the Board of Regents; that subdivision (b) and (d) of section 30-1.9 of the Rules of the Board of Regents be amended; that section 80-1.7 of the Regulations of the Commissioner of Education be amended and that subdivision (a) of section 80-1.8 of the Regulations of the Commissioner of Education be amended, as submitted, effective May 20, 2011, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to allow a teacher employed by a BOCES to accrue tenure and seniority rights for the performance of instructional support services in one of the newly created tenure areas so that BOCES can make budgetary and employment decisions before the new school year.

**STEM Regulations.** Your Committee discussed and approved a proposed amendment to allow individuals with advanced degrees in Science, Technology, Engineering and Mathematics (STEM) and related teaching experience at the postsecondary level to obtain a teaching certificate in Earth Science, Biology, Chemistry, Physics, Mathematics or in a closely related field. Your Committee voted that that paragraphs (45) through (47) of subdivision (b) of Section 80-1.1 be renumbered to paragraphs (46) through (48) and a new paragraph (45) be added; that subparagraph (i) of paragraph (2) of subdivision (a) of section 80-3.3 be amended; that section 80-3.7 be amended and a new section 80-5.22 is added to the Regulations of the Commissioner of Education, effective May 17, 2011, as an emergency action upon a finding by the Board of Regents that such action is necessary to protect the general welfare of the public to address the demonstrated shortage of certified teachers in science and mathematics in grades 7-12.

### **Motion for Action By Full Board**

Your Higher Education Committee recommends, and we move, that the Board of Regents act affirmatively upon each recommendation in the written report of the Committee's deliberations at its meeting on May 17, 2011, copies of which have been distributed to each Regents.

### **P-12 Education**

Your P-12 Education Committee held its scheduled meeting on May 17, 2011. All members were present, except for Chancellor Emeritus Bennett and Regent Dawson, who were excused.

### **Action Items**

#### **Charter School Actions**

Your Committee recommends that the Board of Regents approves and issues the second renewal charter of the Tapestry Charter School as proposed by the Board of Trustees of the State University of New York, and that its provisional charter be extended for a term up through and including April 24, 2016. [P-12 (A) 1]

### **Motion for Action By Full Board**

Madam Chancellor and Colleagues: Your P-12 Education Committee recommends, and I move, that the Board of Regents act affirmatively upon each recommendation in the written report of the Committee's deliberations at its meeting on May 17, 2011, copies of which have been distributed to each Regent.

### **Matters Not Requiring Board Action**

Laboratory Requirements for Qualifying to take a Regents Exam in any of the Sciences – The Committee discussed the current laboratory requirements necessary for students to qualify to take a Regents Exam in any of the Sciences and recent changes and proposed additions to regulations that allow students to demonstrate achievement of the NYS Learning Standards through alternate pathways beyond traditional coursework, including online and blended learning. The Committee directed staff to convene a group of science, technology, and education stakeholders including teachers and leaders from school districts, institutions of higher education, and business and industry to review and evaluate the science laboratory requirement; consider and appraise current available research on teaching and learning in science; and make recommendations to the Board of Regents regarding amendments to current regulations. [P-12 (D) 1]

School Safety Plans – the Committee discussed proposed amendments to regulations relating to district-wide school safety plans and building-level school emergency response plans. Current regulations require that the district-wide school safety plans include the minimum requirements prescribed by law, plus plans of evacuation and sheltering as well as information on school population, number of staff, transportation needs and the business and home telephone numbers of key officials of each educational agency within the district. Due to recent events surrounding safety and security, this confidential information will now be part of the building-level school emergency response plan, which is not shared with the general public. This proposed amendment will ensure that confidential information including the home telephone numbers of local education officials and the tactical strategies for responding to critical events such as building evacuation and sheltering are not disclosed to the public. These proposed regulations will be presented to the Committee at the July meeting for permanent adoption. [P-12 (D) 2]

Consent Agenda Items – Senior Deputy Commissioner King presented the following item scheduled for approval on the full Board consent agenda:

- Proposed amendments to regulations to make technical amendments to Section 100.2(ee)(2) relating to Academic Intervention Services.

### **Adult Career and Continuing Education Services (ACCES)**

Your ACCES Committee held its scheduled meeting on May 17, 2011. All members were present, with the exception of Chancellor Emeritus Bennett, Regent Chapey and Regent Tilles, who were excused. Additional members of the Board attending were Vice Chancellor Cofield, Regent Cashin, Regent Cottrell, and Regent Jackson.

### **Matters Not Requiring Board Action**

The Committee was informed about the Business Initiatives within the Office of Adult Career and Continuing Education Services-Vocational Rehabilitation. The marketing strategy developed through *Designing Our Future* provided the construct for ACCES-VR's current business initiatives. A report was given on the initiatives undertaken by ACCES-VR on outreach to businesses, tracking job ready consumers and marketing of business incentives. In order to meet the employment needs of the more than 53,000 individuals who are engaged in the VR program, we continue to develop strategies that connect consumer training with the employment needs of businesses. The resulting initiatives will serve to provide VR professionals and consumers with information about essential job skills, hiring practices, and company-based opportunities for career development. Such information will serve to empower individuals with disabilities in their choice of employment or career path.

The goal of Vocational Rehabilitation is for individuals with disabilities to achieve an employment outcome that allows them to be self-sufficient and support themselves through earned income. For ACCES-VR to support that goal, it means we must be responsive to the ever changing labor market forces. It is also essential that ACCES-VR continues to foster its partnerships with business, qualified employers and its potential employees. Partnerships are the key for Vocational Rehabilitation to ensure equal access to the world of work because the labor market changes constantly and those changes impact individuals with disabilities obtaining employment.

### **Audit/Budget and Finance**

The Regents Committee on Audits/Budget and Finance met as scheduled on May 17, 2011. Vice Chair Bendit, Regents Tilles, Phillips, Tallon, Young, Cashin and Cottrell were in attendance.

Chair's Remarks: Regent Chapey welcomed everyone. She reiterated the role of the Committee in assisting the Board of Regents in its fiscal responsibilities and fostering collaboration across the Department.

## **Items for Discussion**

### May 2011 Fiscal Report

Your Committee reviewed the fiscal report. Our Chief Operating Officer briefed the Committee members on the status of efforts to improve the fiscal health of some accounts including Teacher Tenure Hearings, Cultural Ed, GED, and Assessment.

### Implementing the 2011-2012 Operations Budget

The Committee was updated on the development of budget plans and cost cutting measures in line with the enacted State budget.

### Completed Audits

The Committee was presented with 59 audits this month. The audits included 6 audits issued by the Office of Audit Services (OAS) and 53 audits issued by the Office of the State Comptroller (OSC). The members were briefed on the audit of Henry Viscardi School. The audits identified the need for recovery of funds and improved accounting and budgeting practices. OAS will continue to monitor trends requiring the attention of the Committee.

### Developing the Audit Plan for the Office of Audit Services

The Committee was updated on the development of the Office of Audit Services' Audit Plan for 2011-2012 which will be presented at the next month's meeting.

<b>Motion by:</b>	Regent Harry Phillips, 3rd
<b>Seconded by:</b>	Regent Geraldine D. Chapey
<b>Action:</b>	Motion carried unanimously

## **ACTION ITEMS**

### **Proposed Revocation of Charter of Kingsbridge Innovative Design Charter School BR (A) 6**

**MOVED**, that the attached recommended decision is adopted by the Board of Regents, that the Kingsbridge Innovative Design Charter School be placed on probation for the period commencing on May 17, 2011 and ending on June 29, 2011; that the charter and certificate of incorporation (also known as the provisional charter) are revoked and the education corporation is dissolved, effective June 30, 2011; and that notice to such effect be given to the trustees of the charter school, that any student records be transferred to the New York City Department of Education in accordance

with the provisions of Education Law §2851(2)(t), and that the assets of the corporation be distributed through the procedures set forth in Education Law §220.

**Motion by:** Vice Chancellor Milton L. Cofield  
**Seconded by:** Regent Anthony S. Bottar  
**Action:** Motion carried unanimously

**April 2011 Fiscal Report and Federal Budget Update  
BR (A) 3**

**MOVED**, that the Board of Regents accept the April 2011 State Education Department Fiscal Report as presented.

**Motion by:** Vice Chancellor Milton L. Cofield  
**Seconded by:** Regent Geraldine D. Chapey  
**Action:** Motion carried unanimously



**Appendix I**  
**NEW YORK STATE BOARD OF REGENTS CHARTER ACTIONS**

<b>Name of Institution</b>	<b>Program Area</b>	<b>County of Location</b>	<b>Description of Charter Action(s)</b>
Alice Curtis Desmond and Hamilton Fish Library	CE	Putnam	Amend charter to: <ul style="list-style-type: none"> <li>• designate the library's service area to be the Town of Philipstown excluding the Villages of Cold Spring and Nelsonville;</li> <li>• restate IRS language.</li> </ul>
Dolgeville Manheim Public Library	CE	Herkimer	Amend charter to: <ul style="list-style-type: none"> <li>• designate the library's service area to be coterminous with the Town of Manheim and the Village of Dolgeville, including that portion of the Village of Dolgeville that lies within the Town of Salisbury;</li> <li>• specify the number of trustees to be not less than five nor more than 15;</li> <li>• restate IRS language.</li> </ul>
Dutchess County Firefighting Museum	CE	Dutchess	Grant provisional charter for five years.
Foundation of Jewish Moroccan Legacy	CE	New York	Grant provisional charter for five years.
Friends of Mountainside	CE	Washington	Amend charter to: <ul style="list-style-type: none"> <li>• designate Commissioner as agent for service;</li> <li>• add IRS tax language.</li> </ul>
James Prendergast Library Association	CE	Chautauqua	Grant absolute charter in the first instance.
The Leslie-Lohman Museum of Gay and Lesbian Art	CE	New York	Grant provisional charter for five years.
Mohawk Valley Historical Transportation Society	CE	Oneida	Grant provisional charter for five years.
Niagara Science Museum	CE	Niagara	Grant provisional charter for five years.

Ogden Historical Society	CE	Monroe	Grant absolute charter.
Oriskany Public Library	CE	Oneida	Amend charter to: <ul style="list-style-type: none"> <li>• designate the library's service area to be coterminous with the Village of Oriskany;</li> <li>• specify the number of trustees to be not less than five nor more than 15;</li> <li>• designate Commissioner as agent for service;</li> <li>• add IRS tax language.</li> </ul>
The Public Broadcasting Council of Central New York, Inc.	CE	Onondaga	Consent to filing of certificate of assumed name "Axxess Television Production".
Red Jacket Community Library	CE	Ontario	Grant absolute charter.
Stony Point Historical Society	CE	Rockland	Grant provisional charter for five years.
WNET.ORG	CE	New York	Consent to filing of certificate of assumed name "WNET".
Dominican Academy of the City of New York	P-12	New York	Amend charter to: <ul style="list-style-type: none"> <li>• restate members of corporation;</li> <li>• restate IRS dissolution language.</li> </ul>
First Nursery School of Utica	P-12	Oneida	Amend charter to add authority to operate a day care for children ages three to five and extend charter for three years.
Grace Playschool	P-12	Nassau	Amend charter to add authority to operate a day care for children under the age of six years who will be in attendance for more than three hours a day.
Hebrew Educational Society of Brooklyn	P-12	Kings	Amend charter to restate corporate purposes.
Holy Angels Academy	P-12	Erie	Amend charter to: <ul style="list-style-type: none"> <li>• provide for members and reserved rights of members;</li> <li>• add authority to operate grades six, seven and eight.</li> </ul>
International Preschools	P-12	New York	Extend charter for three years.

The Manhattan Childrens Center	P-12	Queens	Amend charter to add authority to operate grades nine through 12 for children diagnosed with autism spectrum disorder.
Milestones Children’s Center	P-12	Jefferson	Extend charter for three years.
Mountain Laurel Waldorf School	P-12	Ulster	Extend charter for three years.
Our Lady of Mercy High School of Rochester	P-12	Monroe	Amend charter to revise provision on members.
Park Slope North/Helen Owen Carey Child Development Center	P-12	Kings	Amend charter to delete authorization to operate kindergarten.
The Sands Academy	P-12	Livingston	Extend charter for three years.
Solomon Schechter High School of New York	P-12	Suffolk	Dissolve absolute charter.
South Buffalo Catholic School	P-12	Erie	Amend charter to: <ul style="list-style-type: none"> <li>• provide for members and reserved rights of members;</li> <li>• amend dissolution language and extend charter for three years.</li> </ul>
Westchester-Fairfield Hebrew Academy	P-12	New York	Amend charter to change corporate name to “Carmel Academy”.
The Julliard School	HE	New York	Amend charter to add authority to confer the degree of Master of Fine Arts.
Medaille College	HE	Erie	Amend charter to restate the purposes of the corporation, including authorization: <ul style="list-style-type: none"> <li>• to confer degrees approved and authorized by the Board of Regents;</li> <li>• to conduct a demonstration school;</li> <li>• to offer adult education classes;</li> <li>• to operate branch campuses in Amherst, NY; Brighton, NY; and the Greater Toronto Area, Ontario, Canada;</li> <li>• award honorary degrees in accordance with Regents Rule</li> </ul>

Yeshiva University	HE	Nassau	Amend charter to add authority to confer the degree of Master of Business Administration (M.B.A.).

## Appendix II

### REGENTS ACTIONS IN 29 PROFESSIONAL DISCIPLINE CASES AND 7 RESTORATION PETITIONS

May 16-17, 2011

The Board of Regents announced disciplinary actions resulting in the revocation of 1 certificate, surrender of 3 licenses, and 25 other disciplinary actions. The penalty indicated for each case relates solely to the misconduct set forth in that particular case. In addition, the Board acted upon 7 restoration petitions.

#### I. REVOCATION AND SURRENDERS

##### Dietetics and Nutrition

**Carol P. Pierce-Ellis**; Dietitian/Nutritionist; Coleman, FL 33521, Teaneck, NJ 07666; Cert. No. 001531; Cal. No. 25297; **Found guilty of professional misconduct**; **Penalty**: Revocation.

##### Nursing

**Patricia Lynn Bogue**; Licensed Practical Nurse; Red Hook, NY 12571; Lic. No. 252710; Cal. No. 25485; **Application to surrender license granted. Summary**: Licensee admitted to charges of having been convicted of Petit Larceny and Offering a False Instrument for filing in the 2<sup>nd</sup> Degree, both misdemeanors.

**Mark Alan Bertsch**; Registered Professional Nurse; New Castle, IN 47362; Cal. No. 25585; Lic. No. 411666; **Application to surrender license granted. Summary**: Licensee did not contest charges of having been convicted in Indiana of Child Molesting and Battery to a Child.

##### Psychology

**Sally Ann Wright**; Alderson, WV 24910; Lic. No. 012791; Cal. No. 25545; **Application to surrender license granted. Summary**: Licensee admitted to charges of having been convicted of Health Care Fraud and having been found guilty of professional misconduct in New Jersey.

#### II. OTHER REGENTS DISCIPLINARY ACTIONS

##### Architecture

**Luis Luistro Garcia**; Wayne, NJ 07470-2410; Lic. No. 016294; Cal. No. 25538; **Application for consent order granted; Penalty agreed upon**: 1 year stayed suspension, 1 year probation, \$500 fine.

## Chiropractic

**Christopher Gustaf Nelson**; Riverhead, NY 11901; Lic. No. 010995; Cal. No. 25547; **Application for consent order granted; Penalty agreed upon:** 1 year stayed suspension, 1 year probation, \$500 fine.

## Clinical Laboratory Technology Practice

**Barbara Scorgia-Turley**; Clinical Laboratory Technician; Bethpage, NY 11714-6201; Cert. No. 007906; Cal. No. 25559; **Application for consent order granted; Penalty agreed upon:** 2 year stayed suspension, 2 years probation, \$500 fine.

## Dentistry

**Mary Ann Lester**; Dentist; Rochester, NY 14618; Lic. No. 042195; Cal. No. 25522; **Application for consent order granted; Penalty agreed upon:** 1 year stayed suspension, 1 year probation, \$500 fine.

**Gary Osmanoff**; Dentist; Brooklyn, NY 11209; Lic. No. 044503; Cal. No. 25530; **Application for consent order granted; Penalty agreed upon:** 1 year actual suspension, 2 year stayed suspension, 3 years probation, \$1,000 fine.

## Engineering and Land Surveying

**Andrew Steven Braum**; Professional Engineer; Wantagh, NY 11793; Lic. No. 077439; Cal. No. 24685; **Application for consent order granted; Penalty agreed upon:** 1 month actual suspension, 23 month stayed suspension, 2 years probation, \$3,500 fine.

## Mental Health Practitioners

**Kimberly A. Swan**; Licensed Mental Health Counselor; Newark, NY 14513-9119; Lic. No. 000211; Cal. No. 25283; **Application for consent order granted; Penalty agreed upon:** 2 year stayed suspension, 2 years probation, \$500 fine.

## Nursing

**Kathleen Ann Collins**; Licensed Practical Nurse; Schenectady, NY 12307-1311; Lic. No. 198413; Cal. No. 24320; **Found guilty of professional misconduct; Penalty:** 24 months suspension, execution of last 6 months of suspension stayed, probation 24 months to run concurrently with period of suspension.

**Laurie A. Ramos a/k/a Laurie A. Vega**; Licensed Practical Nurse, Registered Professional Nurse; Buffalo, NY 14216, Williamsville, NY 14221; Lic. Nos. 240684, 540556; Cal. Nos. 24960, 24961; **Found guilty of professional misconduct; Penalty:** \$500 fine, indefinite suspension until substance abuse-free and until fit to practice,

probation 2 years to commence subsequent to termination of suspension and upon actual return to practice.

**Bonnie Lorraine Oliver**; Licensed Practical Nurse; Baldwinsville, NY 13027; Lic. No. 243737; Cal. No. 25302; **Application for consent order granted; Penalty agreed upon:** 4 month actual suspension, 20 month stayed suspension, 2 years probation, \$500 fine.

**Susan M. Robisch**; Registered Professional Nurse; Lockport, NY 14094; Lic. No. 580307; Cal. No. 25366; **Application for consent order granted; Penalty agreed upon:** 1 month actual suspension commencing June 1, 2011 and terminating June 30, 2011, 23 month stayed suspension, 2 years probation, \$500 fine.

**Jack A. Walters, Jr.**; Registered Professional Nurse; North Tonawanda, NY 14120; Lic. No. 487640; Cal. No. 25449; **Application for consent order granted; Penalty agreed upon:** Indefinite actual suspension for no less than 6 months and until mentally fit to practice, upon termination of suspension, 2 years probation to commence upon return to practice, \$500 fine payable within 90 days.

**Leah M. Biggins**; Licensed Practical Nurse; Churchville, NY 14428; Lic. No. 276230; Cal. No. 25462; **Application for consent order granted; Penalty agreed upon:** 1 year stayed suspension, 1 year probation, \$500 fine.

**Wilber J. Maher**; Licensed Practical Nurse; Lyons, NY 14489; Lic. No. 246682; Cal. No. 25487; **Application for consent order granted; Penalty agreed upon:** 1 year stayed suspension, 1 year probation, \$500 fine.

**Mary Ella Syberg a/k/a Mary E. Sturm**; Licensed Practical Nurse, Registered Professional Nurse; Perry, NY 14530; Lic. Nos. 164010, 501065; Cal. Nos. 25525, 25526; **Application for consent order granted; Penalty agreed upon:** Indefinite actual suspension for no less than 3 months and until fit to practice, upon termination of suspension, 2 years probation to commence upon return to practice, \$500 fine payable within 6 months.

**Jessica G. Zabel**; Registered Professional Nurse; Phoenix, AZ 85019-3207; Lic. No. 548536; Cal. No. 25562; **Application for consent order granted; Penalty agreed upon:** Indefinite actual suspension until fit to practice, upon termination of suspension, 2 years probation to commence upon return to practice in State of New York, \$500 fine.

**Carrie A. Seadeek**; Licensed Practical Nurse; Williamson, NY 14589; Lic. No. 289932; Cal. No. 25571; **Application for consent order granted; Penalty agreed upon:** 1 year stayed suspension, 1 year probation, \$500 fine.

## **Physical Therapy**

**Denise Rae Price**; Physical Therapist; Spencer, NY 14883; Lic. No. 017794; Cal. No. 25411; **Application for consent order granted; Penalty agreed upon:** 2 year stayed suspension, 2 years probation, \$500 fine.

### **Public Accountancy**

**Lawrence Stephen Fischer**; Certified Public Accountant; Glen Cove, NY 11542; Lic. No. 032015; Cal. No. 25452; **Application for consent order granted; Penalty agreed upon:** Partial actual suspension in certain area until successfully complete course of retraining in said certain area, upon termination of partial actual suspension, 2 years probation, \$2,500 fine payable within 5 months.

**Michael A. Jacobson**; Certified Public Accountant; Great Neck, NY 11021; Lic. No. 034643; Cal. No. 25604; **Application for consent order granted; Penalty agreed upon:** Partial actual suspension in certain area until successfully complete course of retraining in said certain area, upon termination of partial actual suspension, 2 years probation, \$2,500 fine payable within 2 months.

### **Veterinary Medicine**

**Burton D. Miller**; Veterinarian; Huntington, NY 11746; Lic. No. 004578; Cal. No. 25450; **Application for consent order granted; Penalty agreed upon:** 2 year stayed suspension, 2 years probation, \$2,500 fine.

**Ronald J. Peters**; Veterinarian; Greenwich, NY 12834; Lic. No. 003963; Cal. No. 25498; **Application for reconsideration granted**, as set forth in Regents Review Committee report.

**Ronald J. Peters**; Veterinarian; Greenwich, NY 12834; Lic. No. 003963; Cal. No. 25612; **Application for reconsideration granted**, only to the extent of modification of penalty, as set forth in Regents Review Committee report.

### **III. RESTORATIONS**

The Board of Regents voted on May 17, 2011 to deny the petition for restoration of the physician license of Donald Werner, Norwalk, CT. Dr. Werner's license was originally surrendered July 21, 2000.

The Board of Regents voted on May 17, 2011 to deny the petition for restoration of the physician license of Abraham Sokol, Scarsdale, NY. Dr. Sokol's license was originally surrendered January 31, 1994.

The Board of Regents voted on May 17, 2011 to deny the petition for restoration of the physician license of Nicolette Francey Asselin, Sunapee, NH. Dr. Francey Asselin's license was originally revoked February 14, 2000.



The Board of Regents voted on May 17, 2011 to deny the petition for restoration of the physician license of Khaja Naseeruddin, Goshen, NY. Dr. Naseeruddin's license was originally surrendered July 25, 2000.

The Board of Regents voted on May 17, 2011 to stay the execution of the order of surrender of the physician license of P. Kithsen Dias, Roslyn, NY, to place him on probation for 5 years under specified terms and conditions, and, upon satisfactory completion of the probationary period, to fully restore his license. Dr. Dias' license was originally surrendered March 25, 2003.

The Board of Regents voted on May 17, 2011 to stay the execution of the order of revocation of the dentist license of Allen Koral, Jericho, NY, upon his satisfaction of specified conditions; upon his return to the practice of dentistry in New York, to place him on probation for a period of two years under specified terms and conditions, and, upon satisfactory completion of the probationary period, to fully restore his license. Dr. Koral's license was originally revoked February 8, 2000.

The Board of Regents voted on May 17, 2011 to deny the petition for restoration of the physician license of Rameshwar Pathak, East Patchogue, NY. Dr. Pathak's license was originally revoked June 2, 1996.

## **Think Tank Members**

Members included representatives from the following organizations:

- Alliance for Quality Education
- Boards of Cooperative Educational Services (BOCES)
- Conference of Big Five School Districts
- Council of School Supervisors & Administrators (CSA)
- Special Act Schools
- New York Charter Schools Association
- New York City Charter School Center
- New York City Department of Education
- New York State Council of School Superintendents
- New York State Parent Teacher Association
- New York State School Boards Association
- NYSUT
- School Administrators Association of New York State
- State University of New York
- United Federation of Teachers (UFT)

**Attachment 12: Key Proposed Changes to New York’s Differentiated Accountability System  
(Changes Made to Table Since January 2011 Regents Presentation are Noted in Bold)**

<b>Category</b>	<b>The Current System</b>	<b>New System After Incorporating Revisions to the ESEA Waiver Flexibility Request for Approval</b>
<p>1. Assessments and Other Academic Measures</p>	<p>New York (NY) uses the following assessments and measures to hold schools and districts accountable for student results:</p> <ul style="list-style-type: none"> <li>• Grades 3-8 English Language Arts (ELA)</li> <li>• Grades 3-8 Mathematics</li> <li>• High School ELA</li> <li>• High School Mathematics</li> <li>• Grades 4 and 8 Science</li> <li>• Four and Five Year Cohort Graduation Rates</li> </ul>	<p>New York will continue to use these same measures, although in somewhat different ways (e.g: introducing student growth measures), to hold schools and districts accountable for results.</p> <p>Over time, as new assessments are developed and the build out of the longitudinal data system allows for the collection of more complete information on certain measures of student achievement, the Regents may wish to consider including additional indicators that could include:</p> <ul style="list-style-type: none"> <li>• Value added growth models [as required by the Commissioner's Regulations 100.2(o)] when approved for existing or new State assessments.</li> <li>• New assessments in ELA in grades 9 and 10 and new middle level assessments in science and social studies (subject to fund availability).</li> <li>• New data elements or existing data elements, including: such measures as: <ul style="list-style-type: none"> <li>○ college retention and credit accumulation</li> <li>○ performance on Advanced Placement (AP)</li> <li>○ International Baccalaureate (IB)</li> <li>○ SAT and American College Testing (ACT)</li> <li>○ Other measures of college readiness; Career and Technical Education (CTE)</li> <li>○ Program completion and industry certification and</li> <li>○ High school course credit earned in middle school and college credit earned in high school.</li> </ul> </li> </ul>

**Attachment 12: Key Proposed Changes to New York’s Differentiated Accountability System  
(Changes Made to Table Since January 2011 Regents Presentation are Noted in Bold)**

<b>Category</b>	<b>The Current System</b>	<b>New System After Incorporating Revisions to the ESEA Waiver Flexibility Request for Approval</b>
<p><b>2. Definition of Proficiency for Purposes of Determining Adequate Yearly Progress in English Language Arts, Mathematics, and Science</b></p>	<p>For Grades 3-8 ELA and math: the proficiency standards established by the Regents in July 2010. These standards were based on a review of research that analyzed how the grades 3 through 8 state tests relate to the National Assessment of Educational Progress (NAEP) exam and Regents exams, how performance on the Regents exams relates to SAT scores; and how performance on the Regents exams relates to first-year performance in college.</p> <p>For Grades 4 and 8 Science Exams: Level 3, passage of a Regents exam in Science or score of Level 3 on the NYSAA (for students with severe disabilities).</p> <p>For High School ELA: Score of 65 on the Comprehensive Regents Examination in English, a designated score on an approved alternative to the Regents, or a score of Level 3 on the NYSAA (for students with severe disabilities).</p> <p>For High School Math: Score of 65 on a Regents examination in math, a designated score on an approved alternative to the Regents, or a score of Level 3 on the NYSAA (for students with severe disabilities).</p>	<p>Same</p> <p>Same</p> <p>The definition of proficiency for purposes of determining Adequate Yearly Progress will be:</p> <ul style="list-style-type: none"> <li>• The score of 75 on the Comprehensive Regents Examination in English, a designated score on an approved alternative to the Regents, or a score of Level 3 on the NYSAA (for students with severe disabilities).</li> <li>• The score of 80 on a Regents examination in math, a designated score on an approved alternative to the Regents, or a score of Level 3 on the NYSAA (for students with severe disabilities).</li> </ul> <p>In addition, the Department is working with USDE to determine if "partial" credit can be awarded to districts for students who score between 55 and 64 on Regents examinations in ELA or math or who pass Regents Competency Exams in Reading and Writing or math. Depending on these discussions and further review of data, SED</p>

**Attachment 12: Key Proposed Changes to New York’s Differentiated Accountability System  
(Changes Made to Table Since January 2011 Regents Presentation are Noted in Bold)**

<b>Category</b>	<b>The Current System</b>	<b>New System After Incorporating Revisions to the ESEA Waiver Flexibility Request for Approval</b>
		may seek to amend its application to incorporate this provision.
<p><b>3.</b> The Goals for Schools and Districts in Terms of the Assessments and Academic Measures (Annual Measurable Objectives)</p>	<p>Annual Measurable Objectives (AMO) have been established such that for Grades 3-8 ELA, Grades 3-8 math, High School ELA and High School Math, the AMO increases annually in equal increments until they reach in 2013-14 a Performance Index of 200, which requires 100 percent of students to be proficient.</p> <p>The same AMOs apply to the all student group and each subgroup.</p> <p>For grades 4 and 8 science the AMO is fixed at a Performance Index of 100.</p> <p>For Graduation Rate, the goal is 80 percent of students achieve a local or Regents diploma within five years of first entry into Grade 9.</p>	<p>The baseline for 2010-11 school year performance for grades 3-8 ELA and math will be reset to reflect the incorporation of student growth into the Performance Index.</p> <p>The baseline for 2010-11 school year performance for high school ELA and math will be reset to reflect the use of the higher aspirational goals on Regents examinations as the cut scores for proficiency.</p> <p>Once the revised baselines are calculated for grades 3-8 and high school ELA and math, New York will increase Annual Measurable Objectives (AMOs) for these measures and grades 4 and 8 Science in annual equal increments toward the goal of reducing by half, within six years, the gap between the Performance Index for the “all students” group and each subgroup in 2010-11 and a Performance Index of 200.</p> <p>Same.</p>
<p><b>4.</b> The Categorization of Schools and Districts Along a Continuum of Accountability</p>	<p>Schools are categorized as either in Good Standing, Improvement, Corrective Action, or Restructuring based upon whether they achieve Adequate Yearly Progress (AYP) on state assessments. Districts are similarly identified as</p>	<p>New York will identify, reward, and provide interventions, incentives and supports to Reward Schools, Priority Schools, and Focus Districts and Schools using a methodology that rank orders schools by a mathematical formula to be prescribed the Commissioner, as approved by the Board of Regents.</p>

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	<p>in Good Standing, Improvement or Corrective Action based on their history of making AYP.</p> <ul style="list-style-type: none"> <li>• Schools that fail to make AYP for two consecutive years in the same measure lose their status of Good Standing in that measure. Schools not in Good Standing must make AYP for two consecutive years in the same measure in which they failed to regain their status of Good Standing.</li> <li>• Districts that fail to make AYP for two consecutive years for the same subject lose their status of Good Standing in that subject. Districts not in Good Standing must make AYP for two consecutive years in the same subject in which they failed to regain their status of Good Standing.</li> </ul>	<p>A Focus District will be required to identify the schools upon which it will focus its support and intervention efforts. Each Priority School may be further identified as a School Under Registration Review (SURR).</p> <p>Districts will be required to prepare Local Assistance Plans to support schools within the district that show a persistent pattern of failing to make AYP with a particular student population or which have large gaps in student achievement between one or more student subgroups, but which are not designated Priority or Focus Schools. The plans must be posted to the district’s website. Focus districts will incorporate their plan for these schools into their District Comprehensive Education Plan in lieu of doing a separate Local Assistance Plan.</p>

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<p><b>5.</b> The Determination and Role of Adequate Yearly Progress (AYP)</p>	<p>In order to make AYP, schools and districts are required to achieve their Effective Annual Measurable Objectives or make Safe Harbor, and demonstrate the required participation rate on state assessments for each disaggregated group on each measure for which the school is accountable.</p>	<p>New York will determine AYP in a similar manner as currently required under NCLB, with a focus on the academic achievement of the current NCLB subgroups. As in the past, in order to make AYP, schools will continue to be required to achieve their EAMO or make Safe Harbor, and demonstrate the required participation rate on state assessments for each sub group on each measure for which the school is accountable. However, New York will eliminate the requirement that in order to make Safe Harbor in grades 3-8 ELA or math an accountability group must also make AYP with that group in science, as well as the requirements that to make Safe Harbor for high school ELA or math, an accountability group must also make AYP with that group for graduation rate.</p> <p>New York will continue to report AYP results for all accountability groups at the school and district level. The use of AYP will be limited to being one of the indicators in determining Reward Schools and in determining whether specific schools that do not fall into the Focus or Priority groups must complete a Local Assistance Plan.</p>
<p><b>6.</b> The Role of Growth Measures</p>	<p>Student growth is currently not used to determine school and district classifications.</p>	<p>New York State will incorporate growth into the Accountability system in two ways:</p> <ul style="list-style-type: none"> <li>• For Grades 4-8 ELA and mathematics, schools and districts will be given credit in the computation of their Performance Index for each student who is on track towards meeting proficiency based on the student's academic growth between administrations of State assessments. Schools and districts will get "full credit" for any student who is proficient or is on track to become proficient within a prescribed time period.</li> <li>• New York will use a comparative growth measure as part of the process of determining the identification of schools and districts for Reward, Focus, and Priority status. If schools or districts that would otherwise be given Priority or Focus designation demonstrate</li> </ul>

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		<p>median Student Growth Percentiles that above the State median in ELA and mathematics combined for the 2009-10 and 2010-11 school years combined they will not be so designated. Conversely, schools that otherwise would be categorized as Reward Schools, but that fail to demonstrate median Student Growth Percentiles at least equal to the State median in both ELA and mathematics for two consecutive years will not be so designated. Detailed Information about the growth model can be found in a technical appendix to the ESEA waiver request.</p>
<p><b>7. The Identification of Priority Schools</b></p>	<p>Identification of Priority Schools is not a part of New York State’s accountability system.</p>	<p>First, New York will identify the 75 schools that were awarded a 1003(g) School Improvements Grant in the 2011-12 school year.</p> <p>Second, New York will identify high schools that have had graduation rates below 60 percent for three consecutive years on the 2004, 2005, and 2006 high school graduation cohorts.</p> <p>Third, New York will identify schools that are among the lowest achieving in the State in ELA and math combined for the all students group and that have failed to demonstrate progress over a number of years.</p> <p>Elementary and middle schools that have a combined Performance Index in ELA and mathematics of 111 and below and high schools that have a combined Performance Index in ELA and math of 106 or below in the 2010-11 school year will be considered among the lowest achieving in the State.</p> <p>An elementary or middle school will be considered to have failed to show progress if:</p> <ul style="list-style-type: none"> <li>• the school is in improvement, corrective action or restructuring in</li> </ul>



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		<p>the 2011-12 school year;</p> <ul style="list-style-type: none"> <li>• the school has made ten point or less gain in its 2010-11 Performance Index compared to its 2009-10 Performance Index;</li> <li>• the school's combined median student growth percentile in ELA and math for the 2009-2010 and 2010-11 school years combined is at or below 50%; and</li> <li>• the majority of subgroups in the school did not have 2010-2011 SGP's that exceeded the statewide median SGP for that subgroup.</li> </ul> <p>A high school will be considered to have failed to show progress if:</p> <ul style="list-style-type: none"> <li>• the school is in improvement, corrective action or restructuring in the 2011-12 school year; and</li> <li>• the school has made less than a four point or less gain in its 2010-11 Performance Index compared to its 2009-10 Performance Index;</li> </ul> <p>For Transfer high schools, New York State will use the higher of the combined Performance Index using the regular and the transfer high school cohort definitions.</p> <p>At least 5 percent of the public schools in the State will be identified as Priority Schools. If necessary, additional schools will be identified to ensure that at least five percent of the Title I schools in the State are identified as priority schools.</p> <p>Schools in Special Acts School Districts will only be identified as priority schools if they have also been identified for Registration Review as a</p>

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		<p>Poor Learning Environment.</p> <p>Before identifying a transfer high school as a priority school the Commissioner will review the performance of the school on a case-by-case basis, giving careful consideration to the mission of a particular school, student performance, and the intent of the priority school requirements</p> <p>In addition schools that are not currently implementing a school improvement grant and that are in the process of closing will not be identified as priority schools.</p>
<p><b>8.</b> The Identification of Focus Schools</p>	<p>Identification of Focus Schools is not a part of New York State’s accountability system.</p>	<p>New York State identifies Focus Schools in a two-stage process under which the Commissioner will first identify the districts with the lowest-performing subgroups as Focus Districts and the districts, in turn, would, with the Commissioner's approval, identify at least a specified minimum number of Focus Schools within the district.</p> <p>Focus Districts are those whose combined Performance Index in English language arts and mathematics for Grades 3-8 and high school ELA and mathematics or high school graduation rate places the district among the lowest five percent of districts in the State for that subgroup of students. In addition any District that has a Title I or Title I eligible secondary school that is a Priority School will also be automatically identified as a Focus District, except that Special Act school districts will only be identified as a Focus District based upon whether the district has a Priority School. Once identified, a Focus District will then be required to identify a specified minimum number of schools upon which it will focus its support and intervention efforts based on similar criteria. The total of the minimum targets of schools that Focus Districts must identify will equal at least ten percent of the schools in the State, exclusive of those already identified as Priority Schools. If the number of Title I schools identified by districts as Focus Schools does not equal ten percent of Title I schools, the</p>

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		<p>Commissioner will expand the minimum number of schools that a district must identify.</p> <p>New York State plans to identify a district as a Focus District if any of its student subgroups have a combined ELA and mathematics Performance Index that places the subgroup among the lowest five percent in the State for racial/ethnic subgroups, low-income students, students with disabilities, or English language learners. A district will not be identified for that subgroup's performance if that subgroup has a graduation rate above the State average on the four year graduation cohort and the group's median Student Growth Percentile in ELA and mathematics has been above the combined Statewide Median Growth Percentile for that group in the past two years combined. For purposes of identification of Focus Districts, each of New York City's 32 community school districts will be treated as a separate district. In addition to identifying ten percent of districts as Focus Districts, the Commissioner will identify those charter schools that are at or below the established Performance Index and graduation rate cut points ( ten percent of state's charter schools, both Title I and non-Title I) in the State as Focus Schools.</p> <p>When a district is identified as a Focus District, all of the schools in the district are preliminarily identified as Focus Schools. The Focus District may either choose to provide support to all of its schools to address the performance of subgroup(s) on the accountability measure(s) that caused the district to be identified, or the District may choose to identify a subset of schools as Focus Schools. If the district chooses the latter option, the district must use the rank order lists provided by the Commissioner based on the number or the percentage of students who are not proficient in ELA or mathematics in the subgroup(s) that caused the district to be identified, and then use that rank ordered list to identify the minimum, required number of Focus Schools. If a district believes there are</p>

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		<p>extraordinary circumstances and that a school should not be identified as a Focus School, the district may seek permission from the Commissioner to identify a school with higher subgroup performance than the school with special circumstances.</p> <p>Special rules apply if a district is identified as a Focus District because it has a Priority School but is not identified for the performance of a subgroup. In those districts, schools that are performing below the threshold for Focus District identification for a subgroup will be identified as Focus Schools.</p> <p>The number of schools that a Focus District must identify will be based upon the number of students enrolled in the district who are members of subgroups whose results caused the district to be identified, and the performance of these subgroups on ELA and mathematics assessments. The total, minimum number of schools that the Commissioner will require that districts identify will be equal to at least ten percent of the Title I public schools in the State.</p>
<p><b>9.</b> The Identification of Reward Schools</p>	<p>New York identifies a school as high performing if the “all students” group achieves all applicable State standards, and the school makes AYP on applicable performance measures. A school can be identified as rapidly improving, if the school makes AYP on applicable performance measures and the school demonstrates a specified amount of improvement.</p> <p>There is currently no reward for these schools beyond their posting to SED’s website.</p>	<p>New York will identify Reward Schools in a significantly more rigorous way than previously done for high performing schools.</p> <p>New York will identify Reward Schools in a significantly more rigorous way than previously done for high performing schools.</p> <p>At the elementary and middle level, New York will use the following criteria to designate a school as highest performing:</p> <ul style="list-style-type: none"> <li>• the school’s combined ELA and mathematics Performance Index places it among the top twenty percent in the State for each of the past two years;</li> <li>• the school has made AYP with all groups and all measures for</li> </ul>

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		<p>which it is accountable for each of the past two years;</p> <ul style="list-style-type: none"> <li>• the school's student growth percentile for the past two years in ELA and mathematics exceeds fifty percent;</li> <li>• the school's student growth percentile for ELA and mathematics in the most recent year for its bottom quartile of students, as measured by their student growth percentile in the previous year, exceeds fifty percent in the current year; and,</li> <li>• the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of the subgroup.</li> </ul> <p>At the high school level, a school will be considered highest performing, if all of the following conditions are met:</p> <ul style="list-style-type: none"> <li>• the school's combined ELA and mathematics Performance Index places it among the top twenty percent in the State for each of the past two years;</li> <li>• the school has made AYP with all groups on all measures for which it is accountable for each of the past two years;</li> <li>• the percentage of students who graduated with a Regents diploma equals or exceeds 80 percent and the percentage of students who have graduated with a Regents diploma with advanced designation or CTE endorsement exceeds the State average;</li> <li>• the percentage of the students who scored Level 1 or Level 2 on an ELA or mathematics exam in Grade 8 who subsequently</li> </ul>

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		<p>graduated within four years of first entry in Grade 9 equaled or exceeded the State average for these students; and</p> <ul style="list-style-type: none"> <li>• the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of the subgroup.</li> </ul> <p>At the elementary and middle levels, a school will be considered a high progress school, if all of the following conditions are met:</p> <ul style="list-style-type: none"> <li>• the school's combined ELA and mathematics Performance Index places it among the top ten percent in the State in terms of gains between the most recent assessment data and the data from the previous year;</li> <li>• the school has made AYP with all groups and all measures for which it is held accountable for each of the past two years;</li> <li>• the school's student growth percentile for the past two years in ELA and mathematics exceeds 50 percent;</li> <li>• the school's student growth percentile for ELA and mathematics in the most recent year for its bottom quartile of students, as measured by their student growth percentile in the previous year, exceeds fifty percent in the current year; and,</li> <li>• the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of the subgroup.</li> </ul> <p>At the high school level, a school will be considered high progress if all of</p>

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		<p>the following conditions are met:</p> <ul style="list-style-type: none"> <li>• the school's combined ELA and mathematics Performance Index places it among the top ten percent in the State in terms of gains between the most recent assessment data and the data from the previous year;</li> <li>• the school has made AYP with all groups for which it is accountable for each of the past two years;</li> <li>• the percentage of students who graduated with a Regents diploma equals or exceeds 60 percent and the percentage of students who have graduated with a Regents diploma with advanced designation or CTE endorsement exceeds the State average;</li> <li>• the percentage of the students who scored Level 1 or Level 2 on an ELA or mathematics exam in Grade 8 who subsequently graduated within four years of first entry in Grade 9 exceeded the State average for these students; and,</li> <li>• the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of the subgroup.</li> </ul> <p>Reward Schools will be:</p> <ul style="list-style-type: none"> <li>• identified annually and be publicly recognized with a press release and a posting of the list to the Department’s website.</li> <li>• eligible to compete for a Commissioner's Schools Dissemination Grant of up to \$100,000, which is currently funded through the RTTT initiative.</li> </ul>

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		<ul style="list-style-type: none"> <li>• a potential factor beginning in the 2012-13 school year in determining which districts receive District Performance Improvement Award Grants.</li> </ul> <p>After consultation with representatives of Reward Schools, a process will be recommended to the Regents by which Reward Schools may seek expedited variances from certain provisions of Commissioner's Regulations.</p>
<p><b>10.</b> The Diagnostic Reviews to be Conducted in Identified Schools and Districts</p>	<p>New York conducts a School Quality Review (SQR), Joint Intervention Team (JIT) or an External School Curriculum Audit (ESCA) site visit, based on the accountability status of a school or district. Each type of visit requires a different review protocol with a separate corresponding diagnostic tool.</p>	<p>New York will use a single diagnostic tool (the Diagnostic Tool for School and District Effectiveness) closely aligned to implementation of the key components of the Regents’ Reform Agenda, for use in all identified schools.</p> <ul style="list-style-type: none"> <li>• The single diagnostic tool will allow for focus–driven visits, repeated to see if benchmarks are achieved.</li> <li>• School Quality Review Teams will conduct diagnostic reviews in Focus Districts, which will include visits to a sample of Focus Schools within the district.</li> <li>• In districts that are required to develop a Local Assistance Plan for specified schools, the district will be expected to use the diagnostic tool to inform the development of its plans.</li> <li>• The intent is that Department staff and/or designated representatives will make regular visits using the single diagnostic tool to determine the progress that schools and districts are making in implementing their plans and improving educational results.</li> <li>• A key purpose of the diagnostic is to measure the degree to which there is a strong delivery chain from the State to the district to the school leadership to support the implementation of the key elements of the Regents’ Reform Agenda in the classroom. The Diagnostic Tool will build upon steps the Department has already taken to align the Accountability Systems under NCLB (Title I AYP), Title III (Annual</li> </ul>



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		<p>Measurement Achievement Objectives [AMAOs]), and the Individuals with Disabilities Education Act (IDEA). In particular the Department has worked to integrate the Special Education Quality Improvement Plan (QIP) process with SQR and JIT reviews when the performance of students with disabilities contributed to the identification of a school for improvement.</p>
<p><b>11. The Required Plans for Identified Schools and Districts</b></p>	<p>New York State’s accountability system includes the following required plans for identified schools and districts:</p> <ul style="list-style-type: none"> <li>• Professional Development Plan</li> <li>• School Improvement Plan</li> <li>• Local Assistance Plan</li> <li>• Professional Performance Review</li> <li>• Corrective Action Plan</li> <li>• Restructuring Plan</li> <li>• District Improvement Plan (for non Title I districts)</li> <li>• Improvement Plan</li> <li>• Comprehensive Education Plan</li> </ul>	<p>New York will require schools and districts to develop the following plans:</p> <ul style="list-style-type: none"> <li>• Priority Schools will be required to develop a plan that either implements one of the four Federal SIG intervention models as part of a whole school reform model and in cooperation with partner organizations; or that implements all ESEA waiver Turnaround Principles as part of a whole school reform model in collaboration with partner organizations. The plan must be approved by the board of education and posted to the district’s website.</li> <li>• A district with one or more Focus Schools must develop a District Comprehensive Improvement Plan for these schools. This plan must be informed by the recommendations of the School Quality Review or Joint Intervention Team visit (i.e. Integrated Intervention Team) and must identify the programs and services that will be provided to schools from the list promulgated by the Commissioner. School leadership, staff, parents, and students, if appropriate, must have a meaningful opportunity to participate in the development of the plan and comment upon it before it is approved. The plan must be approved by the school board and posted to the district’s website. A Focus District will incorporate into its plan the actions it will take with any school that requires a Local Assistance Plan.</li> </ul> <p>A district that does not have any Priority or Focus Schools, but instead has schools that have persistently failed to make AYP with one or more subgroup(s) on an accountability measure, have low performance for one or more subgroups, or that have large gaps in student achievement</p>

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		<p>among subgroups will be required to develop a Local Assistance Plan for these schools. The Local Assistance Plan shall specify:</p> <ul style="list-style-type: none"> <li>• the process, by which the plan was developed and how school leadership, staff, parents, and students, if appropriate, were given meaningful opportunities to participate in the development of the plan;</li> <li>• the additional resources and professional development that will be provided to LAP Schools to support implementation of the plan;</li> <li>• the timeline for implementation of the plan;</li> </ul> <p>The plan must be approved by the board of education of the district and posted to the district’s website.</p>
<p><b>12.</b> The Requirements for Public School Choice</p>	<p>Title I, Part A, Section 1116 (E) of the federal No Child Left Behind legislation requires an LEA with Title I schools identified in need of improvement (Year 2), corrective action or restructuring to provide all students enrolled in those schools with the option to transfer to another public school served by the LEA that has not been identified for school improvement.</p>	<p>New York will require districts to continue offering public school choice for students attending either Title I Priority or Focus Schools. New York will consider advancing legislation to expand choice options to include BOCES programs (offered by a consolidated group of districts).</p>
<p><b>13.</b> The Requirements for Districts that Offer Supplemental Educational Services (SES)</p>	<p>New York currently supports Supplemental Educational Services (SES) as defined in the federal No Child Left Behind Act (NCLB). Under NCLB, districts are responsible for notifying parents of eligible students in Title I schools identified for improvement, corrective action or restructuring that their children are eligible for supplemental educational services (including tutoring) from a provider on the New York State’s</p>	<p>New York will not require districts to offer SES or set aside a portion of their Title I allocation to pay for SES. However, districts can choose to offer SES and pay for the services using Title I funds.</p> <p>In order to support districts that choose to continue to provide SES, New York will require all SES providers to reapply for state approval. New York will evaluate whether the SES providers’ programs are aligned with the common core standards. Districts that wish to offer SES will be allowed to determine the providers that parents in their district may</p>

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	list of approved providers. Districts are required to pay for these SES services up to an amount equal to 20 percent of the District’s basic Title I grant.	select.
<p><b>14.</b> The Changes to the Current Set-Aside Requirements Under ESEA</p>	<p>Districts are required to set aside a percentage of their Title I allocation for SES and Public School Choice (20 percent); professional development at identified schools (10 percent); and for parent involvement activities (1 percent).</p>	<p>New York will eliminate the previous rules for set-asides and replace them with new set-asides. The new rules include the following:</p> <ul style="list-style-type: none"> <li>• Districts will set aside between 5 percent and 15 percent of an amount equal to their base Title I; Title IIA; and Title III allocations, if identified for the performance of their English language learners based on student enrollment in Priority and Focus Schools to provide state approved programs and services in these schools.</li> <li>• Districts will set aside an amount equal to a percentage of their total Title I allocation, based on student enrollment in Priority and Focus Schools, for parent involvement and engagement activities. The plans for this set-aside must be made in collaboration with district parent organization leadership.</li> </ul>
<p><b>15.</b> Logistics for Schools Under Registration Review (SURR) and Provisions of the Enhanced Accountability System</p>	<p>Currently, Education Law §211-b requires the assignment of School Quality Review and Joint Intervention Teams to schools in accountability status and the expansion of the Schools Under Registration Review process. The law also requires that District Improvement Plans be created under certain conditions and gives the Commissioner the authority in certain circumstances to appoint a Distinguished Educator to certain schools and districts.</p>	<p>New York’s schools and districts will no longer be identified using the specific categories of improvement, corrective action, or restructuring. New York will use the following system to ensure compliance:</p> <ul style="list-style-type: none"> <li>• Schools Under Registration Review will be a subset of Priority Schools; School Quality Review Teams will be assigned to Focus Districts; and Joint Intervention Teams will conduct visits to Priority Schools using the new diagnostic tool.</li> <li>• Districts that have Focus Schools will submit a District Improvement Plan that proposes a district-based approach to supporting these schools.</li> </ul> <p>As appropriate, the Commissioner will assign Distinguished Educators to</p>

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		support Focus Districts or Priority Schools.
<p><b>16.</b> Applying for the optional Waiver Which Permits Expanded Learning Time , and Additional Activities During the School Day and Non-school Hours</p>	Not applicable	<p>New York will apply for this optional waiver and incorporate it into the next grant round for this program. The Request for Proposal developed for this next grant round should be informed by legislation under consideration by the United States Senate that calls for comprehensive school redesign. The Request for Proposal will allow additional hours of learning time as well as additional collaborative planning time and professional development for teachers and community partners who provide expanded learning in core academic subjects for 21<sup>st</sup> Century Community Learning Center program recipients. The next 21st CCLC Request for Proposal will allow a range of models and approaches, provided that any specific model a school, community, or district considers for implementation embodies the research-based principles of exemplary expanded learning opportunities that improve students’ academic, social, and emotional outcomes. Within that framework, the Request For Proposal will allow additional hours of learning time as well as additional collaborative planning time and professional development for teachers and community partners who provide expanded learning for 21st Century Community Learning Center program recipients.<sup>1</sup> Proposed program models will be directly related to the three tenets of 21<sup>st</sup> CCLC programming: academic enrichment, youth development and family literacy/engagement.</p>

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**Regents Task Force Meetings  
2010-2012**

<b>2010</b>	<b>2011</b>	<b>2012</b>
September 14	January 11	January 11
October 19	February 8	March 21
November 16	March 8	June 7
December 14	March 23	
	April 4	
	May 17	
	October 27	

## Attachment 14 - Teaching Standards Workgroup (Participants and Meeting Schedule)

<b>NYS Teaching Standards Workgroup</b>		
<b>First Name</b>	<b>Last Name</b>	<b>Affiliation</b>
Ann	Sanzone	Big 5 Conference
Beth	Peller	CSA
Joan	Lucariello	CUNY
Vito	Borrello	EPIC
James	Cibulka	NCATE
Kathleen	DaBoll-Lavoie	NYACTE
Kirsten	Busch-Johnson	NYCDOE
Dan	White	NYS District Supt.
Rick	Longhurst	NYS PTA
Andrew	Bodden	NYS School Boards Association
Julius	Adams	NYSATE
Colleen	Corsi	NYSCEA
Grace	Wilkie	NYSCEA
Phyllis	Glassman	NYSCOSS
Elena	Bruno	NYSED
Lisa	Luderman	NYSED
Alysan	Slighter	NYSED
Richard	Gervais	NYSED OCUE
Pedro	Ruiz	NYSED Off of Bilingual Ed
Kin	Chee	NYSED Off of Bilingual Ed
Anthony	Jaacks	NYSED Office of Curr & Inst
Barbara	Downs	NYSED OHE
Robert	Bentley	NYSED OTI
Patricia	Oleaga-Gill	NYSED OTI
Marybeth	Casey	NYSED P-12 Curr/Inst
Suzanne	Corey	NYSED VESID
Sandra	Cote	NYSED VESID
Cynthia	Gallagher	NYSED/ECE
Kim	Santiago-Armenia	NYSED/ECE
Doris	Hill-Wyley	NYSED-ECE
Anne	DeFiglio	NYSED-Off of Teacher Quality
Alysan	Slighter	NYSED-Off of Teacher Quality
Cathy	Corbo	NYSUT Innovation Initiative
Mike	Bakatsias	NYSUT Innovation Initiative
Carolyn	Williams	NYSUT Innovation Initiative
Maria	Cady	NYSUT Innovation Initiative
Debra	Clinton	NYSUT Innovation Initiative
James	Grove	NYSUT Innovation Initiative
Colleen	O'Connor	NYSUT Innovation Initiative
Katherine	Schadewald	NYSUT Innovation Initiative
Linda	Rudnick	NYSUT Innovation Initiative
Claudine	Selzer	NYSUT Innovation Initiative
Joanna	Valente Orr	SAANYS
Laurie	Hedges	SCDN
Allison	Cugini	SPSPB
Gale	Sookdeo	SPSPB
Pamela	Sandoval	SUNY
Mark	LaCelle-Peterson	Teacher Education Accreditation Council and NCATE
Drey	Martone	The College of St Rose
Lori	Quigley	The Sage Colleges
Catalina	Fortino	UFT
Phyllis	Walker	UFT

### The Development of the NYS Teaching Standards

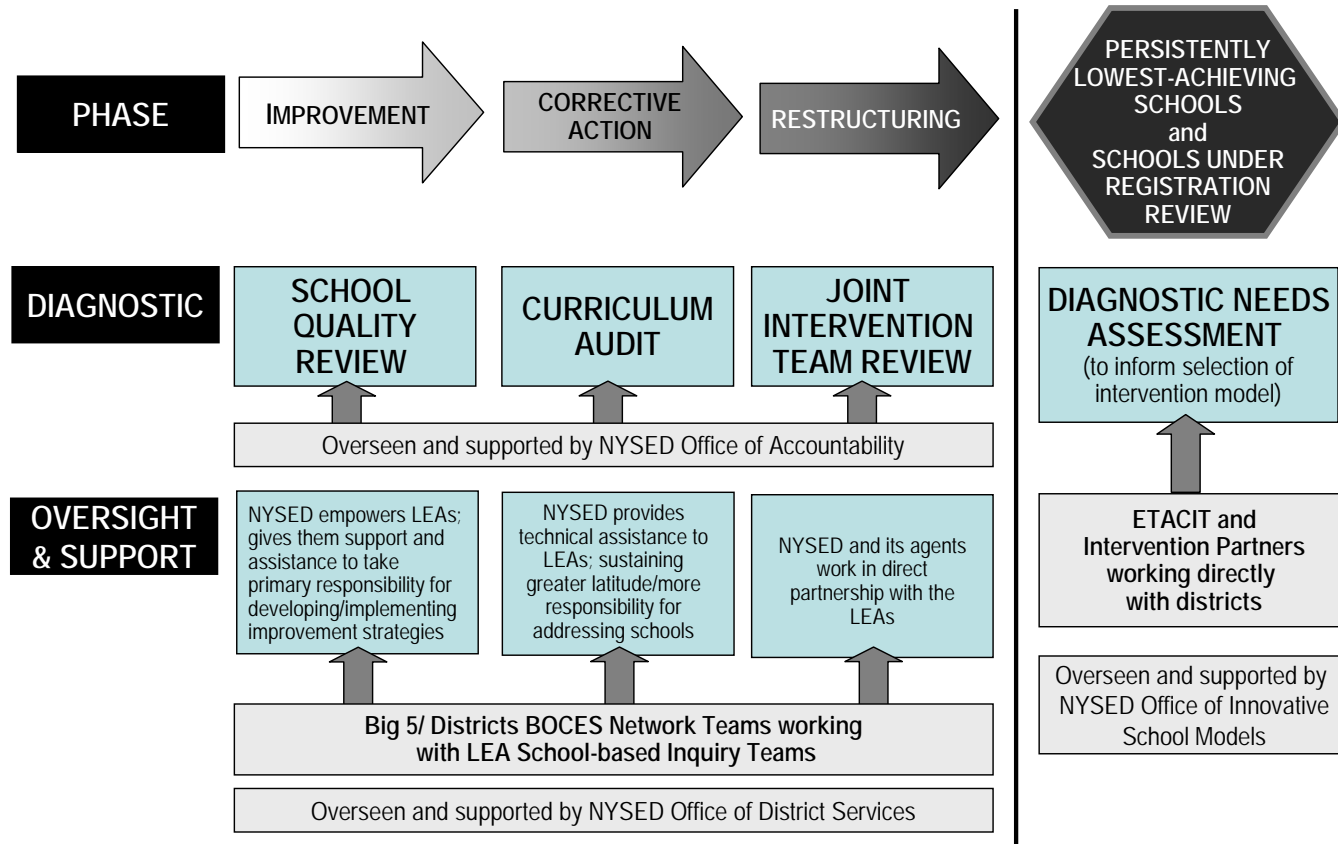
Meeting Date	Location
November and December 2009 BoR discuss development of NYS Teaching Standards	
Jan- April Department Research TS	
April BoR Item on TS	
First TS Workgroup meeting May 26 & 27, 2010	NYSED
June 8, 2010	Malta
July 12, 2010	Malta
7/21/2010 Released First Draft for comment	
8/16/2010 End of first comment period	
August 24 & 25, 2010	Malta
August 31 & September 1, 2010	Malta
September 9, 2010 Sub-group mtg	SED
September 20 and 21, 2010	Webinars
October BoR Discussion	
October TS Survey developed	
NYSUT Comments on Survey Instrument 11/2/2010	
11/17/2010 Release of Second Draft for comment	
12/14/2010 End of Second Comment Period	
12/11/2010 Sub-group meeting	
12/20/2010 Full group meeting	Illuminate Session
1/11/11 Regents Adopt NYS TS	

TEACHER/LEADER QUALITY PARTNERSHIP PROGRAM: EDUCATIONAL LEADERSHIP PROGRAM  
MEETING SCHEDULE 2008-2009

Meeting dates	Attendees	Affiliation
11/08	Joseph Frey Stan Hansen Robert B. McClure Richard Rose	NYSED Deputy Commissioner OHE NYSED Executive Director OHE Wallace Foundation NYSED Associate in Higher Education
12/08	Stan Hansen Robert B. McClure Richard Rose David Lovell	NYSED Executive Director OHE Wallace Foundation NYSED Associate in Higher Education NYSED Assistant in Higher Education, TEACHER/LEADER QUALITY PARTNERSHIP PROGRAM Program Coordinator
12/08	Stan Hansen Robert B. McClure Richard Rose David Lovell	NYSED Executive Director OHE Wallace Foundation NYSED Associate in Higher Education NYSED Assistant in Higher Education, TEACHER/LEADER QUALITY PARTNERSHIP PROGRAM Program Coordinator
01/09	Stan Hansen Robert B. McClure Richard Rose David Lovell	NYSED Executive Director OHE Wallace Foundation NYSED Associate in Higher Education NYSED Assistant in Higher Education, TEACHER/LEADER QUALITY PARTNERSHIP PROGRAM Program Coordinator
02/09	Stan Hansen Robert B. McClure Richard Rose David Lovell  Kathleen Clarity	NYSED Executive Director OHE Wallace Foundation NYSED Associate in Higher Education NYSED Assistant in Higher Education, TEACHER/LEADER QUALITY PARTNERSHIP PROGRAM Program Coordinator NYSED Supervisor OHE
03/09	Stan Hansen Robert B. McClure Richard Rose David Lovell  Kathleen Clarity	NYSED Executive Director OHE Wallace Foundation NYSED Associate in Higher Education NYSED Assistant in Higher Education, TEACHER/LEADER QUALITY PARTNERSHIP PROGRAM Program Coordinator NYSED Supervisor OHE



### DIFFERENTIATED ACCOUNTABILITY MODEL



New York identified Focus schools based on the following factors as defined in the ESEA waiver guidance:

- Title I schools with the lowest achievement of the subgroups in terms of proficiency on the statewide assessments that are part of the state's differentiated recognition, accountability and support system.
- Title I high schools with the lowest graduation rate for subgroups

New York has identified focus schools using a two-stage process. The state first identified focus districts and charters that have the lowest achieving subgroups for performance index (PI) and graduation rate (GR). The state will then provide the districts with a list of focus schools that have the lowest achieving groups in PI and graduation rate. The goal is to identify 10 percent (350) of Title I schools.

The criteria used to identify the Focus districts, Focus charter schools and Focus schools are described below:

A. District identification based on PI

1. For each district, the combined 2010-11 Performance Index (PI) of ELA and Math for the elementary-middle (EM) and secondary levels for each subgroup for which it is accountable is determined. If a district has only EM level, then the combined PI will be only for the EM level and vice versa.
2. The group's combined 2009-10 and 2010-11 ELA and Math SGP is determined. If the SGP is above the combined 2009-10 and 2010-11 state average then the group is removed from those for which the district can be identified as a Focus District.

*Example:*

- District A is accountable for Black, Hispanic and Economically Disadvantaged (ED) groups. The combined 2009-10 and 2010-11 ELA and Math SGP for Black students is 42, Hispanic students is 47, and ED students is 48. The state average SGP is 43, 47 and 47 respectively.
  - The ED group's SGP is above the state average therefore the group's PI will be removed from identification. District A can now be identified only for the Black and Hispanic groups.
3. If the group's 2006 4-year cohort graduation rate is above the state average, then the group is removed from those for which the district can be identified as a Focus District.

*Example:*

- District B's 2006 4-year graduation rate for Black students is 51, Asian students is 72 and White students is 87. The state average is 58, 83 and 84, respectively. The White group's GR is above the state average and therefore the group will be removed for which the district can be identified. District B can now be identified only for the Black and Asian groups.

4. The lowest performing racial/ethnic subgroup (American Indian, Asian, Black, Hispanic, White, and multi-racial) will be used to determine whether a district is identified for a racial/ethnic subgroup.

*Example:*

- District A has combined 2010-11 Asian PI of 120, Black PI of 100, Hispanic PI of 110, and White PI of 130. The race/ethnicity PI for District A will be 100 (minimum PI amongst all the groups).
5. Determine the statewide 5% count of districts for Students with Disabilities (SWD), Limited English Proficient (LEP), ED, race/ethnicity group based on PI. The counts are based on the total number of accountable groups – without removing any group for reasons stated in steps 2 and 3.

*Example:*

- There are a total of 631 districts with an accountable SWD group either for EM or secondary level in the state. 5% of 631 is 32. This is the count of low-achieving districts that needs to be identified for PI for SWD group.
6. For the SWD group sort the PI in descending order. From the bottom count the required number.

*Example:* Select the bottom 32 districts for the SWD group. These 32 districts are identified for their SWD group. If there is a tie in the PI representing the highest count, that is, if there are two districts with the same PI as the 32<sup>nd</sup> district, then include the 33<sup>rd</sup> district also in the count.

7. Repeat step 6 for the LEP, ED and race/ethnicity groups.
8. If any of the groups American Indian, Asian, Black, Hispanic, White, or multi-racial has a PI equal to or less than the 5% race/ethnicity group's PI, then that group will be identified.

*Example:*

- Statewide there are 705 districts with an accountable race/ethnicity group. 5% of 705 is 35. The race/ethnicity PI is sorted in descending order and the bottom 35 districts are selected. The race/ethnicity minimum PI for the 35<sup>th</sup> district is 111.
- Any district that has a race or ethnicity group with a PI of 111 or less will be identified for that group. District C with Asian 112, Black 115, Hispanic 111 and White 110 will be identified for the Hispanic and White groups.

**B. District identification based on Graduation Rate (GR)**

9. All the districts with their 2006 4-yr GR for each accountable group is listed. For the groups where the GR is above the state average the group is removed from consideration as a group for which the district can be identified as a Focus District.

*Example:*

- District D has a 2006 4-year SWD GR of 47, Hispanic GR of 59 and LEP GR of 38. The state average is 44, 57 and 40, respectively.
- The SWD and Hispanic graduation rates are above the state average and therefore the groups will be removed from identification. The district can only be identified for the LEP group.

10. For districts that were not identified by the PI methodology, if the group's 2006 5 year GR is above the state average, then the group will be removed from those for which the district can be identified for graduation rate.

*Example:*

- District E was not identified as a focus district for PI. It is accountable for the Black, LEP and ED groups.
- The Black 2006 5-year GR is above the state average and therefore the group is removed from identification. The district can now be identified only for the LEP and ED groups.

11. For districts that were not identified by the PI methodology, if the group's gain in GR from the 2004 4 year graduation rate cohort to 2006 4 year graduation rate is 10 percent or more, then the group will be removed from those for which the district can be identified.

*Example:*

- District F was not identified as a focus district for PI. It is accountable for the ED group. The group's 2004 4 year GR was 20% and the 2006 4 year GR is 35%.
- The group made a 15% gain and is therefore removed from those for which the district can be identified. The district is now not identifiable for any groups.

12. For each district, the minimum GR for the race/ethnicity group is determined using the process described in Step 4

13. Determine the statewide 5% district counts for Students with Disabilities (SWD), Limited English Proficient (LEP), ED, the race/ethnicity group based on GR. The counts are based on the total number of accountable groups – without removing any group for reasons stated in steps 9, 10 and 11 above.

*Example:* There are a total of 259 districts with an accountable SWD group for GR in the state. 5% of 259 is 13. This is the count of low achieving districts that needs to be identified for GR for SWD group.

14. For the SWD group sort the GR in descending order. From the bottom count the required number.

15. Repeat step 14 for the LEP, ED and race/ethnicity groups.
16. If any of the groups American Indian, Asian, Black, Hispanic, White, or multi-racial has a GR equal to or less than the 5% race/ethnicity group's GR, then that group will be identified.

*Example:*

- Statewide there are 663 districts with an accountable race/ethnicity group. 5% of 663 is 33. The race/ethnicity GR is sorted in descending order and the bottom 33 districts are selected. The race/ethnicity minimum GR for the 33<sup>rd</sup> district is 54.
  - Any district that has a race or ethnicity group with a GR of 54 or less will be identified for that group. District G with Asian 53, Black 52, Hispanic 51 and White 59 will be identified for the Asian, Black and Hispanic groups.
17. Districts are identified as Focus Districts if any group is identified either through the PI or GR methodology.
  18. Special Act Districts are identified only if they have priority schools.
  19. Districts with Priority schools automatically becomes Focus Districts.

C. Focus school identification

20. All the schools are listed in the Focus districts. Priority and closing schools are then removed from the list.
21. For each school, the non-proficient students for the identified groups are determined. If a student belongs to two or more groups then the student will be counted in each group of which they are a member.

*Example:* District H is identified for the Black and ED groups for PI. All the schools in the district are listed. For each school, the non-proficient students for Black and ED groups for elementary-middle and secondary levels are summed up. Thus a student who is Black but not ED will be counted once, a student who is ED but not Black will be counted once, and a student who is both Black and ED will be counted twice.

22. Schools with non proficient student results of less than 15 or in which all identified groups have more than 60% of students proficient are removed.
23. The cumulative count of non-proficient students for the district is determined.
24. For each school, the non-graduate students for the identified groups are determined. If a student belongs to two groups then the student will be counted twice, three groups then counted thrice etc.

Attachment 17: Focus District and Charter School Identification Technical Documentation

*Example:* District I is identified for the SWD and LEP groups for GR. All the schools in the district are listed. For each school, the non-graduate students for SWD and LEP groups are summed up.

25. Schools with non graduate student results of less than 15 or in which all identified groups have a graduation rate of greater than 60 percent are removed.
26. The cumulative count of non-graduate students for the district is determined
27. The non-proficient and non-graduate students are summed up for each district.
28. For the year 2010-11, there were a total of 4,707 schools in the state, out of which 3,500 were Title I. The goal is to identify at least 10% of state and Title I, which amounts to 471 and 350 schools, respectively.

For each identified district, the count of elementary-middle and high schools are determined. Priority and closing schools are removed from the count.

29. For each district the number of schools to be identified for PI and GR is determined by taking the proportion of non-proficient and non-graduate students in the district.
30. All Focus districts will have either non-proficient students or non-graduate students, or both. Focus districts that do not have any eligible schools following application of Steps 22 and 25 will be required to identify at least one Focus school of their choice.
31. The count of schools that need to be identified for PI and GR are determined for each of the Focus districts.
32. For each Focus district, the schools are rank ordered on count of non-graduate and non-proficient student results are ranked in descending order. Schools are selected in rank order until the required numbers of schools are identified.

*Example:*

District J has 6060 non proficient students and 134 non graduate students. The Statewide total for all identified focus districts is 182503 and 3041 students respectively. There are a total of 4707 schools (Title I & non Title I) in the state and the goal is to identify 10% as Focus schools ( $10\% \times 4707 = 471$ ). The district J's share is 16 schools ( $6060/182503 \times 471 = 16$ ) for non proficient students and 21 schools ( $134/3041 \times 471 = 21$ ) for non graduate students. However, the district only has a total of 10 Elementary-Middle (EM) schools and 1 High School (HS). Keeping in mind the capacity of districts to intervene, the state do not want to identify more than 85% of EM schools and 85% of HS schools. These are the caps.

Due to the small number of schools in district J and due to the cap, the district has to identify only 8 schools ( $.85\% \times 10 = 8$ , rounded down) for non proficient

students and 1 school ( $.85\% \times 1 = 1$ , rounded up) for non graduate students. The total number of schools to be identified by district J is 9 (8 + 1).

The schools in district J will first be rank ordered in descending order by count of non graduate students and the top school will be identified. The schools in the district will then be rank ordered in descending order by count of non proficient students and the top 8 schools will be selected (skipping the school selected for non graduate count). These 9 schools form the list of schools identified by count methodology.

33. For each Focus district the schools are rank ordered on percent of non-graduate and non-proficient student results with the highest percent at the top. Starting at the top the required numbers of schools are identified.

The process mentioned in Step 32 is repeated, but the schools are rank ordered in descending order by percent of non graduate students and the top school is selected. The schools in the district will then be rank ordered in descending order by percent of non proficient students and the top 8 schools will be selected (skipping the school selected for non graduate count). These 9 schools form the list of schools identified by percent methodology.

34. The district may choose to identify schools based on the list from Step 32 or Step 33. The district may also choose to identify schools not on the selected list with the permission of the Commissioner as substitutes for or in addition to schools on the selected list.

In most districts, the lists generated by both the count and percentage methods are similar. However in a few districts, there are instances where a small school is ranked higher under the percentage methodology than a large school and consequently the large school is not identified.

The rationale for allowing district to choose from a list based on counts or a list based on percentage is that districts need flexibility to decide whether it is more important to address larger schools which may be relatively higher performing in terms of percentage of proficient students or to address smaller schools in which the percentage of students who are not proficient is higher. For example, School A has an enrollment of 1,000 students of whom 400 are non-proficient in the subgroups for which the district is identified as a Focus District. School B has an enrollment of 400 students of whom 200 are non-proficient in the subgroups for which the district is identified as a Focus District. While School B has a greater percentage of non-proficient students, the District may wish to focus on School A since success in that school could result in more students in the district becoming proficient.

35. For districts that have Priority schools, those schools that have a PI or graduation rate at or below the cut points of the Focus Districts are selected.

	Cut Points of Focus Districts	
	PI for Grade 3-8 and high school ELA and math at or below this PI	Graduation Rate at or below this Percent
American Indian/ Pacific Islander	112	54
Asian	112	54
Black	112	54
Hispanic	112	54
White	112	54
Multiracial	112	54
Students with Disabilities	70	26
Limited English Proficient	77	28
Low-Income	122	56

36. Priority and closing schools are removed.

37. Steps 21 to 25 are repeated for this set of schools.

38. The combined 2009-10 and 2010-11 Student Growth Percentile (SGP) is determined for each of the school's accountability subgroups.

39. For the groups where the SGP is greater than the State average, the group's PI is removed from consideration.

40. For the groups where the 2006 4 year graduation rate is higher than the State average, the group's PI and graduation rate is removed from consideration.

The groups are removed only if the group's graduation rate is higher than the state average for the respective groups.

41. If for a school that is selected only for the group(s) in graduation rate, the group's 2006 5 Yr graduation rate is higher than the state average, the group is removed from consideration.

The groups are removed only if the group's graduation rate is higher than the state average for the respective groups.



Attachment 17: Focus District and Charter School Identification Technical Documentation

42. If for a school that is selected only for the group(s) in graduation rate, the increase in group's 2006 4 year graduation rate over the 2004 year graduation rate is 10 points of more, the group is removed from consideration.
43. The schools that are remaining after the processes described in Steps 35 to 42 are identified. Districts may also choose to identify schools not on the selected list with the permission of the Commissioner as substitutes for or in addition to schools on the selected list.
44. If a District with one or more Priority Schools has no eligible schools after Steps 36 to 42, then the District will not be required to identify a Focus School.

D. Focus charter identification

45. Process identified in steps 1, 2, 3, 9, 10 and 11 will be used to list the eligible charter schools.
46. Charter schools that have any accountability groups with a Performance Index or graduation rate at or below the cut points given in step 35 will be identified.
47. The total of schools identified in steps 34, 44 and 46 constitute the Focus schools

Total number of Title I Schools in state	3500
Total number of Focus districts identified for ELA and math and/or graduation rate	84
Total number of districts with Priority schools identified	18
Total number of Focus charters identified	14
Total number of Title I schools in Focus districts and districts with Priority schools, excluding Priority, Transfer and closing schools	1004
Total number of Title I Focus schools preliminarily identified	424
Total number of Title I Focus charters identified	12
Total number of non Title I Focus schools and Focus charters identified	23
Total number of Focus schools and Focus charters identified	459

New York identified Priority schools based on the following factors as defined in the ESEA waiver guidance:

- Title I schools based on the achievement of the “All Students” group in terms of proficiency on the statewide assessments that are part of the state’s differentiated recognition, accountability and support system. The school should also have showed lack of progress for the “all students” group over a number of years.
- Title I or Title I eligible secondary schools with graduation rate less than 60 percent for a number of years
- Title I or Title I eligible schools implementing school intervention models using School Improvement Grants fund (SIG)

For the school year 2010-11, there were 4,707 registered public schools or operating public charter schools in the state, of which 3,500 were Title I schools. The goal is to identify 5% of schools in the state as priority schools, of which at least 175 are Title I schools. The criteria used to identify the Priority schools are described below:

1. The Persistently Lowest Achieving (PLA) schools that are implementing a SIG program are selected.
2. Title I or Title I-eligible secondary schools that have a 4-year cohort graduation rate less than 60 percent for the 2004, 2005 and 2006 cohorts are selected. The State will identify all schools meeting this criterion as priority schools.

New York’s differentiated accountability system identifies schools for “Improvement,” “Corrective Action,” and “Restructuring” based on the number of years the school has failed to make AYP for ELA, Math, Science or Graduation Rate. These groups of schools are collectively known as Schools in Need of Improvement (SINI) schools.

3. For each SINI school that was not selected in steps 1 and 2 above, the composite 2010-11 Performance Index (PI) of ELA and Math for the elementary-middle (EM) and secondary levels are determined. If a school has only EM level, then the combined PI will be only for the EM level and vice versa. If a school does not have 2010-11 PI then the school is removed from consideration to be a Priority school.
4. For each SINI school that was not selected in steps 1 and 2, the average 2009-10 Performance Index (PI) of ELA and Math for the EM and secondary levels are determined. If a school has only EM level, then the average will be only for the EM level and vice versa. If a school does not have 2009-10 PI then the school is removed from consideration to be a Priority school

*Example:*

- School A has an EM ELA PI of 100, EM Math PI of 120, HS ELA PI of 60 and HS Math PI of 80. The average PI for school A will be  $(100+120+60+80)/4$  is 90.

- School B has EM ELA PI of 120 and EM Math PI of 100. The average PI for school B will be  $(120+100)/2$  is 110.
5. Sort the 2010-11 PI in descending order. Subtract the average 2009-10 PI from the average 2010-11 PI.
  6. For the elementary and middle schools, select schools from the bottom that have a 2010-11 PI less than or equal to 113 and a PI gain less than or equal to 10.
  7. For high schools, select schools from the bottom that have a 2010-11 PI less than or equal to 107 and a PI gain less than or equal to 4<sup>1</sup>.
  8. For elementary and middle schools, the combined 2009-10 and 2010-11 Student Growth Percentile (SGP) is determined. If the school did not have an SGP for both the years or if the combined SGP is greater than the state average the school is removed from consideration to be a Priority school.

*Example:*

- School A has a 2009-10 ELA and Math SGP of 48 & 54, respectively, and a 2010-11 ELA and Math SGP of 46 and 56, respectively. The school's combined SGP of 51 is higher than the state average of 50; therefore the school will be removed.
  - School B has only one year of data and its 2010-11 ELA SGP is 48 and Math SGP is 50. The school's combined SGP of 49 is lower than the state average of 50; therefore the school will be included for Priority consideration.
9. Any elementary, middle or high school that has a majority of their accountability group's 2010-11 ELA and Math combined SGP greater than the state average will be removed from consideration to be a Priority school.

*Example:*

- School A has three groups for which it is accountable – Students with disabilities (SWD), Black, and Economically Disadvantaged (ED).
- The 2010-11 combined ELA and Math SWD SGP is 44, combined ELA and Math Black SGP is 47, and the combined ELA and Math ED SGP is 42. The 2010-11 combined ELA and Math state average for the groups are 42, 44 and 47, respectively.
- School A has majority of groups (two out of three groups, or 67%) with an SGP greater than state average. The school is removed from consideration to be a Priority school.

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<sup>1</sup> After removing closing schools, schools that had been identified as priority schools because of implementation of a SIG grant or because of high school graduation rates below 60%, and transfer and special act schools removed on a case by case basis, approximately eight percent of schools at the elementary, middle, and high school level were below these cut points for combined ELA and math performance. The gains required of schools to be removed from consideration placed schools in approximately the top quartile of gains for their grade level in the state in 2010-11.

10. Note: Schools with special circumstances (transfer high schools, special act schools) are considered on a case by case basis to determine whether they remain under consideration and schools identified for closure are removed from consideration to be a Priority school.

Although New York chose to identify 5% of the total number of schools in the State, regardless of whether they were Title I or non-Title I schools, in fact each of the 233 schools identified is either a Title I school or a Title I eligible secondary school.

Total number of Title I Schools in state	3500
Total number of priority schools required to be identified	175
Total number of schools on list that are current SIG schools	75
Total number of Title I or Title I eligible high schools that have a graduation rate less than 60 for three years	16
Total number of schools in list that have a SINI status and are the lowest achieving schools and has shown less progress	142
Total number of priority schools identified in list	233

**Education Law § 211. Review of regents learning standards**

1. The regents shall periodically review and evaluate the existing regents learning standards to determine if they should be strengthened, modified or combined so as to provide adequate opportunity for students to acquire the skills and knowledge they need to succeed in employment or postsecondary education and to function productively as civic participants upon graduation from high school. Such review and evaluation shall be conducted upon a schedule adopted by the regents, provided that a review and evaluation of the English language arts standards shall be completed as soon as possible, but no later than the end of the two thousand seven--two thousand eight school year.

2. In conducting such reviews, the regents shall seek the recommendations of teachers, school administrators, teacher educators and others with educational expertise on improvements to the standards so that they ensure that students are prepared, in appropriate progression, for postsecondary education or employment.

**Education Law § 211-a. Enhanced state accountability system**

To more fully implement the requirements of section one thousand one hundred eleven of the elementary and secondary education act of nineteen hundred sixty-five, as amended, and the federal regulations implementing such statute, the regents shall develop and implement an enhanced state accountability system that uses growth measures to the extent required by this section.

1. By the start of the two thousand eight--two thousand nine school year, the regents shall establish, using existing state assessments, an interim, modified accountability system for schools and districts that is based on a growth model, subject to approval of the United States department of education where required under federal law.

2. The regents shall proceed with the development of an enhanced accountability system, with revised or new state assessments, based on an enhanced growth model that, to the extent feasible and consistent with federal law, includes a value-added assessment model that employs a scale-score approach to measure growth of students at all levels. (a) If the regents establish that the assessment scaling and accountability methodology employed have been determined by external experts in educational testing and measurement to be valid and reliable and in accordance with established standards for educational and psychological testing, and (b) the approval of the United States department of education has been obtained where required by federal law, the enhanced growth model shall be implemented no later than the start of the two thousand ten--two thousand eleven school year.

3. In implementing the provisions of subdivisions one and two of this section, the regents shall by July first, two thousand eight, establish targets for improvement of schools and school districts based upon performance on state assessments, graduation rates, and other indicators of progress, such as student retention rates and college attendance and completion rates.

4. As used in this chapter, the following words shall have the following meanings:

a. "Growth model" shall mean the assessment of a cohort of students, or individual students, over time that measures the academic progress made by those students.

b. "Value added assessment model" shall mean a form of growth model that includes an evaluation of the specific effects of programs, and other relevant factors, on the academic progress of individual students over time.

#### **Education Law § 211-b. Consequences for consistent lack of improvement in academic performance**

In addition to taking appropriate action pursuant to the regulations of the commissioner and the requirements of federal law, the following actions shall be taken to increase school and district accountability for academic performance:

1. The regents shall expand the scope and improve the effectiveness of the schools under registration review (SURR) process in the two thousand seven--two thousand eight school year and thereafter, so as to ensure that all schools that meet the criteria for identification as SURR shall be so identified. The goal of such expansion shall be to identify as SURR up to a total of five percent of the schools in the state within four years, and to reorganize or restructure schools so identified in cases where such action is appropriate.

2. The regents shall develop a plan for increased support and possible intervention in schools in improvement, corrective action, or restructuring status or in SURR status. Notwithstanding any provision of law to the contrary, the regents shall establish a two-step process as follows:

a. The appointment by the commissioner of a school quality review team to assist any school in school improvement, corrective action, restructuring status or SURR status in developing and implementing a school improvement, corrective action, restructuring, or comprehensive plan for the school. Such team may also conduct resource and program and planning audits and examine the quality of curriculum, instructional plans, and teaching in the schools, the learning opportunities and support services available to students, and the organization and operations of the school. After such review, the team shall provide diagnostic recommendations for school improvement, which may include administrative and operational improvements. The recommendation of such team shall be advisory. The reasonable and necessary expenses incurred in the performance of the team's official duties shall be a charge upon the school district, or charter school, where applicable, that operates the school.

b. The appointment by the commissioner of a joint school intervention team, for schools in (i) restructuring status or (ii) SURR status that have failed to demonstrate progress as specified in their corrective action plan or comprehensive education plan. Administrators and educators from the district or charter school where applicable must be included on the team, as well as any distinguished educator appointed to the district pursuant to [section two hundred eleven-c](#) of this part. Such team shall assist the school district in developing, reviewing and recommending plans for reorganizing or reconfiguring of such schools. The recommendations of such team should be advisory. The reasonable and necessary expenses incurred in the performance of the school intervention team's official duties shall be a charge upon the school district, or charter school where applicable, that operates the school.

3. A school district that has been identified as requiring academic progress, as defined by 100.2(p)(7) of the commissioner's regulations, or includes one or more schools under registration review, in need of improvement, in corrective action or restructuring status shall be required to submit a district improvement plan to the commissioner for approval. In formulating the district improvement plan, the district shall consider redirecting resources to programs and activities included in the menu of options under [subdivision three of section two hundred eleven-d](#) of this part in the schools so identified. If such options are not adopted in the district improvement plan, the school district shall provide the commissioner with an explanation of such decision which shall be considered by the commissioner in

determining whether to approve such plan. The trustees or board of education shall hold a public hearing before adoption of the district improvement plan and a transcript of the testimony at such hearing shall be submitted to the commissioner for review with the district improvement plan.

4. The commissioner shall develop a plan for intervention in schools under restructuring or SURR status that fail to demonstrate progress on established performance measures and may be targeted for closure. Such plan shall specify criteria for school closure and include processes to be followed, research based options, and alternatives and strategies to reorganizing, restructuring or reconfiguring schools. Such plan shall be developed with input from educators including, but not limited to, administrators, teachers and individuals identified as distinguished educators pursuant to [section two hundred eleven-c](#) of this part.

5. (a) The regents shall ensure that all school districts include in any contract of employment, entered into, amended, or extended with a superintendent of schools, community superintendent or deputy, assistant, associate or other superintendent of schools who has been or will be appointed for a fixed term, a provision requiring that such contract specify that the superintendent shall be required to cooperate fully with any distinguished educator appointed by the commissioner pursuant to [section two hundred eleven-c](#) of this part.

(b) In the case of a superintendent of schools, community superintendent or deputy, assistant, associate or other superintendent of schools who is not appointed for a fixed term, the contract provisions contained in paragraph (a) of this subdivision shall be deemed to apply to such superintendent immediately.

(c) In the case of a charter school, the contract of employment of the principal or headmaster or other chief school officer of the charter school that is entered into, amended or extended shall also be required to include the provisions contained in paragraph (a) of this subdivision. In addition, such contract provisions shall be deemed to apply immediately to any such person not appointed for a fixed term.

### **Education Law § 211-c. Distinguished educators**

The regents shall establish a distinguished educator program that recognizes educational leaders who have agreed to assist in improving the performance of low performing school districts.

1. Building principals, superintendents of schools and teachers including retirees and current employees of school districts, under whose leadership schools have demonstrated consistent growth in academic performance and other individuals who have demonstrated educational expertise, including superior performance in the classroom, shall be eligible for designation by the regents as distinguished educators. Provided, however, individuals employed by for-profit entities shall not be eligible for such recognition.

2. From the pool of distinguished educators designated by the regents pursuant to subdivision one of this section, the commissioner shall appoint distinguished educators who have expressed their willingness to assist low performing districts in improving their academic performance. To the extent practicable, the commissioner shall appoint distinguished educators to assist districts with comparable demographics to the schools or districts that are or were under such educator's leadership.

3. The commissioner may appoint a distinguished educator to a school district;

a. when such district or a school within such district has failed to achieve adequate yearly progress for four or more years;

b. as a member of a joint school intervention team pursuant to [paragraph b of subdivision two of section two hundred eleven-b](#) of this part.

4. The school district to which a distinguished educator is appointed shall cooperate fully with an appointed distinguished educator.

5. An appointed distinguished educator shall assess the learning environment of schools in the district, review or provide assistance in the development and implementation of any district improvement plan and/or any corrective action, restructuring, or comprehensive plan of any school within the district to which the distinguished educator is assigned. Such distinguished educator shall either endorse without change or make recommendations for modifications to any such plan to the board of education, trustees, or chancellor, in a school district in a city of one million or more inhabitants, and the commissioner. Upon receipt of any recommendations for modification, the board of education, trustees, or chancellor shall either modify the plans accordingly or provide a written explanation to the commissioner of its reasons for not adopting such recommendations. The commissioner shall direct the district to modify the plans as recommended by the distinguished educator unless the commissioner finds that the written explanation provided by the district has compelling merit.

6. Appointed distinguished educators shall be deemed ex-officio, non-voting members of the board of education or trustees. In a school district in a city of one million or more inhabitants, any such distinguished educator shall be deemed an ex-officio, non-voting member of the community district education council or the city board, as applicable.

7. The reasonable and necessary expenses incurred by the appointed distinguished educators while performing their official duties shall be paid by the school district.

8. If an appointed distinguished educator is employed by a school district or charter school, it shall be the duty of the board of education or trustees of such school district, the chancellor of a city school district in a city of one million or more inhabitants, or the board of trustees of such charter school to facilitate the efforts of any such appointed distinguished educators in their employ by granting reasonable leave requests and otherwise accommodating their efforts, to the extent such efforts do not substantially interfere with the educator's performance of his or her regular duties.

#### **Education Law § 211-d. Contract for excellence**

1. a. Every school district that, as of April first of the base year, has at least one school identified as in corrective action or restructuring status or as a school requiring academic progress: year two or above or as a school in need of improvement: year two shall be required to prepare a contract for excellence if the school district is estimated to receive an increase in total foundation aid for the current year compared to the base year in an amount that equals or exceeds either fifteen million dollars or ten percent of the amount received in the base year, whichever is less, or receives a supplemental educational improvement plan grant. In school year two thousand seven--two thousand eight such increase shall be the amount of the difference between total foundation aid received for the current year and the total foundation aid base, as defined in [paragraph j of subdivision one of section thirty-six hundred two](#) of this chapter.

b. In addition to the school districts required to prepare a contract for excellence under paragraph a of this subdivision, every school district that filed a contract for excellence in the base year shall file a contract for excellence in the current year if such district is estimated to receive a two-year increase, equal to the positive difference of the total foundation aid apportioned for the current year less the total foundation aid base, as defined in [paragraph j of subdivision one of section thirty-six hundred two](#) of this chapter, for the



base year, in an amount that equals or exceeds either twenty-seven million five hundred thousand dollars or twenty percent of such total foundation aid base for the base year; provided however, that this requirement shall apply only to a school district that, as of April first of the base year, has at least one school that has been identified as in corrective action or restructuring status or as a school requiring academic progress: year two or above or as a school in need of improvement: year two.

c. In a city school district located in a city of one million or more inhabitants, a contract for excellence shall be prepared for the city school district and each community district that meets criteria specified in this subdivision.

d. All computations pursuant to paragraphs a and b of this subdivision and subdivision two of this section shall be based upon data included in the computerized school aid run produced by the commissioner in support of the enacted state budget which established the foundation aid formulas for the current year. For purposes of this section, accountability status of schools shall be determined as of April first of the base year, except that if the commissioner determines that the accountability data on file for a school as of April first of the base year was in error and officially adjusts the accountability status of the school after such date, such adjusted data shall be used for the purposes of paragraphs a and b of this subdivision and subdivision two of this section.

e. Notwithstanding paragraphs a and b of this subdivision, a school district that submitted a contract for excellence for the two thousand eight--two thousand nine school year shall submit a contract for excellence for the two thousand nine--two thousand ten school year in conformity with the requirements of subparagraph (vi) of paragraph a of subdivision two of this section unless all schools in the district are identified as in good standing and provided further that, a school district that submitted a contract for excellence for the two thousand nine--two thousand ten school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand eleven--two thousand twelve school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the product of the amount approved by the commissioner in the contract for excellence for the two thousand nine--two thousand ten school year, multiplied by the district's gap elimination adjustment percentage. For purposes of this paragraph, the "gap elimination adjustment percentage" shall be calculated as the sum of one minus the quotient of the sum of the school district's net gap elimination adjustment for two thousand ten--two thousand eleven computed pursuant to chapter fifty-three of the laws of two thousand ten, making appropriations for the support of government, plus the school district's gap elimination adjustment for two thousand eleven--two thousand twelve as computed pursuant to a chapter of the laws of two thousand eleven, making appropriations for the support of the local assistance budget, including support for general support for public schools, divided by the total aid for adjustment computed pursuant to a chapter of the laws of two thousand eleven, making appropriations for the local assistance budget, including support for general support for public schools. Provided, further, that such amount shall be expended to support and maintain allowable programs and activities approved in the two thousand nine--two thousand ten school year or to support new or expanded allowable programs and activities in the current year.

2. a. (i) In a common, union free, central, central high school, or a city school district in a city having less than one hundred twenty-five thousand inhabitants, required to prepare a contract for excellence pursuant to subdivision one of this section and, as of April first of the base year, does not contain any schools identified as in corrective action or restructuring status or requiring academic progress: year three or

above, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, in excess of one hundred four percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or redesign or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to fifty percent of additional funding received in the current year may be used to maintain investments in programs and activities listed in paragraph a of subdivision three of this section.

(ii) In a common, union free, central, central high school, or a city school district in a city having less than one hundred twenty-five thousand inhabitants, required to prepare a contract for excellence pursuant to subdivision one of this section and, as of April first of the base year, has at least one school identified as in corrective action or restructuring status or requiring academic progress: year three or above, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, in excess of one hundred four percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or redesign or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to thirty-five percent of additional funding received in the current year may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(iii) In a city school district in a city having a population of one hundred twenty-five thousand or more inhabitants but less than one million inhabitants that either receives a supplemental educational improvement plan grant or is required to submit a contract for excellence based solely upon the criteria specified in paragraph b of subdivision one of this section, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, and as supplemental educational improvement plan grants, in excess of one hundred four percent of such aid apportioned to the district in the base year, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or redesign or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to fifty percent of additional funding received in the current year may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(iv) In a city school district in a city having a population of one hundred twenty-five thousand or more inhabitants but less than one million inhabitants that satisfies the criteria specified in paragraph a of subdivision one of this section and does not receive a supplemental educational improvement plan grant, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, in excess of one hundred three percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to twenty-five percent of additional funding received in the current year may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(v) In a city school district in a city having a population of one million or more inhabitants, each contract for excellence shall describe how the amounts apportioned to the school district in the current year as total foundation aid and academic achievement grants, in excess of one hundred three percent of the district's

foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to thirty million dollars or twenty-five percent of additional funding received in the current year, whichever is less, may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(vi) Each contract for excellence for a school district that was required to prepare a contract for excellence in the base year shall provide for the expenditure of an amount equivalent to the total budgeted amount approved by the commissioner in the district's approved contract for excellence for the base year; provided that such amount shall be expended to support and maintain allowable programs and activities approved in the base year or to support new or expanded allowable programs and activities in the current year.

(vii)(A) Notwithstanding any other provision of this section to the contrary, a school district that submitted a contract for excellence for the two thousand seven--two thousand eight school year and the two thousand eight--two thousand nine school year and is required to submit a contract for excellence for the two thousand nine--two thousand ten school year but did not fully expend all of its two thousand seven--two thousand eight foundation aid subject to the contract for excellence restrictions during the two thousand seven--two thousand eight school year may reallocate and expend such unexpended funds during the two thousand eight--two thousand nine and two thousand nine--two thousand ten school years for allowable contract for excellence programs and activities as defined in subdivision three of this section in a manner prescribed by the commissioner. For purposes of determining maintenance of effort pursuant to subparagraph (vi) of this paragraph for the two thousand eight--two thousand nine school year, funds expended pursuant to this subparagraph shall be included in the total budgeted amount approved by the commissioner in the district's contract for excellence for the two thousand seven--two thousand eight school year; provided that such amount shall not be counted more than once in determining maintenance of effort for the two thousand nine--two thousand ten school year or thereafter.

(B) Notwithstanding any other provision of this section to the contrary, a school district that submitted a contract for excellence for the two thousand nine--two thousand ten school year but did not fully expend all of its two thousand nine--two thousand ten foundation aid subject to the contract for excellence restrictions during the two thousand nine--two thousand ten school year may reallocate and expend such unexpended funds during the two thousand eleven--two thousand twelve school year for allowable contract for excellence programs and activities as defined in subdivision three of this section in a manner prescribed by the commissioner; provided that such amount shall not be counted more than once in determining any maintenance of effort pursuant to this section.

b. (i) The contract shall specify the new or expanded programs for which additional amounts of such total foundation aid, or grant shall be used and shall affirm that such programs shall predominately benefit students with the greatest educational needs including, but not limited to, those students with limited English proficiency, students in poverty and students with disabilities.

(ii) In a city school district in a city having a population of one million or more inhabitants such contract shall also include a plan to reduce average class sizes, as defined by the commissioner, within five years for the following grade ranges: (A) pre-kindergarten-third grade; (B) fourth-eighth grade; and (C) high school. Such plan shall include class size reduction for low performing and overcrowded schools and also

include the methods to be used to achieve such class sizes, such as the creation or construction of more classrooms and school buildings, the placement of more than one teacher in a classroom or methods to otherwise reduce the student to teacher ratio; provided, however, that notwithstanding any law, rule or regulation to the contrary, the sole and exclusive remedy for a violation of the requirements of this paragraph shall be pursuant to a petition to the commissioner under [subdivision seven of section three hundred ten](#) of this title, and the decision of the commissioner on such petition shall be final and unreviewable.

(iii) A city school district in a city having a population of one million or more inhabitants shall prepare a report to the commissioner on the status of the implementation of its plan to reduce average class sizes pursuant to subparagraph (ii) of this paragraph. Such report shall identify all schools that received funds targeted at class size reduction efforts pursuant to the requirements of this section and provide the following information regarding such schools:

(A) the amount of contract for excellence funds received by each school and the school year in which it received such funds;

(B) a detailed description of how contract for excellence funds contributed to achieving class size reduction in each school that received such funding including specific information on the number of classrooms in each school that existed prior to receiving contract for excellence funds and the number of new classrooms that were created in each school for each year such funding was received, the number of classroom teachers that existed in each school prior to receiving contract for excellence funds and the number of new classroom teachers in each school for each year such funding was received, the student to teacher ratio in each school prior to receiving contract for excellence funds and the student to teacher ratio in each school for each year such funding was received;

(C) the actual student enrollment for the two thousand six--two thousand seven school year, the actual student enrollment for the two thousand seven--two thousand eight school year, the actual student enrollment for the two thousand eight--two thousand nine school year, and the projected student enrollment for the two thousand nine--two thousand ten school year for each school by grade level;

(D) the actual average class sizes for the two thousand six--two thousand seven school year, the actual average class sizes for the two thousand seven--two thousand eight school year, the actual average class sizes for the two thousand eight--two thousand nine school year, and the projected average class sizes for the two thousand nine--two thousand ten school year for each school by grade level; and

(E) the schools that have made insufficient progress toward achieving the class size reduction goals outlined in the approved five year class size reduction plan pursuant to subparagraph (ii) of this paragraph and a detailed description of the actions that will be taken to reduce class sizes in such schools.

Such report shall be submitted to the commissioner on or before November seventeenth, two thousand nine and shall be made available to the public by such date.

c. The contract for excellence shall state, for all funding sources, whether federal, state or local, the instructional expenditures per pupil, the special education expenditures per pupil, and the total expenditures per pupil, projected for the current year and actually incurred in the base year.

3. a. The commissioner shall adopt regulations establishing allowable programs and activities intended to improve student achievement which shall be limited to: (i) class size reduction, (ii) programs that increase student time on task, including but not limited to, academic after-school programs, (iii) teacher and principal quality initiatives, (iv) middle school and high school re-structuring, (v) expansion or replication of effective model programs for students with limited English proficiency, and (vi) full-day kindergarten or prekindergarten. Provided, however, that districts may use up to fifteen percent of the additional funding they receive for experimental programs designed to demonstrate the efficacy of other strategies to improve student achievement consistent with the intent of this section and, in school year two thousand seven--two thousand eight, up to thirty million dollars or twenty-five percent of such additional funding, whichever is less, may be used to maintain investments in programs and activities listed in this subdivision. Any such district seeking to implement an experimental program shall first submit a plan to the commissioner setting forth the need for such experimental program and how such program will improve student performance.

b. The commissioner shall assist school districts that include in their contract for excellence the implementation of incentives, developed in collaboration with teachers in the collective bargaining process, for highly qualified and experienced teachers to work in low performing schools to ensure that such incentives are effective.

4. a. A district's contract for excellence for the academic year two thousand eight--two thousand nine and thereafter, shall be developed through a public process, in consultation with parents or persons in parental relation, teachers, administrators, and any distinguished educator appointed pursuant to [section two hundred eleven-c](#) of this chapter.

b. Such process shall include at least one public hearing. In a city school district in a city of one million or more inhabitants, a public hearing shall be held within each county of such city. A transcript of the testimony presented at such public hearings shall be included when the contract for excellence is submitted to the commissioner, for review when making a determination pursuant to subdivision five of this section.

c. In a city school district in a city of one million or more inhabitants, each community district contract for excellence shall be consistent with the citywide contract for excellence and shall be submitted by the community superintendent to the community district education council for review and comment at a public meeting.

d. For the two thousand seven--two thousand eight school year, school districts shall solicit public comment on their contracts for excellence.

5. Each contract for excellence shall be subject to approval by the commissioner and his or her certification that the expenditure of additional aid or grant amounts is in accordance with subdivision two of this section.

6. The school district audit report certified to the commissioner by an independent certified public accountant, an independent accountant or the comptroller of the city of New York pursuant to [section twenty-one hundred sixteen-a](#) of this chapter shall include a certification by such accountant or comptroller in a form prescribed by the commissioner and that the increases in total foundation aid and supplemental educational improvement plan grants have been used to supplement, and not supplant funds allocated by the district in the base year for such purposes.

7. The trustees or board of education of each school district subject to this section, or the chancellor in the case of a city school district in a city of one million or more inhabitants, shall assure that procedures are in place by which parents or persons in parental relation may bring complaints concerning implementation of the district's contract for excellence.

a. In a city school district in a city of one million or more inhabitants, such procedures shall provide that complaints may be filed with the building principal with an appeal to the community superintendent, or filed directly with the community superintendent, and that any appeal of the determination of a community superintendent shall be made to the chancellor.

b. In all other districts, such procedures shall either provide for the filing of complaints with the building principals with an appeal to the superintendent of schools or for filing of the complaint directly with the superintendent of schools, and shall provide for an appeal to the trustees or board of education from the determination of the superintendent of schools.

c. The determination of the trustees or a board of education or the chancellor may be appealed to the commissioner pursuant to [section three hundred ten](#) of this title.

8. School districts subject to the provisions of this section shall publicly report the expenditure of total foundation aid in the form and manner prescribed by the commissioner which shall ensure full disclosure of the use of such funds.

9. The department shall develop a methodology for reporting school-based expenditures by all school districts subject to the provisions of this section.

### **Education Law § 211-e. Educational partnership organizations**

1. The board of education of a school district, and the chancellor of the city school district of the city of New York, subject to the approval of the commissioner, shall be authorized to contract, for a term of up to five years, with an educational partnership organization pursuant to this section to intervene in a school designated by the commissioner as a persistently lowest-achieving school, consistent with federal requirements, or a school under registration review.

2. Notwithstanding any other provision of law, rule or regulation to the contrary, and except as otherwise provided in this section, such contract shall contain provisions authorizing the educational partnership organization to assume the powers and duties of the superintendent of schools for purposes of implementing the educational program of the school, including but not limited to, making recommendations to the board of education on budgetary decisions, staffing population decisions, student discipline decisions, decisions on curriculum and determining the daily schedule and school calendar, all of which recommendations shall be consistent with applicable collective bargaining agreements. Such contract shall include district performance expectations and/or benchmarks for school operations and academic outcomes, and failure to meet such expectations or benchmarks may be grounds for termination of the contract prior to the expiration of its term. Such contract shall also address the manner in which students will be assigned to the school, the process for employees to transfer into the school, the services that the district will provide to the school, and the manner in which the school shall apply for and receive allocational and competitive grants.

3. The board of education shall retain the ultimate decision-making authority over the hiring, evaluating, termination, disciplining, granting of tenure, assignment of employees serving in the school as well as with respect to staff development for those employees, together with authority concerning all other terms and conditions of employment, all of which decisions shall be made in a manner consistent with applicable collective bargaining agreements. However, notwithstanding any law, rule or regulation to the contrary, upon the effective date of the contract, the educational partnership organization shall be authorized to exercise all powers of a superintendent of schools with respect to such employment decisions, including but not limited to making recommendations, as applicable, to the board of education in connection with and prior to the board of education making decisions regarding staff assignments, the hiring, the granting of tenure, the evaluating, the disciplining and termination of employees, as well as concerning staff development. The employees assigned to the school shall solely be in the employ of the school district and shall retain their tenure rights and all other employment rights conferred by law, and service in the school shall constitute service to the school district for all purposes, including but not limited to, the requirements for criminal history record checks and participation in public retirement systems. Notwithstanding any other provision of law to the contrary, for purposes of article fourteen of the civil service law, employees in the school shall be public employees of the school district as defined in [subdivision seven of section two hundred one of the civil service law](#) and shall not be deemed employees of the educational partnership organization by reason of the powers granted to the educational partnership organization by this section. All such employees shall be members of the applicable negotiating unit containing like titles or positions for the public school district in which such school is located, and shall be covered by the collective bargaining agreement covering that public school district's negotiating unit, except that the duly recognized or certified collective bargaining representative for that negotiating unit may modify or supplement, in writing, the collective bargaining agreement in consultation with the employees of the negotiating unit working in the school. All such modifications of, or supplements to the collective bargaining agreement are subject to ratification by the employees employed within the school and by the board of education of the public school district, consistent with article fourteen of the civil service law. Upon the effective date of the school district's contract with the educational partnership organization, the educational partnership organization shall be empowered to make recommendations to the board of education with respect to the scope of, and process for making modifications and additions to the collective bargaining agreement.

4. Where a recommendation is made by the educational partnership organization to the board of education pursuant to subdivision two or three of this section, and such recommendation is denied, the board of education shall state its reasons for the denial, which shall include an explanation of how such denial will promote improvement of student achievement in the school and how such action is consistent with all accountability plans approved by the commissioner for the school and the school district. Nothing in this subdivision shall be construed to prevent a board of education from denying a recommendation of the educational partnership organization based upon the board of education's determination that carrying out such recommendation would result in a violation of law or violation of the terms of an applicable collective bargaining agreement. If the board of education rejects a recommendation of the educational partnership organization to terminate a probationary employee assigned to the school or to deny tenure to an employee assigned to the school, it shall be the duty of the board of education to transfer such employee to another position in the school district within such employee's tenure area for which the employee is qualified, or to create such a position.

5. For purposes of this section the following terms shall have the following meanings:

(i) “educational partnership organization” means a board of cooperative educational services, a public or independent, non-profit institution of higher education, a cultural institution, or a private, non-profit organization with a proven record of success in intervening in low-performing schools, as determined by the commissioner, provided that such term shall not include a charter school;

(ii) “board of education” means the trustees or board of education of a school district, or, in the case of a city school district of a city having a population of one million or more, the chancellor of such city district;

(iii) “school district” means a common, union free, central, central high school or city school district, other than a special act school district as defined in [section four thousand one](#) of this chapter.

(iv) “superintendent of schools” means the superintendent of schools of a school district, and, in the case of a city school district of a city having a population of one million or more, a community superintendent and the chancellor of such city district when acting in the role of a superintendent of schools.



Official Compilation of Codes, Rules and Regulations of the State of New York  
Title 8. Education  
Chapter II. Regulations of the Commissioner  
Subchapter E. Elementary and Secondary Education  
Part 100. Elementary and Secondary Education School Program

**Section 100.2. General school requirements.**

(p) *Registration of schools and school/district accountability.* Nonpublic schools may be, and public elementary, intermediate, middle, junior high, and high schools shall be, registered by the Board of Regents pursuant to this subdivision upon recommendation by the commissioner, provided that charter schools shall not be subject to registration pursuant to this subdivision, but shall be held accountable for meeting or exceeding the student performance standards and student assessment requirements applicable to other public schools in accordance with the provisions of article 56 of the Education Law. No school district may operate a public school whose registration has been revoked by the Board of Regents pursuant to paragraph (10) of this subdivision or has lapsed pursuant to paragraph (3) of this subdivision. Only those public and nonpublic high schools which are registered by the Board of Regents upon recommendation of the commissioner, may issue diplomas and administer Regents examinations, except that charter schools may issue diplomas and administer Regents examinations as authorized by article 56 of the Education Law.

(1) Definitions. As used in this subdivision:

(i) *Accountability groups* shall mean, for each public school, school district and charter school, those groups of students for each grade level or annual high school cohort, as described in paragraph (16) of this subdivision comprised of: all students; students from major racial and ethnic groups, as set forth in subparagraph (bb)(2)(v) of this section; students with disabilities, as defined in section 200.1 of this Title, including, beginning with the 2009-2010 school year, students no longer identified as students with disabilities but who had been so identified during the preceding one or two school years; students with limited English proficiency, as defined in Part 154 of this Title, including, beginning with the 2006-2007 school year, a student previously identified as a limited English proficient student during the preceding one or two school years; and economically disadvantaged students, as identified pursuant to section 1113(a)(5) of the NCLB, [20 U.S.C. section 6316\(a\)\(5\)](#) (Public Law, section 107-110, section 1113(a)(5), 115 STAT, 1469; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234). The school district accountability groups for each grade level will include all students enrolled in a public school in the district or placed out of the district for educational services by the district committee on special education or a district official.

(ii) *School district* shall mean a common, union free, central, central high school or city school district, provided that, in the case of the city school district of the City of New York, such term shall mean a community school district or New York City superintendency to the extent that such entity is the local educational agency for purposes of title I.

(iii) *Board of education* shall mean the trustees or board of education of a school district; provided that in the case of the city school district of the City of New York, such term shall mean the chancellor of the city school district acting in lieu of the board of education of such city school district to the extent authorized by article 52-A of the Education Law and, with respect community school districts and New York City superintendencies, such term shall mean the community superintendent or other superintendent of schools acting in lieu of the board of education to the extent authorized by article 52-A of the

Education Law.

(iv) *Performance index* shall be calculated based on the four student performance levels defined in this subparagraph. Each student scoring at level 1 will be credited with 0 points, each student scoring at level 2 with 100 points, and each student scoring at level 3 or 4 with 200 points. The performance index for each accountability group will be calculated by summing the points and dividing by the number of students in the group.

(v) *Performance levels* shall mean:

(a) level 1/basic:

(1) for elementary and middle grades:

(i) a score of level 1 on State assessments in English language arts, mathematics and science or a score of level 1 on a State alternate assessment;

(ii) for the 2005-2006 school year and prior school years, a score for certain limited English proficient students pursuant to subparagraph (14)(viii) of this subdivision, in lieu of the State assessment in English language arts, that shows level 1 growth on the New York State English as a Second Language Assessment Test (NYSESLAT);

(iii) for the 2004-2005 and prior school years, the score to be reported for a student with a disability who participates in the local assessment option;

(2) for high school:

(i) a score of less than 55 on the Regents comprehensive examination in English or a Regents mathematics examination or a failing score on a State-approved alternative examination for those Regents examinations;

(ii) a failing score on the Regents competency tests in reading or writing; a failing score on the Regents competency test in mathematics;

(iii) a score of level 1 on a State alternate assessment;

(iv) a cohort member who has not been tested; or

(v) for the 2004-2005 and prior school years, the score of a student with a disability who participates in the local assessment option;

(b) level 2/basic proficient:

(1) for elementary and middle grades:

(i) a score of level 2 on State assessments in English language arts, mathematics and science or a score of level 2 on a State alternate assessment;

(ii) for the 2005-2006 school year and prior school years, a score for certain limited English proficient students pursuant to subparagraph (14)(viii) of this subdivision, in lieu of the State assessment in English language arts, that shows level 2 growth on the NYSESLAT;

(2) for high school:

(i) a score between 55 and 64 on the Regents comprehensive examination in English or a Regents mathematics examination;

(ii) a passing score on the Regents competency test in reading and writing; a passing score on the Regents competency test in mathematics;

(iii) a score of level 2 on a State alternate assessment;

(c) level 3/proficient:

(1) for elementary and middle grades:

(i) a score of level 3 on State assessments in English language arts, mathematics and science or a score of level 3 on a State alternate assessment;

(ii) for the 2005-2006 school year and prior school years, a score for certain limited English proficient students pursuant to subparagraph (14)(viii) of this subdivision, in lieu of the State assessment in English language arts, that shows level 3 growth on the NYSESLAT;

(2) for high school:

(i) a score between 65 and 84 on the Regents comprehensive examination in English or a Regents mathematics examination;

(ii) a passing score on a State-approved alternative to the Regents examinations set forth in item (i) of this subclause;

(iii) a score of level 3 on a State alternate assessment; and

(d) level 4/advanced:

(1) for elementary and middle grades:

(i) a score of level 4 on required State assessments in English language arts, mathematics and science or a score of level 4 on a State alternate assessment;

(2) for high school:

(i) a score of 85 or higher on the Regents comprehensive examination in English or a Regents mathematics examination;

(ii) a score of level 4 on a State alternate assessment;

(vi) *High school equivalency literacy levels* means the level that a student tested on reading and mathematics assessments approved by the commissioner divided into the following grade levels: 0.0-1.9, 2.0-3.9, 4.0-5.9, 6.0-8.9, 9.0-10.9 and 11.0 and above.

(vii) *Alternate assessment* means a State alternate assessment recommended by the committee on special

education, for use by students with disabilities as defined in section 100.1(t)(2)(iv) of this Part in lieu of a required State assessment.

(viii) *Title I* means title I, part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA), [20 U.S.C. sections 6301-6327](#).

(ix) *Continuously enrolled* means, for grades 3-8, students whose latest date of enrollment occurred after the date prescribed by the commissioner on which BEDS forms are required to be completed and, for grades 9-12, students in the high school cohort, as defined in paragraph (16) of this subdivision.

(x) *Significant medical emergency* means an excused absence from school during both the regular and makeup examination period for which a district has documentation from a medical practitioner that a student is so incapacitated as to be unable to participate in the State assessment given during that examination period.

(xi) *For elementary and middle-level students, participation rate* means the percentage of students enrolled on all days of test administration who did not have a significant medical emergency who received valid scores on the State assessments for elementary and middle-level grades, as set forth in subparagraph (v) of this paragraph. Beginning with the 2006-2007 school year, a limited English proficient student enrolled in school in the United States (excluding Puerto Rico) for less than one year as of a date determined by the commissioner and who received a valid score on the NYSESLAT may be counted as participating in an elementary or middle level English language arts assessment.

(xii) *For high school students, participation rate* means the percentage of designated students in at least their fourth year of high school, as designated by the commissioner, who received a valid score on the required assessments for high schools, as set forth in subparagraph (v) of this paragraph.

(xiii) *NCLB* means the No Child Left Behind Act of 2001, Public Law, section 107-110.

(2) Procedure for registration of public schools.

(i) All public elementary, intermediate, middle, junior high schools, and high schools, other than charter schools, in existence on September 1, 2002 shall be deemed registered by the Board of Regents pursuant to this subdivision as of such date.

(ii) A school district that seeks to register a public elementary, intermediate, middle, junior high school or high school which is not registered pursuant to subparagraph (i) of this paragraph shall submit a petition for registration to the Board of Regents, in a form prescribed by the commissioner and containing such information as the commissioner may require, no later than June 15th for schools opening in September of the next successive school year or, for those schools opening during a current school year, at least 90 days prior the opening of such school, except that the commissioner may waive this timeline for good cause. The commissioner shall review the petition and shall recommend its approval to the Board of Regents if it is satisfactorily demonstrated that the district has provided an assurance that the school will be operated in an educationally sound manner; is in compliance with applicable statutes, rules and regulations relating to public schools; and will operate in accordance with applicable building codes and pursuant to a certificate of occupancy. No new public school will be recommended for registration by the commissioner if, in the commissioner's judgment, the establishment of such school would conflict with an approved plan for district reorganization, except where it can be established to the satisfaction of the commissioner that such school is essential to the education welfare of the students.

(a) Where a school registered pursuant to this paragraph is in a district in which one or more schools have

been designated as a school in Improvement, Corrective Action or Restructuring, the commissioner shall determine the accountability status of the newly registered school based upon his review of the proposed educational program, including but not limited to such factors as: school mission, school administration and staff, grade configurations and groupings of students, zoning patterns, curricula and instruction and facilities.

(b) In the event that a school district merges two or more schools or transfers organizational responsibility for one or more grades from one school to another, the commissioner may adjust the accountability status of the affected schools to reflect such organizational changes.

(3) All registrations approved by the Board of Regents pursuant to this subdivision shall continue in effect unless revoked by the Board of Regents upon recommendation of the commissioner after review of the registration, or the school district closes the school.

(4) System of accountability for student success. Each year, commencing with 2002-2003 school year test administration results, the commissioner shall review the performance of all public schools, charter schools and school districts in the State. For each accountability performance criterion specified in paragraph (14) and each performance indicator specified in paragraph (15) of this subdivision, the commissioner, commencing with 2002-2003 school year test administration results, shall determine whether each public school, charter school and school district has achieved adequate yearly progress as set forth in paragraph (5) of this subdivision.

(5) Adequate yearly progress.

(i) A public school, charter school or school district shall be deemed to have made adequate yearly progress on an accountability performance criterion set forth in paragraph (14) of this subdivision if each accountability group within such school or district achieved adequate yearly progress on that criterion.

(ii) In public schools, charter schools or school districts with fewer than 30 students subject to an accountability performance criterion set forth in paragraphs (14) and (15) of this subdivision, the commissioner shall use the weighted average of the current and prior school year's performance data for that criterion in order to make a determination of adequate yearly progress. No public school, charter school or school district will be held accountable for any other accountability group consisting of fewer than 30 students as long as the "all student" accountability group includes at least 30 students for that school year.

(iii) For purposes of determining adequate yearly progress, only the performance of continuously enrolled students in grades 3-8 shall be included for consideration.

(iv) An accountability group shall be deemed to have made adequate yearly progress on an accountability performance criterion specified in paragraph (14) of this subdivision if:

(a) the superintendent of the school district or the principal of the charter school has submitted the required student data files to the commissioner pursuant to paragraph (bb)(2) of this section or section 119.3(b) of this Title in the timeframe and format specified by the commissioner; and

(b) for accountability groups consisting of 40 or more students, either:

(1) the participation rate for the current year equals or exceeds 95 percent; or

(2) the weighted average of the current year and prior year participation rates equals or exceeds 95

percent;

(c) for accountability groups consisting of 30 or more students:

(1) the accountability group met or exceeded, or did not differ significantly as determined by the commissioner, from the annual measurable objective for that criterion; or

(2) the accountability group met or exceeded, or did not differ significantly as determined by the commissioner, from an annual performance target established by the commissioner and the accountability group met or exceeded the third performance indicator at that grade level, as defined in paragraph (15) of this subdivision.

(v) A public school, charter school or school district shall be deemed to have made adequate yearly progress on a performance indicator specified in paragraph (15) of this subdivision if:

(a) the superintendent of the school district or the principal of the charter school has submitted the required student data files to the commissioner pursuant to paragraph (bb)(2) of this section or section 119.3(b) of this Title in the timeframe and format specified by the commissioner; and

(b) the "all students" accountability group in the school or school district at the applicable grade levels or high school cohort met or exceeded the performance indicator and, for elementary and middle levels, and beginning in 2005-2006 for the elementary- middle level, 80 percent of students enrolled on all days of the science test administration, who did not have a significant medical emergency, received valid scores.

(vi) For each school year, public schools, school districts, and charter schools in which no students or, pursuant to subparagraph (ii) of this paragraph fewer than 30 students, participate in the required State assessments for English language arts or mathematics, or in which the majority of students are not continuously enrolled, shall conduct a self-assessment of their academic program and the school learning environment, in such format and using such criteria as may be prescribed by the commissioner. Such self-assessment shall not be required of those schools and school districts for which the commissioner shall conduct a review of the performance of the school or school district in accordance with subparagraph (viii) of this paragraph. The superintendent of the school district or principal of the charter school shall review the self-assessment(s) and make a recommendation to the commissioner, in such format and according to such timeframe as the commissioner may prescribe, as to whether the school or school district has made adequate yearly progress. The commissioner shall consider the self-assessment, board recommendation and any other relevant information in determining whether the school or school district made adequate yearly progress.

(vii) The school accountability status of public schools, school districts, and charter schools serving grades 1 and/or 2, but not grade 3 or higher, (hereafter referred to as "feeder schools") will be determined using backmapping. In school districts with such feeder schools and in school districts that accept grade 3 students from feeder schools by contract, the grade three State assessment results for each feeder school student will be attributed to the feeder school as well as to the school or charter school in which the student took the assessment. The student's results will be attributed to a feeder school only if the student was continuously enrolled in the feeder school from the date prescribed by the commissioner on which the BEDS forms are required to be completed until the end of the school year in the highest grade served by the feeder school. In a district, if all schools serving grade three make adequate yearly progress in a given year, all feeder schools served by the district will be deemed to have made adequate yearly progress. If one or more schools enrolling students from a feeder school fail to make adequate yearly progress on a criterion set forth at subparagraphs (14)(iii) and (vi) of this subdivision, the commissioner will aggregate the district's grade three results on that criterion by feeder school and determine whether

each feeder school made adequate yearly progress on that criterion. If a feeder school fails to make adequate yearly progress on the same criterion for two consecutive years, the school will be designated as a school in Improvement (year 1).

(6) Differentiated Accountability for Schools.

(i) Except as provided in subparagraph (ii) of this paragraph, beginning with the 2009-2010 school year and thereafter, public schools, and charter schools that receive funds under title I, that failed to make adequate yearly progress (AYP) pursuant to this subparagraph shall be designated into accountability phases and phase categories as follows:

(a) Accountability phases.

(1) Improvement phase.

(i) A school that fails to make AYP for two consecutive years on the same accountability performance criterion in paragraph (14) of this subdivision or the same accountability indicator in paragraph (15) of this subdivision shall be designated in the next school year as a school in Improvement (year 1) for that accountability performance criterion/accountability indicator.

(ii) A school that is designated as a school in Improvement (year 1) that fails to make AYP on the same accountability performance criterion or accountability indicator for which it has been identified shall be designated in the next school year as a school in Improvement (year 2) for that accountability performance criterion/accountability indicator.

(2) Corrective Action phase.

(i) A school that is designated as a school in Improvement (year 2) that fails to make AYP on the same accountability performance criterion or accountability indicator for which it has been identified as a school in Improvement (year 2) shall be designated in the next school year as a school in Corrective Action (year 1) for that accountability performance criterion/accountability indicator.

(ii) A school that is designated as a school in Corrective Action (year 1) that fails to make AYP on the same accountability performance criterion or accountability indicator for which it has been identified shall be designated in the next school year as a school in Corrective Action (year 2) for that accountability performance criterion/accountability indicator.

(3) Restructuring phase.

(i) A school that is designated as a school in Corrective Action (year 2) that fails to make AYP on the same accountability performance criterion or accountability indicator for which it has been identified shall be designated in the next school year as a school in Restructuring (year 1) for that accountability performance criterion/accountability indicator.

(ii) A school that is designated as a school in Restructuring (year 1) that fails to make AYP on the same accountability performance criterion or accountability indicator for which it has been identified shall be designated in the next school year as a school in Restructuring (year 2) for that accountability performance criterion/accountability indicator.

(iii) A school that is designated as a school in Restructuring (year 2) that fails to make AYP on the same accountability performance criterion or accountability indicator for which it has been identified shall be

designated in the next school year as a school in Restructuring (advanced) for that accountability performance criterion/accountability indicator.

(b) Phase categories.

(1) Improvement phase. Schools designated in Improvement shall be assigned to a category upon entry into the phase as follows:

(i) Basic:

(a) schools that fail to make AYP for one accountability group within one accountability performance criterion, but not the all students group; or

(b) schools that fail to make AYP for one of the accountability indicators, but met the accountability performance criterion.

(ii) Focused:

(a) schools that fail to make AYP for more than one accountability performance criterion, but not the all students group; or

(b) schools that fail to make AYP for more than one accountability student group within an accountability performance criterion, but not the all students group;

(iii) Comprehensive:

(a) schools that fail to make AYP for the all students group on any accountability performance criterion; or

(b) schools that fail to make AYP for every accountability group, except the all students group, within an accountability criterion for which there are at least two accountability groups other than the all students group; or

(c) schools that fail to make AYP for an accountability performance criterion and for an indicator.

(2) Corrective Action or Restructuring phase. Schools designated in Corrective Action or Restructuring shall be assigned to a category upon entry into the phase as follows:

(i) Focused:

(a) schools that fail to make AYP for one of the accountability indicators, but met the accountability performance criterion; or

(b) schools that fail to make AYP for more than one accountability performance criterion, but not with the all students group; or

(c) Schools that fail to make AYP for one or more accountability groups within an accountability performance criterion, but not the all students group.

(ii) Comprehensive:



(a) schools that fail to make AYP for the all students group on any accountability performance criterion;  
or

(b) schools that fail to make AYP for every accountability group, except the all students group, within an accountability performance criterion for which there are at least two accountability groups other than the all students group; or

(c) schools that fail to make AYP for an accountability performance criterion and for an accountability indicator.

(c) The commissioner shall designate a school's overall accountability status as the most advanced phase for which it has been identified on an accountability performance criterion/accountability indicator and, within that designated phase, shall assign the highest category, provided that such category may not be reduced in a subsequent year of a phase.

(d) Upon a finding of exceptional or uncontrollable circumstances, the commissioner may delay for a period of one year the designation of a school under this paragraph.

(ii) Special transition provisions for schools in operation during the 2008-2009 school year and for schools under registration review. Notwithstanding the provisions of subparagraph (i) of this paragraph:

(a) For each public school that was in operation during the 2008-2009 school year and for each charter school that was in operation and received funds under title I during the 2008-2009 school year, the commissioner shall designate the school's accountability phase and phase category for the 2009-2010 school year, based upon the school's accountability status for the 2008-2009 school year and the school's adequate yearly progress (AYP) status for the 2007-2008 and 2008-2009 school years;

(b) Notwithstanding the provisions of clause (a) of this subparagraph, a school that is identified for registration review pursuant to paragraph (9) of this subdivision during a school year in which it is designated as a school in Improvement or Corrective Action shall, in the next school year, be designated as a school in Restructuring (year 1)/Comprehensive and shall be subject to the requirements of subclause (iv)(c)(2) of this paragraph.

(iii) Removal from accountability designation. A school that makes adequate yearly progress for two consecutive years on the accountability performance criterion/accountability indicator for which it has been identified shall be removed from accountability designation for that accountability performance criterion and/or accountability indicator.

(iv) Interventions.

(a) Improvement phase schools.

(1) School quality review. Each school upon initial designation for the Improvement phase shall participate in a school quality review, to include at a minimum a self-assessment of the educational program, using quality indicators in a form and content prescribed by the commissioner. The school quality review shall focus on the accountability group(s) for each accountability performance criterion and/or accountability indicator for which the school has been identified.

(2) School improvement plan. A school improvement plan, in such format as may be prescribed by the commissioner, shall be developed based on the school quality review and cover a two year period. The plan shall:

(i) be formally approved by the board of education (in New York City, both the New York City Board of Education and the community school board for schools under the jurisdiction of the community school district) no later than three months following the designation of the school in the Improvement phase and shall be subject to the approval of the commissioner, upon request;

(ii) be implemented no later than the beginning of the next school year after the school year in which the school was identified or immediately upon approval of the board of education if such approval occurs after the first day of regular school attendance;

(iii) be updated annually and, as so updated, approved by the board of education and implemented no later than the first day of regular student attendance of each year that the school remains in improvement. If, in the second year of improvement, the school fails to make AYP with a different accountability group for which the school is subsequently designated for improvement or is subsequently designated for improvement for a different accountability performance criterion or indicator, the school shall modify the plan consistent with the highest accountability category and also address the additional group(s), criterion or indicator;

(iv) for a school designated as Improvement/Basic, the plan shall also include a description of activities and timeline for implementation. The district shall be responsible for oversight and support of the plan;

(v) for a school designated as Improvement/Focused, the plan shall, consistent with State law, also include one or more of the actions set forth in section 6316 (b)(3)(A)(i-x) of the NCLB, [20 U.S.C. section 6316\(b\)\(3\)\(A\)\(i-x\)](#) (Public Law, section 107-110, section 1116(b)(3)(A)(i-x), 115 STAT. 1480-1481; Superintendent of Documents, U.S. Government Printing Office, Washington,, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234), in accordance with a written report by the school quality review team; and

(vi) for a school designated as Improvement/Comprehensive, the plan shall, consistent with State law, also include all of the actions set forth in section 6316 (b)(3)(A)(i-x) of the NCLB, [20 U.S.C. section 6316\(b\)\(3\)\(A\)\(i-x\)](#) (Public Law, section 107-110, section 1116(b)(3)(A)(i-x), 115 STAT. 1480-1481; Superintendent of Documents, U.S. Government Printing Office, Washington,, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234), in accordance with a written report by the school quality review team. Such report may include a recommendation that the school engage the services of a content area consultant.

(3) On-site review. Except as provided in paragraph (9) of this subdivision, in addition to the school quality review and prior to the development of the school improvement plan required under clause (a) of this subparagraph:

(i) for a school designated as Improvement/Focused, the school shall be required to participate in an on-site review that shall be conducted by a school quality review team, with district representation, appointed by the commissioner. The review shall focus on the accountability group(s), accountability performance criterion and/or indicator for which the school was identified. The district shall be responsible for oversight and support of the plan;

(ii) for a school designated as Improvement/Comprehensive, the school shall be required to participate in an intensive on-site review that shall be conducted by a school quality review team, with district representation, appointed by the commissioner. The review shall focus on the systemic issues at the school that have caused the school to be designated for Improvement. The district shall be responsible for oversight and support of the plan.

(b) Corrective Action phase schools.

(1) Curriculum audit. Except as provided in paragraph (9) of this subdivision, each school, upon initial designation for the Corrective Action phase, shall participate in a curriculum audit to assess the school's educational program. The curriculum audit shall be in a form and content prescribed by the commissioner and shall focus on the accountability group(s) for each accountability performance criterion and/or accountability indicator for which the school was identified. The school shall be assisted by a school quality review team, with district representation, appointed by the commissioner.

(2) Corrective action plan. A corrective action plan, in such format as may be prescribed by the commissioner, shall be developed and cover a two-year period. The district and school quality review team shall provide oversight and support for implementation of a corrective action plan. The plan shall:

(i) be formally approved by the board of education (in New York City, both the New York City Board of Education and the community school board for schools under the jurisdiction of the community school district) no later than three months following the designation of the school in the Corrective Action phase and shall be subject to the approval of the commissioner, upon request;

(ii) be implemented no later than the beginning of the next school year after the school year in which the school was identified or immediately upon approval of the board of education if such approval occurs after the first day of regular school attendance;

(iii) be updated annually and incorporate the findings of the audit and any other action required to be taken by the district pursuant to this subclause and, as so updated, approved by the board of education and implemented no later than the first day of regular student attendance of each year that the school remains in corrective action. If, in the second year of corrective action, the school fails to make AYP with a different accountability group for which the school is subsequently designated for corrective action or is subsequently designated for corrective action on a different accountability performance criterion or indicator, the school shall modify the plan consistent with the highest accountability category and also address the additional group(s), criterion or indicator;

(iv) include, to the extent consistent with State law, at least one of the actions set forth at section 6316(b)(7)(C)(iv)(I-VI) of the NCLB, [20 U.S.C. section 6316\(b\)\(7\)\(C\)\(iv\)\(I-VI\)](#) (Public Law, section 107-110, section 1116(b)(7)(C)(iv)(I-VI), 115 STAT. 1484; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234). The district shall identify and provide the support(s) required to implement any new curriculum, including professional development;

(c) Restructuring phase schools.

(1) Assessment of educational program. Each school shall participate in an assessment of the educational program by a joint intervention team appointed by the commissioner which shall include district representation and may include a distinguished educator. The team shall assess the educational program and make recommendations.

(2) Restructuring plan. A two year restructuring plan shall be developed and implemented by the district, focusing on the subgroup(s) for the accountability performance criterion and/or accountability indicator for which the school was identified. The district shall provide oversight and support for the plan, with the assistance of the Department. Such restructuring plan shall require the school to make fundamental reforms, such as significant changes in the staff, governance, or organization and may include a plan to

close or phase out the school, and shall:

(i) be formally approved by the board of education (in New York City, both the New York City Board of Education and the community school board for schools under the jurisdiction of the community school district) no later than three months following the designation of the school in the Restructuring phase and also shall be subject to the approval of the commissioner; and

(ii) be implemented no later than the beginning of the next school year after the school year in which the school was identified or, to the extent practicable, immediately upon approval of the board of education if such approval occurs after the first day of regular school attendance.

(3) Distinguished educator. In addition to, and notwithstanding the provisions of, subclauses (1) and (2) of this clause, a school designated as Restructuring/Comprehensive shall cooperate with a distinguished educator assigned by the commissioner. The distinguished educator shall also provide oversight of the restructuring plan and shall serve as an ex-officio member of the board of education. All plans are subject to review by the distinguished educator who shall make recommendations to the board of education. The board shall implement such recommendations unless it obtains the commissioner's approval otherwise.

(d) Each improvement, corrective action and restructuring plan, and each updated plan, shall be developed, to the extent appropriate, consistent with section 100.11 of this Title.

(e) The commissioner may require that any plan, or subsequent modification of a plan, be submitted for prior approval.

(v) Supplemental education services. Each local educational agency that receives title I funds shall make supplemental education services available to eligible students who attend a school designated in Improvement, Corrective Action or Restructuring pursuant to this paragraph, consistent with section 120.4 of this Title.

(vi) Title I public school choice. Each local educational agency that receives title I funds that has a school designated in Improvement (year 2); Corrective Action; or Restructuring pursuant to this paragraph, shall provide public school choice consistent with section 120.3 of this Title.

(7) Districts requiring academic progress.

(i) Commencing with 2003-2004 school year results, a district that failed to make adequate yearly progress on all applicable criteria in paragraph (14) of this subdivision in a subject area, or all applicable indicators in subparagraphs (15)(i) through (iii) of this subdivision, or the indicator in subparagraph (15)(iv) of this subdivision, for two consecutive years shall be designated as a "district requiring academic progress." A district improvement plan in such format as may be prescribed by the commissioner shall be developed by each district requiring academic progress. Such district improvement plan shall be formally approved by the board of education (in New York City, both the New York City Board of Education and the community school board for schools under the jurisdiction of the community school district) no later than three months following the identification of the district as requiring academic progress and submitted to the commissioner for approval. The plan shall be implemented no later than beginning of the next school year after the school year in which the school district was identified as requiring academic progress or immediately, to the extent practicable, upon approval of the board, if such identification occurs after the first day of regular student attendance. Such plan shall be developed in consultation with parents, school, staff, and others. The plan shall be revised annually and resubmitted to the commissioner for approval no later than July 31st of each school year in which the district remains identified as requiring academic progress. Any modification of the district's approved improvement plan shall require

the prior approval of the commissioner.

(ii) Commencing with 2003-2004 school year results:

(a) a district identified as requiring academic progress for failing to make adequate yearly progress on all applicable criterion in paragraph (14) of this subdivision in a subject area shall be removed from such status if it makes adequate yearly progress for two consecutive years on any criterion in the subject area for which it is identified;

(b) a district identified as requiring academic progress for failing to make adequate yearly progress on every applicable indicator set forth at subparagraphs (15)(i) through (iii) of this subdivision shall be removed from such status if it makes adequate yearly progress for two consecutive years on any applicable indicators; and

(c) a district identified as requiring academic progress for failing to make adequate yearly progress on the indicator set forth at subparagraph (15)(iv) of this subdivision shall be removed from such status if it makes adequate yearly progress for two consecutive years on such indicator; provided that for a district requiring academic progress that is removed from such status based on 2002-2003 and 2003-2004 results, such district shall have made adequate yearly progress in 2002-2003 on each criterion or indicator for which it was identified.

(iii) Except as provided in subparagraph (vi) of this paragraph, a local educational agency (LEA) that received funds under title I for two consecutive years during which the LEA did not make adequate yearly progress on all applicable criteria in paragraph (14) of this subdivision in a subject area, or all applicable indicators in subparagraphs (15)(i) through (iii) of this subdivision, or the indicator in subparagraph (15)(iv) of this subdivision, shall be identified for improvement under section 1116(c) of the NCLB, [20 U.S.C. section 6316\(c\)](#) and shall be subject to the requirements therein (Public Law, section 107-110, section 1116[c], 115 STAT. 1487-1491; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234).

(iv) Except as provided in subparagraph (vi) of this paragraph, at any time following the identification of an LEA for improvement, the commissioner may further identify the local educational agency for corrective action under section 1116(c)(10) of the NCLB, [20 U.S.C. section 6316\(c\)\(10\)](#). The commissioner shall identify such LEA for corrective action if, by the end of the second full school year the LEA has failed to make adequate yearly progress. The commissioner may delay identification of an LEA for corrective action for a period of one year pursuant to section 1116(c)(10)(F) of the NCLB, [20 U.S.C. section 6316\(c\)\(10\)\(F\)](#) (Public Law, section 107-110, section 1116[c][10], 115 STAT. 1489-1491; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234).

(v) Commencing with 2003-2004 school year results, an LEA identified for improvement or corrective action that is removed from status as a district requiring academic progress pursuant to subparagraph (ii) of this paragraph shall no longer be subject to the requirements of section 1116(c) of the NCLB, [20 U.S.C. section 6316\(c\)](#) (Public Law, section 107-110, section 1116[c], 115 STAT. 1487-1491; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234).

(vi) Notwithstanding any other provision of law, an LEA subject to the provisions of subparagraphs (iii) and (iv) of this paragraph which accountability status is dependent upon the 2005-2006 assessment results for grades 3-8 and which does not receive notice of such status until after the first day of regular

attendance for the 2006-2007 school year, shall immediately commence implementation, to the extent practicable, of any plan required to be implemented pursuant to section 1116(c) of the NCLB.

(8) High performing and rapidly improving schools and districts.

(i) Commencing with 2003-2004 school year results, the commissioner shall annually identify as "high performing" public schools, school districts, and charter schools in which:

(a) the school or district meets or exceeds the benchmarks established by the commissioner pursuant to subparagraph (14)(ix) of this subdivision; and

(b) the school or district has made adequate yearly progress on all applicable criteria and indicators in paragraphs (14) and (15) of this subdivision for two consecutive years.

(ii) Commencing with 2004-2005 school year results, the commissioner shall annually identify as "rapidly improving" public schools, school districts, and charter schools in which:

(a) the school or district is below the benchmark established by the commissioner pursuant to subparagraph (14)(ix) of this subdivision;

(b) the school or district has improved its performance by an amount determined by the commissioner during the past three years on each applicable criterion in paragraph (14) of this subdivision in which it is below the benchmark established by the commissioner; and

(c) the school or district has made adequate yearly progress on all applicable criteria and indicators in paragraphs (14) and (15) of this subdivision for three consecutive years.

(iii) The commissioner may elect not to identify a school or district as high performing or rapidly improving if the school or district is held accountable for the performance of three or fewer accountability groups on each applicable criterion.

(9) Identification of schools for public school registration review.

(i) Up through and including the 2009-2010 school year, the commissioner shall place under registration review those schools that are determined to be farthest from meeting the benchmarks established by the commissioner pursuant to subparagraph (14)(ix) of this subdivision and most in need of improvement.

(ii) Beginning with the 2010-2011 school year and thereafter, the commissioner shall place under preliminary registration review a school that is identified as persistently lowest-achieving in such school year. A school identified as persistently lowest-achieving in the 2009-2010 school year, that was not a school under registration review during the 2009-2010 school year, shall not be placed under registration review but shall follow the intervention and other applicable requirements in subparagraphs (10)(ii) and (iv) of this subdivision.

(a) A school shall be identified as persistently lowest-achieving if, based upon the academic indicators set forth in clause (b) of this subparagraph, it is:

(I) A Title I school in improvement, corrective action, or restructuring that:

(i) is among the lowest-achieving five percent of Title I schools in improvement, corrective action or restructuring, or the lowest achieving five Title I schools in improvement, corrective action or

restructuring, whichever number of schools is greater; or

(ii) is a high school that has a graduation rate, as defined in section 100.2(p)(15)(iv) of this subdivision, that is less than 60 percent over the three consecutive year period for which accountability determinations have been made pursuant to this subdivision; or

(2) A secondary school that is eligible for, but does not receive, Title I funds that:

(i) is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or

(ii) is a high school that has a graduation rate, as defined in section 100.2(p)(15)(iv) of this subdivision, that is less than 60 percent over the three consecutive year period for which accountability determinations have been made.

(b) A school shall be identified as persistently lowest-achieving based on the following academic indicators:

(1) the performance of the school's "all students" group on the State assessments in English language arts and mathematics combined, which shall be determined by dividing the sum of the "all students" performance index for each English language arts and mathematics measure for which the school is accountable by the number of measures for which the school is accountable; and

(2) the school's lack of progress on the State assessments in English language arts and mathematics over three years. A school shall be deemed to have demonstrated lack of progress if:

(i) the school is designated as a school in restructuring; and

(ii) the school has failed to demonstrate, over the three consecutive year period for which accountability determinations have been made pursuant to this subdivision, at least a twenty-five point gain in its performance index for the "all students" group in each English language arts and mathematics measure for which the school is held accountable; and/or

(3) the school has a graduation rate, as defined in section 100.2(p)(15)(iv) of this subdivision, that is less than 60 percent over the three consecutive year period for which accountability determinations have been made pursuant to this subdivision.

(iii) The commissioner shall also place under preliminary registration review a school that is not otherwise eligible to be identified as persistently lowest-achieving that meets the academic indicators in clause (ii)(b) of this paragraph to be identified as a persistently lowest-achieving school; and

(a) is a school in which more than fifty percent of the total student enrollment consists of students with disabilities; or

(b) is a non-Title I elementary school or a non-Title I eligible secondary school.

(iv) The commissioner may also place under preliminary registration review any school that has conditions that threaten the health, safety and/or educational welfare of students or has been the subject of persistent complaints to the department by parents or persons in parental relation to the student, and has been identified by the commissioner as a poor learning environment based upon a combination of factors

affecting student learning, including but not limited to: high rates of student absenteeism, high levels of school violence, excessive rates of student suspensions, violation of applicable building health and safety standards, high rates of teacher and administrator turnover, excessive rates of referral of students to or participation in special education or excessive rates of participation of students with disabilities in the alternate assessment, excessive transfers of students to alternative high school and high school equivalency programs and excessive use of uncertified teachers or teachers in subject areas other than those for which they possess certification.

(v) The commissioner may also place under registration review any school for which a district fails to provide in a timely manner the student performance data required by the commissioner to conduct the annual assessment of the school's performance or any school in which excessive percentages of students fail to fully participate in the State assessment program.

(vi) Beginning in the 2010-2011 school year, for each school identified for preliminary registration review pursuant to subparagraphs (ii) and (iii) of this paragraph, the local school district shall be given the opportunity to present to the commissioner additional assessment data, which may include, but need not be limited to, valid and reliable measures of: the performance of students in grades other than those in which the State tests are administered; the performance of limited English proficient students and/or other students with special needs; and the progress that specific grades have made or that cohorts of students in the school have made towards demonstrating higher student performance. For each school identified as a poor learning environment and placed under preliminary registration review pursuant to subparagraph (iv) of this paragraph, the district shall be given the opportunity to present evidence to the commissioner that the conditions in the school do not threaten the health or safety or educational welfare of students and do not adversely affect student performance. The district may also provide relevant information concerning extraordinary, temporary circumstances faced by the school that may have affected the performance of students in the school on the State tests.

(vii) The commissioner shall review the additional information provided by the district and determine which of the schools identified for preliminary registration review pursuant to subparagraphs (ii) and (iii) of this paragraph, or identified as poor learning environments pursuant to subparagraph (iv) of this paragraph, shall be placed under registration review.

(viii) In determining the number of schools to place under registration review, other than persistently lowest-achieving schools identified pursuant to subparagraph (ii) of this paragraph, the commissioner may consider the sufficiency of State and local resources to effectively implement and monitor school improvement efforts in schools under registration review.

(ix) For schools required to conduct a self-assessment pursuant to subparagraph (5)(vi) of this subdivision, the commissioner upon review of the self-assessment may make a determination that the school shall be placed under registration review.

(10) Public school registration review.

(i) Upon placing the registration of a school under review, the commissioner shall warn the board of education (in New York City, the chancellor) that the school has been placed under registration review, and that the school is at risk of having its registration revoked. The commissioner shall include in any warning issued pursuant to this subparagraph an explicit delineation of the progress that must be demonstrated in order for a school to be removed from consideration for revocation of registration. Upon receipt of such warning, the board of education (in New York City, the chancellor or chancellor's designee) shall take appropriate action to notify the general public of the issuance of such warning. Such action shall include, but need not be limited to, direct notification, within 30 days of receipt of the



commissioner's warning, in English and translated, when appropriate, into the recipient's native language or mode of communication, to persons in parental relation of children attending the school that it has been placed under registration review and is at risk of having its registration revoked, and disclosure by the district at the next public meeting of the local board of education of such warning. Each school year during which a school remains under registration review, by June 30th or at the time of a student's initial application or admission to the school, whichever is earliest, the board of education shall provide direct notification to parents or other persons in parental relation to children attending the school that the school remains under registration review and is at risk of having its registration revoked. Such notification shall include a summary of the actions that the district and school are taking to improve student results and an explanation of any district programs of choice, magnet programs, transfer policies, or other options that a parent or a person in parental relation may have to place the child in a different public school within

the district. Such notification shall include the timelines and process for parents exercising their rights to school choice.

(ii) Following the placement of a school under registration review, or following the identification of a school as persistently lowest-achieving in the 2009-2010 school year, a joint intervention team, as appointed by the commissioner, shall assist the school district in which such school is located in selecting an intervention pursuant to subparagraph (iv) of this paragraph. The district shall develop a new restructuring plan, or update an existing restructuring plan, that shall, in addition to the requirements pursuant to subclause (6)(iv)(c)(2), describe the implementation of the intervention. Such plan shall be in a format as prescribed by the commissioner. The district shall update the plan annually for implementation no later than the first day of the regular student attendance of each school year that the designation continues. The school shall implement the intervention in accordance with a timeline prescribed by the commissioner, and no later than the beginning of the next school year following the school's identification for registration review, provided that the commissioner may upon a finding of good cause extend the timeline for implementing elements of such plan beyond the date prescribed therein.

(iii) Schools placed under registration review pursuant to subparagraph (9)(i) of this subdivision, but not identified pursuant to subparagraph (9)(ii) of this subdivision as persistently lowest-achieving prior to the 2010-2011 school year, shall continue implementation of the existing restructuring plan.

(iv) Interventions.

(a) A school that is identified pursuant to subparagraph (9)(ii) of this subdivision as persistently lowest-achieving in the 2010-2011 school year or thereafter and placed under registration review, and a school that is identified pursuant to subparagraph (9)(ii) as persistently lowest-achieving in the 2009-2010 school year, shall implement one of the following interventions, in a format and timeline as approved by the commissioner:

(1) Turnaround model. Implementation of the turnaround model may include, but not be limited to, the following actions as approved by the commissioner:

(i) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;

(ii) Using locally adopted competencies to measure the effectiveness of staff that shall work within the turnaround environment to meet the needs of students:

(A) screen all existing staff and rehire no more than fifty percent; and

(B) select new staff;

(iii) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that shall be designed to recruit, place, and retain staff with the skills necessary to meet the needs of students in the turnaround school;

(iv) Provide staff ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

(v) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new "turnaround office" in the LEA or SEA, hire a "turnaround leader" who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or SEA to obtain added flexibility in exchange for greater accountability;

(vi) Use data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with State academic standards;

(vii) Promote the continuous use of student data (such as from formative, interim, and summative assessments) that shall inform and differentiate instruction in order to meet the academic needs of individual students;

(viii) Establish schedules and implement strategies that shall provide increased learning time, as defined by the commissioner; and

(ix) Provide appropriate social-emotional and community-oriented services and supports for students.

(2) Restart model. Implementation of the restart model may include, but is not limited to, converting a school or closing and reopening a school under a charter school operator, a charter management organization, or an educational partnership organization that has been selected pursuant to a format approved by the commissioner.

(3) School closure model. Implementation of the school closure model may include, but is not limited to, closing a school and enrolling its students in other schools within the district that are in good standing.

(4) Transformation model. Implementation of the transformation model may include, but is not limited to, the following actions as approved by the commissioner; in addition, the school shall be encouraged to partner with an external intermediary or "lead partner" that may assist the school with planning and implementation:

(i) develop and increase teacher and school leader effectiveness;

(ii) replace the principal who led the school prior to commencement of the transformation model;

(iii) use rigorous, transparent, and equitable evaluation systems for teachers and principals that:

(A) take into account data on student growth as a significant factor as well as other factors, such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high school graduation rates; and

(B) are designed and developed with teacher and principal involvement;

(iv) identify and reward school leaders, teachers, and other staff who, through implementation of the transformation model, have increased student achievement and high school graduation rates, per rates defined by the commissioner; and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(v) provide staff ongoing, high-quality job-embedded professional development (e.g. regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school or differentiated instruction) that is aligned with the school's comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

(vi) implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that shall be designed to recruit, place and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(vii) use data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with State academic standards; and

(viii) promote the continuous use of student data (such as from formative, interim and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students

(ix) establish schedules and strategies that provide increased learning time;

(x) provide ongoing mechanisms for family and community engagement;

(xi) give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and

(xii) ensure that the school receives ongoing, intensive technical assistance and related support for the LEA, the SEA or a designated external lead partner organization.

(b) A school as described in subparagraph (9)(iii) of this subdivision that is placed under registration review in the 2010-2011 school year or thereafter, shall implement a plan, in a format and timeline as approved by the commissioner, that shall, at a minimum, meet the requirements of a restructuring plan pursuant to subclause (6)(iv)(c)(2) of this subdivision and include at least one of the actions of a transformation or turnaround model.

(v) The department shall periodically monitor the implementation of the restructuring plan. The commissioner may require a school district to submit such reports and data as the commissioner deems necessary to monitor the implementation of the restructuring plan and to determine the degree to which the school has achieved the progress required by the commissioner. Such reports shall be in a format and in accordance with such timeframe as are prescribed by the commissioner. The commissioner may upon a finding of good cause extend the deadline for submission of a restructuring plan.

(vi) Unless it is determined by the commissioner that a school identified for registration review should be phased out or closed, or that a shorter period of time shall be granted, a school placed under registration

review shall be given three full academic years to show progress. If, after three full academic years of implementing a restructuring plan, the school has not demonstrated progress as delineated by the commissioner in the warning pursuant to subparagraph (i) of this paragraph, the commissioner shall recommend to the Board of Regents that the registration be revoked and the school be declared an unsound educational environment, except that the commissioner may upon a finding of extenuating circumstances extend the period during which the school must demonstrate progress. The board of education of the school district which operates the school (in New York City, the chancellor) shall be afforded notice of such recommendation and an opportunity to be heard in accordance with subparagraph (iv) of this paragraph. Upon approval of revocation of registration by the Board of Regents, the commissioner will develop a plan to ensure that the educational welfare of the pupils of the school is protected. Such plan shall specify the instructional program into which pupils who had attended the school will be placed, how their participation in the specified programs will be funded, and the measures that will be taken to ensure that the selected placements appropriately meet the educational needs of the pupils. The commissioner shall require the board of education to implement such plan.

(vii) Decisions to revoke the registration of a public school shall be made in accordance with the following procedures:

(a) The commissioner shall provide written notice of his recommendation and the reasons therefore to the board of education, which operates the school (in New York City, both the New York City Board of Education and any community school board having jurisdiction over the school). Such notice shall also set forth:

(1) the board of education's right to submit a response to the recommendation and request oral argument pursuant to clause (b) of this subparagraph;

(2) the place, date and time the matter will be reviewed and if requested, argument heard by a three-member panel of the Board of Regents for recommendation to the full Board of Regents; and

(3) notification that failure to submit a response will result in the commissioner's recommendation being submitted to the Board of Regents for determination.

(b) Within 15 days of receiving notice of the recommendation to revoke registration, the board of education may submit a written response to the commissioner's recommendation. The response shall be in the form of a written statement which presents the board of education's position, all evidence and information which the board of education believes is pertinent to the case, and legal argument. If the board of education desires, it may include in its response a request for oral argument. Such response must be filed with the Office of Counsel, New York State Education Department, State Education Building, Albany, NY 12234.

(c) Within 30 days of the date of notice of the commissioner's recommendation, a panel comprised of three members of the Board of Regents, appointed by the chancellor, shall convene to consider the commissioner's recommendation, review any written response submitted by the board of education and, if timely requested by the board of education, hear oral argument.

(11) Removal of schools from registration review, school phase-out or closure.

(i) In the event that a school has demonstrated the progress necessary to be removed from registration review, the superintendent may petition the commissioner to remove the school from registration review. If such petition is based upon results of the "all student" group on the English language arts and mathematics assessments or graduation rate, such petition shall be submitted pursuant to a date prescribed

by the commissioner but no later than December 31st of the calendar year in which such assessments were administered, except that the commissioner may for good cause accept a petition submitted after such date. A school shall not be removed from registration review if, in the commissioner's judgment, conditions that may contribute to a poor learning environment, as identified in paragraph (9) of this subdivision, remain present in the school.

(ii) In the event that a school placed under registration review prior to the 2010-2011 school year demonstrates previously established progress to be removed from registration review, but is identified in the 2010-2011 school year as persistently lowest-achieving pursuant to subparagraph (9)(ii) of this subdivision, the school shall remain under registration review and shall follow intervention requirements pursuant to subparagraph (10)(iv) of this subdivision.

(iii) In the event that a school placed under registration review prior to the 2010-2011 school year demonstrates previously established progress to be removed from registration review and is not identified in the 2010-2011 school year as persistently lowest-achieving pursuant to subparagraph (9)(ii) of this subdivision, the school shall be removed from registration review.

(iv) In the event that a board of education seeks to phase out or close a school under registration review, the board of education (in New York City, the chancellor or chancellor's designee) shall submit for commissioner's approval, a plan identifying the intervention that will be implemented and will result in phase out or closure. The commissioner may grant approval of such plan provided that:

(a) official resolutions or other approvals to phase out or close the existing school have been adopted by the local board of education (in New York City, the chancellor or chancellor's designee);

(b) a formal phase out or closure plan has been developed and approved in accordance with the requirements of the intervention prescribed by the commissioner pursuant to subparagraph (10)(iv) of this subdivision; and

(c) parents, teachers, administrators, and community members have been provided an opportunity to participate in the development of the phase out or closure plan.

(12) Registered nonpublic high school registration review.

(i) The registration of a registered nonpublic high school shall be placed under review under the following circumstances:

(a) when the school scores below the registration review criterion on one (or more) of the measures adopted by the Board of Regents, and the student achievement on such measures or other appropriate indicators has not shown improvement over the preceding three school years, as determined by the commissioner; or

(b) when sufficient other reason exists, as determined by the commissioner, to warrant a review of the school's registration.

(ii) On an ongoing basis consistent with clauses (i)(a) and (b) of this paragraph, and after consultation with the appropriate nonpublic school officials, the commissioner shall identify the nonpublic high schools whose registration shall be placed under review. When a nonpublic high school is identified for registration review, the commissioner shall offer technical assistance to the school in the development of a school improvement plan. The commissioner shall require that:

(a) the nonpublic school develop a school improvement plan which will address the areas in which the school has been determined to be in need of assistance;

(b) the school improvement plan be submitted to the department no later than June 30th of the school year in which the commissioner required such a plan; and

(c) the school improvement plan be implemented no later than the first week of classes in the September next following the close of the school year in which the plan was approved by the commissioner.

(iii) If, after a time period established by the commissioner in consultation with the appropriate nonpublic school officials, the nonpublic high school under registration review has not demonstrated progress on the registration criteria in question, the commissioner shall formally notify the appropriate nonpublic school officials that the school is at risk of having its registration revoked. Upon receipt of such warning, the nonpublic school officials shall notify the parents of children attending the school under registration review of the issuance of such warning.

(iv) If, after a further time period established by the commissioner in consultation with the appropriate nonpublic school officials, the nonpublic high school under registration review has not demonstrated progress as determined by the commissioner, the commissioner shall recommend to the Board of Regents that the registration be revoked. The governing body and the chief administrative officer of the nonpublic school shall be afforded notice of such recommendation and an opportunity to be heard in accordance with the procedures set forth in subparagraph (10)(viii) of this subdivision, except that such procedure shall be afforded to the governing body and chief administrative officer of the nonpublic school. Upon approval of revocation of registration by the Board of Regents, the commissioner in consultation with the appropriate nonpublic school officials will develop a plan to ensure that the educational welfare of the pupils of the school is protected.

(13) Nonpublic school accountability performance criteria.

(i) The registration of a registered nonpublic school may be placed under registration review when its students score below the following criteria on the measures of student achievement specified below:

Measure	Criteria
Pupil Evaluation Program (PEP) Tests	
Grade 3 Reading	65 percent above statewide reference point (SRP)
Grade 3 Mathematics	75 percent above statewide reference point (SRP)
Grade 6 Reading	65 percent above statewide reference point (SRP)
Grade 6 Mathematics	70 percent above statewide reference point (SRP)
Preliminary competency testing requirements, Grade 8 or 9	
Grade 8 Reading	85 percent above statewide reference point (SRP)
Grade 9 Reading	84 percent above statewide reference point (SRP)
Regents competency testing requirements	
Reading	25 percent Failure rate
Writing	25 percent Failure rate

Mathematics	40 percent Failure rate
Dropout Rate	10 percent or higher

(14) Public school, school district and charter school accountability performance criteria. Each district and school accountability group, as defined in subparagraph (1)(i) of this subdivision shall be subject to the performance criteria specified below:

(i) Elementary level English language arts. Annual measurable objectives, based on a performance index, set at 123 in 2002-03 and 2003-04 and 131 in 2004-2005.

(ii) Middle level English language arts. Annual measurable objectives, based on a performance index, set at 107 in 2002-03 and 2003-04 and 116 in 2004-2005.

(iii) Elementary-middle level English language arts. Annual measurable objectives, based on a performance index, set by the commissioner in 2005-2006 and, beginning in 2008-2009, increasing annually in equal increments through 2009-2010 and then reset at 122 in 2010-2011 and increasing annually in equal increments so as to reach 200 in 2013-2014.

(iv) Elementary level mathematics. Annual measurable objectives, based on a performance index, set at 136 in 2002-03 and 2003-04 and 142 in 2004-2005.

(v) Middle level mathematics. Annual measurable objectives, based on a performance index, set at 81 in 2002-03 and 2003-04 and 93 in 2004-2005.

(vi) Elementary-middle level mathematics. Annual measurable objectives, based on a performance index, set by the commissioner in 2005-2006 and, beginning in 2008-2009, increasing annually in equal increments through 2009-2010 and then reset at 137 in 2010-2011 and increasing annually in equal increments so as to reach 200 in 2013-2014.

(vii) High school English language arts and mathematics requirements. Annual measurable objectives, based on the performance index of the high school cohort defined in paragraph (16) of this subdivision, set at 142 in English language arts and 132 in mathematics in 2002-03 and 2003-04, and incremented annually thereafter as necessary so that in 2013-2014 the index shall be 200.

(viii) For the 2002-2003 through the 2005-2006 school year test administrations, for purposes of the commissioner's annual evaluation of public schools, public school districts, and charter schools, the following limited English proficient students may be considered to be meeting performance criteria in elementary or middle-level English language arts if they demonstrate a specified increment of progress on the New York State English as a Second Language Achievement Test (NYSESLAT) for their grade level. For limited English proficient students who have attended school in the United States (not including Puerto Rico) for fewer than three consecutive years, districts and charter schools may administer the NYSESLAT to such students in lieu of the required State assessment in English language arts. Districts or charter schools may, on an individual basis, annually determine to administer the NYSESLAT in lieu of the required assessment in English language arts to limited English proficient students who have attended school in the United States (not including Puerto Rico) for four or five consecutive school years. No exemption is available beyond the student's fifth year and the student must take the required English language arts assessment.

(ix) For each criterion (subparagraphs [i] through [vii] of this paragraph), the commissioner shall also establish a benchmark against which the performance of the accountability group, *all students*, defined in subparagraph (1)(i) of this subdivision, will be measured. This benchmark will be used in recognizing

high-performing schools and districts, determining which school districts are required to develop local assistance plans as described in paragraph (m)(6) of this section and for identifying those schools that are subject to registration review pursuant to paragraph (9) of this subdivision.

(15) Additional public school, school district, and charter school accountability indicators.

(i) Elementary science indicator: For the 2002-2003 through 2004-2005 school years:

(a) an index of 100 that may be incremented annually, as the commissioner deems appropriate, or progress in relation to performance in the previous school year; and

(b) beginning in 2004-05, 80 percent of students enrolled on all days of the test administration, who did not have a significant medical emergency, received valid scores.

(ii) Middle-level science indicator: For the 2002-2003 through 2004-2005 school years:

(a) an index of 100 that may be incremented annually, as the commissioner deems appropriate, or progress in relation to performance in the previous year; and

(b) beginning in 2004-05, 80 percent of students enrolled on all days of the test administration, who did not have a significant medical emergency, received valid scores.

(iii) Elementary-middle science combined indicator: For the 2005-2006 school year and thereafter:

(a) an index of 100 that may be incremented annually, as the commissioner deems appropriate, or progress in relation to performance in the previous year; and

(b) 80 percent of students enrolled on all days of the test administration, who did not have a significant medical emergency, received valid scores.

(iv) A high school graduation rate established annually by the commissioner, or progress in relation to the previous school year's graduation rate. The graduation rate is the percentage of the annual graduation rate cohort that earns a local or Regents diploma by August 31st following the third school year after the school year in which the cohort first entered grade 9, except that in a school in which the majority of students participate in a department-approved, five-year program that results in certification in a career or technology field in addition to a high school diploma, the graduation rate shall be the percentage of the annual graduation rate cohort that earns a local diploma by August 31st following the fourth school year after the school year in which the cohort first entered grade 9.

(16) Annual high school or high school alternative cohort.

(i) Beginning in the 2005-2006 school year, except as provided in clauses (a) and (b) of this subparagraph, the annual high school cohort for purposes of determining adequate yearly progress on the criteria set forth at subparagraph (14)(vii) of this subdivision and identifying schools for registration review pursuant to paragraph (9) of this subdivision for any given school year shall consist of those students who first enrolled in ninth grade three school years previously anywhere and who were enrolled in the school on the first Wednesday in October of the current school year. The annual district high school cohort for purposes of determining such adequate yearly progress for any given school year shall consist of those students who first enrolled in ninth grade three school years previously anywhere and who were enrolled in the district or placed by the district committee on special education or by district officials in educational programs outside the district on the first Wednesday in October of the current school year.



Students with disabilities in ungraded programs shall be included in the annual district and high school cohort in the third school year following the one in which they attained the age of 17.

(a) The following students shall not be included in the annual high school cohort: students who transferred to another high school or approved alternative high school equivalency preparation program or high school equivalency preparation program approved pursuant to section 100.7 of this Part, or criminal justice facility, who left the United States or its territories, or who are deceased; except that, beginning with students who first entered grade 9 in the 2002-03 school year, the following students will be included in the high school cohort of the school they attended before transferring:

(1) students who transfer to an approved alternative high school equivalency preparation program or high school equivalency preparation program approved pursuant to section 100.7 of this Part, but leave that program before the end of the third school year after the school year in which they first entered grade 9 without having earned a high school equivalency diploma or without entering a program leading to a high school diploma; and

(2) students who transfer to any high school equivalency preparation program other than those approved pursuant to section 100.7 of this Part.

(b) The following students shall not be included in the annual district high school cohort: student who transferred to a high school that is not a component of the district or to an approved alternative high school equivalency preparation program or high school equivalency preparation program approved pursuant to section 100.7 of this Part, or criminal justice facility, who left the United States or its territories, or who are deceased; except that, beginning with students who first entered grade 9 in the 2002-03 school year, the following students will be included in the high school cohort of the district they attended before transferring:

(1) students who transfer to an approved alternative high school equivalency preparation program or high school equivalency preparation program approved pursuant to section 100.7 of this Part, but leave that program before the end of the third school year after the school year in which they first entered grade 9 without having earned a high school equivalency diploma or without entering a program leading to a high school diploma; and

(2) students who transfer to any high school equivalency preparation program other than those approved pursuant to section 100.7 of this Part.

(ii)

(a) For purposes of determining adequate yearly progress on the indicator set forth at subparagraph (15)(iv) of this subdivision, the graduation rate cohort for each public school, school district, and charter school for each school year from 2002-03 through 2006-2007 shall consist of all members of the school or district high school cohort, as defined in subparagraph (i) of this paragraph, for the previous school year plus any students excluded from that cohort solely because they transferred to an approved alternative high school equivalency or high school equivalency preparation program.

(b) Commencing with the 2007-08 school year, for purposes of determining adequate yearly progress on the indicator set forth at subparagraph (15)(iv) of this subdivision:

(1) the graduation rate cohort for each public school and charter school shall consist of those students who first enrolled in grade 9 anywhere three school years previously or, if an ungraded student with a disability, first attained the age of 17 three school years previously, and who have spent at least five

consecutive months, not including July and August, in the school since first entering grade 9 and whose last enrollment in the school did not end because of transfer to another school, death, court-ordered transfer, or leaving the United States.

(2) the graduation rate cohort for each public school district shall consist of those students who first enrolled in grade 9 anywhere three school years previously or, if an ungraded student with a disability, first attained the age of 17 three school years previously, and who have spent at least five consecutive months, not including July and August, in the district since first entering grade 9 and whose last enrollment in the district did not end because of transfer to another district, death, court-ordered transfer, or leaving the United States.

(iii) The high school alternative cohort in any given year shall consist of those students enrolled in the high school on the first Wednesday of October three years previously who were still enrolled in the school on the first Wednesday of October two years previously. Schools in which more than half the students enrolled have previously been enrolled in another high school or in which more than half the enrollment is receiving special education services may voluntarily submit to the commissioner information on the performance of an alternative high school cohort.

(17) Identification of programs for high school equivalency program review.

(i) Each year, commencing with 2002-03 school year test administration results, the commissioner shall review the performance of all alternative high school equivalency programs and high school equivalency programs for high school equivalency program review.

(ii) The commissioner shall identify those programs that have the lowest percentage of students meeting the following criteria:

(a) students under the age of 21 who complete 150 hours of instruction who receive a high school equivalency diploma if the student upon entering the program is assessed on an instrument approved by the commissioner to have a reading and mathematics level at or above grade nine;

(b) students under the age of 21 who complete 150 hours of instruction who receive a high school equivalency diploma or advance one high school equivalency literacy level in reading or mathematics if the student upon entering the program is assessed on an instrument approved by the commissioner to have a reading or mathematics level below grade nine; and

(c) students under the age of 21 who complete fewer than 150 hours of instruction who receive a high school equivalency diploma or continue in the program during the subsequent school year.

(iii) In programs in which fewer than 20 students are subject to the criteria in subparagraph (ii) of this paragraph, the commissioner may review prior years' performance of the program in order to make a determination whether the program shall be considered farthest from meeting the criteria. In calculating the performance of a program, the commissioner may exclude from consideration students who complete fewer than 12 hours of instruction.

(iv) The commissioner may also place under high school equivalency program review any program for which a district or board of cooperative educational services fails to provide in a timely manner the student's performance data required by the commissioner to conduct the annual assessment of the high school equivalency program.

(v) For each high school equivalency program identified as having the lowest percentage of students

meeting the high school equivalency performance criteria, the local school district or board of cooperative educational services shall be given the opportunity to present to the commissioner additional information.

(vi) The commissioner shall review the available data, including additional information provided by the district or board of cooperative educational services and determine which of the high school equivalency programs identified as having the lowest percentage of students meeting the criteria of high school equivalency performance established by the commissioner, are most in need of improvement and shall be placed under high school equivalency program review.

(18) High school equivalency program approval review.

(i) Upon placing a high school equivalency program under high school equivalency program review, the commissioner shall notify the district or board of cooperative educational services that the high school equivalency program has been identified for high school equivalency program review, and that the program may not receive approval for continued operation. The commissioner shall include in any notification issued pursuant to this subparagraph an explicit delineation of the progress that must be demonstrated in order for the high school equivalency program to be removed from program review status. Upon receipt of such notification, the district or board of cooperative educational services shall take appropriate action to notify the general public of the issuance of such warning. Such action shall include, but need not be limited to, direct notification, within 30 days of receipt of the commissioner's warning, in English and translated, when appropriate, into the recipient's native language or mode of communication, to persons in parental relation of children attending the program that it has been placed under high school equivalency program review and is at risk of not receiving an approval for program continuance, and disclosure of such warning by the district, or board of cooperative educational services at its next public meeting. By June 30th of each school year during which a program remains under high school equivalency program review, or at the time of a student's initial application or admission to the program, whichever is earliest, the district or board of cooperative educational services shall provide direct notification to parents or other persons in parental relation to children attending the high school equivalency program that the program remains under high school equivalency program review and is at risk of not receiving continuance approval. Such notification shall include a summary of the actions that the district or board of cooperative educational

services are taking to improve student results.

(ii) Following the identification of a high school equivalency program for high school equivalency program review the commissioner shall require that a corrective action plan be developed by the district superintendent of the board of cooperative educational services or superintendent of the district and submitted to the commissioner for review and approval; such corrective action plan shall be in a format prescribed by the commissioner and shall be submitted to the commissioner according to the timeframes established by the commissioner. The department shall periodically monitor the implementation of the corrective action plan. The commissioner may require a school district or board of cooperative educational services to submit such reports and data as the commissioner deems necessary to monitor the implementation of the corrective action plan.

(iii) Unless it is determined by the commissioner that a shorter period of time shall be granted, a high school equivalency program placed under high school equivalency program review shall be given two full academic years to show progress. If, after this period of time, the high school equivalency program under high school equivalency program review has not demonstrated progress as delineated by the commissioner in the notification pursuant to subparagraph (i) of this paragraph, the commissioner shall render a decision not to approve subsequent applications from the district or board of cooperative educational services for the operation of the high school equivalency program, except that the

commissioner may upon a finding of extenuating circumstances extend the period during which the high school equivalency program must demonstrate progress.

(19) Removal of high school equivalency programs from high school equivalency program review.

(i) In the event that a high school equivalency program has demonstrated the progress necessary to be removed from high school equivalency program review, the commissioner shall make such determination and notify the school district or board of cooperative educational services of the decision.

(ii) A district or board of cooperative educational services that has been denied approval to operate a high school equivalency program may after a period of one year submit a new application. The application shall be in a format approved by the commissioner and must ensure that:

(a) the school's chief administrative officer has designated a staff member to provide leadership to the program;

(b) the class size does not exceed 15 students for the first year of program;

(c) quarterly progress reports will be submitted for the first year;

(d) a minimum of 20 hours of staff development will be offered to all teachers and administrators involved with the program; and

(e) such other information as required by the commissioner.

## **New York State Student Growth Percentile Methodology**

### **-A Technical Overview and Impact**

#### **Introduction**

To develop a new-generation accountability system that incorporates student academic growth, the New York State Education Department (NYSED) adopted the student growth percentile (SGP) methodology (Betebenner, 2008, 2009, 2011) to measure student growth and make determinations about whether non-proficient students have made sufficient growth to be on track to proficiency in 3 years or by grade 8, whichever comes first. This paper provides an overview of student growth percentiles and percentile growth trajectories methodology as they are applied in New York State in the text of the Grades 3-8 testing program, and summarizes the SGP and percentile trajectory results and the impact they have on the accountability system.

SGP expresses student growth in a normative sense in that it describes how (a)typical a student's growth is by examining his/her current achievement relative to his/her academic peers - those students beginning at the same place. That is, a student growth percentile examines the current achievement of a student relative to that of other students who have, in the past, "walked the same academic path" (Betebenner, 2011). For example, if a student scores 670 on the 2010 test and scores 700 on the 2011 test, and the score of 700 normatively places the student at the 75<sup>th</sup> percentile in the 2011 conditional score distribution among students who started with the same score of 670 in 2010, the student gets an SGP of 75, which means the student's progress met or exceeded that of approximately 75 percent of the students who started from the same place. This methodology works well with the New York State Grades 3-8 testing program because the Grades 3-8 tests are not vertically scaled.

#### **Student Growth Percentile Estimation**

In New York State SGP calculation, up to three years of prior achievement data were used. Calculation of a student's growth percentile is performed using R, a language and environment for statistical computing with an SGP package (Betebenner & VanIwaarden, 2012). SGP calculation is based upon estimating the conditional density associated with a student's current achievement score using the student's prior achievement history. By examining a student's current achievement with regard to the conditional density, the student's growth percentile normatively situates the student's outcome in the current year, taking into account the student's prior achievement. The percentile result reflects the likelihood of such an outcome, given the student's prior achievement (Betebenner, 2011).

Quantile regression is used to establish curvi-linear functional relationships between the cohort's prior scores and the cohort's current scores. Whereas linear regression methods model the conditional mean of a response variable  $Y$ , quantile regression is more generally concerned with the estimation of the family of conditional quantiles of  $Y$ . The techniques are ideally suited for estimation of the family of conditional quantile functions (i.e. reference percentile curves). Using quantile regression, the conditional density associated with each student's prior scores is derived and used to situate the student's most recent score (Betebenner, 2011). Specifically, for each grade by subject cohort, quantile

regression is used to establish 100 (1 for each percentile) curvi-linear functional relationships between the prior scores and the current score.

For example, given 3 years of prior assessment data, regression equations relating students' Grade 4, grade 5, and grade 6 prior scores and their grade 7 scores are generated. The result of these 100 separate analyses is a single coefficient matrix that can be employed as a look-up table that relates prior student achievement to current student achievement for each percentile. Using the coefficient matrix, one can plug in any grade 4, 5, and 6 prior-year score combination to the functional relationship to get the percentile cutpoints for the Grade 7 conditional achievement distribution associated with that prior score combination. These cutpoints are the percentiles of the conditional distribution associated with the individual's prior achievement (see Betebenner, 2012 for mathematical details for SGP estimation).

### **Percentile Growth Projections/Trajectories**

Percentile growth trajectory is the process of establishing the threshold of growth for each student to reach a future achievement target. In New York State, the percentile growth target for all students is to reach proficiency in three years or by 8<sup>th</sup> grade, whichever comes first. The percentile growth target stipulates the rate of growth necessary for each student to reach proficiency in three years; i.e., growth-to-proficiency.

Using the coefficient matrices generated from the SGP analysis, a 3-year percentile growth target is calculated for each student. Specifically, the following coefficient matrices produced in the SGP calculations are used to calculate the percentile growth target:

- **Grade 4** Using grade 3 prior achievement
- **Grade 5** Using grade 4, and grades 3 & 4 prior achievement
- **Grade 6** Using grade 5, grades 4 & 5, and grades 3, 4, & 5 prior achievement
- **Grade 7** Using grade 6, grades 5 & 6, and grades, 4, 5, & 6 prior achievement
- **Grade 8** Using grade 7, grades 6 & 7, and grades 5, 6, & 7 prior achievement

Once the percentile growth targets are established, the students' actual growth, also expressed in SGP metric, are compared to their three-year percentile growth targets to determine whether the non-proficient students are on track to proficiency in three years or by grade 8, whichever comes first. For example, a non-proficient 3<sup>rd</sup> grader would be expected to be proficient by grade 6. The first check, or growth adequacy judgment of whether the student is on track to proficiency, occurs in grade 4, when the student's growth between grade 3 and grade 4 is reported and compared against the student's percentile growth target. If the student's actual growth percentile meets or exceeds his or her growth target; i.e., 3-year growth-to-standard target, then the student is deemed on track to reach proficiency for the year. Otherwise, the student is deemed not on track. It should be noted that if this 4<sup>th</sup> grader keeps the same rate of growth in the next two years, the student will be proficient by grade 6. If the

student does not meet the growth target in the next two years, he/she will not be proficient by grade 6. (See Betebenner, 2012 for more details of percentile growth projections /trajectories)

#### **Data Validation and Inclusion/Exclusion Rules**

- A valid, unique student identifier is required to allow matching student achievement records over time.
- A valid scale score on the New York State grades 3-8 tests from a single content area in consecutive years and consecutive grades is required. That is, for calculation of a student growth percentile in a given year and given content area, the student must have a record in that year and at least one record from the previous year in the grade preceding the current year grade.
- Students with duplicate records (duplicate ID numbers) on the New York State assessment in a given year are considered invalid.
- Students without normal progression of grades or grade assessment scores, such as those who repeated grades or skipped grades between the current and previous years, were excluded from the SGP/percentile growth projections.
- All grade 3 students are excluded from the SGP/percentile growth projections because they do not have prior testing scores.
- For calculating district median SGPs, students who were not enrolled in a district for the full academic year were excluded.
- For calculating school median SGPs, students who were not enrolled in a school for the full academic year were excluded.

Tables 1 and 2 present the number of students included in the 2011 New York State SGP calculations for ELA and math respectively. As stated earlier, Grade 3 students were not included in the SGP calculations because they do not have any prior achievement history. As a result of the data validation and inclusion/exclusion rules stated above, approximately 94% of the total students in grades 4 through 8 have SGP scores, and approximately 6% do not have SGPs in each grade and each subject area.

**Table 1. 2011 Number of Students in ELA SGP Calculations**

Grade	Number of Students	Number of Students with SGP	Number of Students without SGP
4	197,133	186,109	11,024
5	200,259	189,785	10,474
6	198,225	186,762	11,463
7	200,262	187,127	13,135
8	201,387	188,927	12,460
Grade 4- 8 Total	997,266	938,710	58,556

**Table 2. 2011 Number of Students in Math SGP Calculations**

Grade	Number of Students	Number of Students with SGP	Number of Students without SGP
4	198,702	187,512	11,190
5	202,408	187,752	14,656
6	200,177	188,545	11,632
7	201,531	188,689	12,842
8	203,186	189,740	13,446
Grade 4- 8 Total	1,006,004	942,238	63,766

### Summary of SGP Results

Table 3 presents the disaggregated 2011 ELA median SGP by student subgroup, and percentage of students meeting or exceeding standards associated with each subgroup. The results indicate that female students showed a higher growth rate than their male counterparts (median SGP of 52<sup>nd</sup> percentile vs the 48<sup>th</sup> percentile); special education students and students from low income families grew significantly slower (median SGPs of 42<sup>nd</sup> percentile and 47<sup>th</sup> percentile respectively) than their counterparts. Among the racial and ethnic groups, Asian American students showed the highest growth rate (59<sup>th</sup> percentile), while the American Indian and African American students showed the lowest growth rate (45<sup>th</sup> percentile). Among the Need/Resource groups, students from the Big 4 cities (i.e. Buffalo, Rochester, Syracuse, and Yonkers) and high-need urban/suburban districts had significantly lower growth rates (42<sup>nd</sup> percentile and 43<sup>rd</sup> percentile respectively) while the low-need districts displayed the highest growth rate (55<sup>th</sup> percentile).

Table 4 presents the disaggregated 2011 mathematics median SGP by student subgroup, and the percentage of students meeting or exceeding standards associated with each subgroup. Similar patterns were found.



**Table 3. 2011 ELA Median SGP and Achievement Level by Student Subgroup**

Group	Subgroup	Median SGP	N Count	% Meets/ Exceeds Standard	% Exceeds Standard
Gender	Female	52	459591	58.5	4.2
	Male	48	479119	48.9	2.5
ELL	LEP Eligible	49	50022	10.8	0.1
	Never LEP/ELL	50	888688	56.0	3.5
SWD	General Ed.	51	794344	60.9	3.9
	Special Ed.	42	144366	13.6	0.2
Poverty	Not low-income family	52	458100	46.4	5.3
	Low-income family	47	480610	39.7	1.5
Race/Ethnicity	American Indian or Alaska	45	4430	40.8	1.6
	Asian	59	71255	67.4	6.9
	Black or African American	45	171013	34.9	1.0
	Hispanic or Latino	47	201219	37.2	1.2
	Multiracial	51	5542	58.6	5.3
	Native Hawaiian/Other Pac.	54	1085	53.4	5.4
	White	51	484166	64.2	4.8
Need/Resource Category	New York City	51	314826	46.6	2.7
	Large Cities	42	38825	29.5	0.8
	Urban/Suburban High-Need	43	70283	40.5	1.3
	Rural	45	55097	47.6	2.0
	Average-Need	50	291106	60.3	3.6
	Low-Need	55	148814	75.4	6.8
Grade	Grade 4	48	186109	57.8	2.5
	Grade 5	50	189785	55.0	4.5
	Grade 6	50	186762	57.2	4.1
	Grade 7	50	187127	49.5	3.7
	Grade 8	50	188927	48.7	1.9
Prior Achievement Level	Below Standard	51	104613	2.6	0.0
	Meets Basic Standard	50	336353	26.4	0.1
	Meets Proficiency Standard	50	411744	76.7	3.6
	Exceeds Proficiency Standard	49	102402	95.8	16.0
Statewide	Total	50	938710	53.6	3.4

**Table 4. 2011 Mathematics Median SGP and Achievement Level by Student Subgroup**

Group	Subgroup	Median SGP	N Count for SGP	% Meets/ Exceeds Standard	% Exceeds Standard
Gender	Female	51	461294	66.4	25.1
	Male	49	480944	64.1	25.3
ELL	LEP Eligible	51	59659	33.2	6.4
	Never LEP/ELL	50	882579	67.4	26.5
SWD	General Ed.	51	797413	72.2	29.0
	Special Ed.	42	144825	26.8	4.3
Poverty	Not low-income family	53	454699	77.8	34.4
	Low-income family	47	487539	53.5	16.6
Race/Ethnicity	American Indian or Alaska	46	4438	52.3	13.6
	Asian	64	72752	83.6	47.4
	Black or African American	43	171786	44.0	9.8
	Hispanic or Latino	46	205299	50.2	12.4
	Multiracial	50	5492	64.1	24.3
	Native Hawaiian/Other Pac.	52	1114	65.2	26.4
	White	52	481357	73.2	28.7
Need/Resource Category	New York City	50	319529	61.8	24.3
	Large Cities	38	39344	34.6	7.4
	Urban/Suburban High-Need	42	70934	52.9	12.9
	Rural	45	55161	57.7	15.3
	Average-Need	51	289854	71.3	26.4
	Low-Need	57	147342	84.4	42.2
Grade	Grade 4	49	187512	67.7	27.2
	Grade 5	50	187752	66.7	22.6
	Grade 6	50	188545	64.3	27.0
	Grade 7	50	188689	66.2	31.3
	Grade 8	50	189740	61.4	17.9
Prior Achievement Level	Below Standard	50	70498	4.2	0.2
	Meets Basic Standard	50	291051	31.3	1.8
	Meets Proficiency Standard	50	351050	80.7	20.3
	Exceeds Proficiency Standard	50	246248	98.1	65.6
Statewide	Total	50	942238	65.2	25.2

### **Summary of Percentile Growth Projections/Trajectories Results**

Table 5 summarizes the 2011 number and percent of students who were on track to be proficient in ELA in three years or by grade 8, whichever comes first, as a share of all below-proficient students (Columns 3 & 4) and as a share of all students (Column 5 & 6) respectively. The results show significantly lower on-track rates for the below-proficient male students (25%), LEP students (15%), special education students (13%), and students from low-income families (23%) than the on-track rates for their counterparts. Among the racial/ethnic groups, the on-track rates for below-proficient Asian American students (37%) and White students (32%) were much more likely to be on track than students from the other racial/ethnic groups. Students from the Big Four Cities had a much lower on-track rate (18%) than did students from the low-need districts (over 40%). Below-proficient students in grade 7 were much less likely to be on track than students in Grades 3, 4, 5, or 6. Finally, only 9% of the students who were below standard (Level 1 students in 2010) were on track to proficiency in 2011, compared to 31% of the students who met basic standard (Level 2 students in 2010) who were on track in 2011.

Table 6 summarizes the percent of students who are on track to be proficient in mathematics in three years or by grade 8, whichever comes first, as a share of all below-proficient students (Column 3 & 4) and as a share of all students (Column 5 & 6) respectively. Similar patterns were found for the student subgroup. Approximately 14% of students who were below standard (Level 1 students in 2010) were on track to proficiency in 2011, compared to 40% of the students who met basic standard (Level 2 students in 2010) who were on track in 2011.

**Table 5. 2011 Percentage of Students On Track to Proficiency in ELA by Subgroup**

Group	Subgroup	Below Proficient Students		All Students	
		N Count	% On Track	N Count	% On Track
Gender	Female	188373	29.1	459591	11.9
	Male	237130	24.7	479119	12.2
ELL	LEP Eligible	45308	15.3	50022	13.9
	Never LEP/ELL	380195	28.0	888688	12.0
SWD	General Ed.	302422	32.4	794344	12.3
	Special Ed.	123081	12.6	144366	10.7
Poverty	Not low-income family	140674	34.1	458100	10.5
	Low-income family	284829	23.0	480610	13.6
Race/Ethnicity	American Indian or Alaska	2530	22.1	4430	12.6
	Asian	22143	36.9	71255	11.5
	Black or African American	108705	21.5	171013	13.7
	Hispanic or Latino	122977	22.7	201219	13.9
	Multiracial	2212	28.2	5542	11.3
	Native Hawaiian/Other Pac.	450	27.6	1085	11.4
	White	166486	31.6	484166	10.9
Need/Resource Category	New York City	169628	25.9	314826	14.0
	Large Cities	26477	17.9	38825	12.2
	Urban/Suburban High-Need	39154	21.6	70283	12.0
	Rural	26813	24.2	55097	11.8
	Average-Need	110138	30.2	291106	11.4
	Low-Need	36511	39.9	148814	9.8
Grade	Grade 4	82474	36.3	197133	15.2
	Grade 5	80260	32.4	200259	13.0
	Grade 6	87462	31.3	198225	13.8
	Grade 7	83735	19.0	200262	7.9
Prior Achievement Level	Below Standard	104613	9.1	104613	9.1
	Meets Basic Standard	336353	30.9	336353	30.9

**Table 6. 2011 Percentage of Students On Track to Proficiency in Mathematics by Subgroup**

Group	Subgroup	Below proficient Students		Total Students	
		N Count	% On Track	N Count	% On Track
Gender	Female	167797	38.2	461294	13.9
	Male	178353	34.0	480944	12.6
ELL	LEP Eligible	44376	31.5	59659	23.5
	Never LEP/ELL	301774	36.7	882579	12.5
SWD	General Ed.	237220	42.1	797413	12.5
	Special Ed.	108930	22.7	144825	17.1
Poverty	Not low-income family	109978	43.0	454699	10.4
	Low-income family	236172	32.7	487539	15.9
Race/Ethnicity	American Indian or Alaska	2053	30.2	4438	14.0
	Asian	12769	49.9	72752	8.8
	Black or African American	95708	29.4	171786	16.4
	Hispanic or Latino	101376	33.4	205299	16.5
	Multiracial	1964	35.6	5492	12.7
	Native Hawaiian/Other Pac.	351	39.9	1114	12.6
	White	131929	41.6	481357	11.4
Need/Resource Category	New York City	131041	35.8	319529	14.7
	Large Cities	25271	23.1	39344	14.9
	Urban/Suburban High-Need	34565	31.3	70934	15.2
	Rural	23684	34.3	55161	14.7
	Average-Need	89264	41.7	289854	12.8
	Low-Need	26707	49.1	147342	8.9
Grade	Grade 4	74746	47.8	198702	18.0
	Grade 5	67377	42.0	202408	14.0
	Grade 6	65043	38.0	200177	12.4
	Grade 7	70715	32.0	201531	11.2
Prior Achievement Level	Below Standard	70498	13.8	70498	13.8
	Meets Basic Standard	291051	39.5	291051	39.5

### Potential Impact on Accountability

Table 7 shows the 2011 percentage of students who were on track/not on track to be proficient in 3 years or by grade 8 as a share of the total number of students in each grade (Column 3 and 4) and the percentage of on-track students in each of the achievement levels as a share in the total students in each grade (Columns 5-8). All percentages were based on the total number of students in each grade (Column 1). Grade 3 and Grade 8 are not included in the table. As stated earlier, grade 3 students do not have SGPs because they do not have prior achievement scores. For grade 8 students, on track to be proficient means the same as students scoring proficient in grade 8.

As shown in Table 7, a total of 12.5% of all grades 4-7 students were on track to proficiency in 2011 and 29.5% were not on track (Column 3 & 4, grades 4-7 totals). For mathematics, a total of 14% of all grades 4-7 students were on track in 2011 and 20.7% were not on track (Column 3 & 4, grades 4-7 totals). The on track students who met or exceeded standard (Levels 3 or 4) in 2011 make up approximately 10% of all grades 4-7 students in both ELA and mathematics (Columns 7 & 8, grades 4-7 totals). The percentage of all grade 4-7 students who were on track but not proficient in 2011 were 2.9% for ELA and 4.2% for math (Column 6, grades 4-7 totals).

In summary, adding the growth component will have a very moderate impact on the new generation accountability system. Specifically, the approximately 10% of all grades 4-7 students who were on track and proficient in 2011 are counted as proficient under both the old and the new accountability systems. The additional value that the growth component would add to the new accountability system is the 2.9% of students in ELA and the 4.2% of students in mathematics who were on track, but below proficient. Under the new accountability system, these students will be counted the same as proficient students.

**Table 7. Achievement Level Distribution of Students Who Are On Track to Proficiency**

GRADE	TOTAL N	On Track Status		Achievement Level of On Track Students As a Share of All students			
		% of Total On Track	% of Total Not On Track	% Level 1	% Level 2	% Level 3	% Level 4
Grade 4 ELA	197133	15.2	26.7	0.0	3.3	11.8	0.1
Grade 5 ELA	200259	13.0	27.1	0.0	4.5	8.4	0.1
Grade 6 ELA	198225	13.8	30.3	0.0	2.0	11.8	0.1
Grade 7 ELA	200262	7.9	33.9	0.0	1.9	6.0	0.0
Grades 4-7 ELA	795879	12.5	29.5	0.0	2.9	9.5	0.1
Grade 4 Math	198702	18.0	19.6	0.0	5.2	11.6	1.2
Grade 5 Math	202408	14.0	19.3	0.0	5.1	8.6	0.3
Grade 6 Math	200177	12.4	20.1	0.0	4.8	7.2	0.4
Grade 7 Math	201531	11.2	23.9	0.0	1.8	8.9	0.6
Grades 4-7 Math	802818	13.9	20.7	0.0	4.2	9.1	0.6

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# A Technical Overview of the Student Growth Percentile Methodology for the New York State Education Department

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## Executive Summary

Beginning in Fall 2010, the National Center for the Improvement of Educational Assessment (NCIEA) began work with the New York State Education Department (NYSED) to investigate the use of the student growth percentiles and percentile growth trajectories with the New York State Testing Program (NYSTP) assessments. The student growth percentile methodology (Betebenner, 2008, 2009, 2012) was developed by Dr. Damian W. Betebenner of the NCIEA in conjunction with the Colorado Department of Education and is being utilized in different capacities in more than two dozen states. This white paper introduces student growth percentiles and percentile growth trajectories in the context of the New York State Testing Program. Following this introduction detailed information on their conceptual and technical underpinnings is provided including directions on the calculation of relevant quantities, including data preparation, using the SGP package (Betebenner & VanIwaarden, 2012).

## Introduction

### Student Growth Percentiles

A student's growth percentile describes how (a)typical a student's growth is by examining his/her current achievement relative to his/her *academic peers*—those students beginning at the same place. That is, a student growth percentile examines the current achievement of a student relative to other students who have, in the past, “walked the same achievement path”. Heuristically, if the state assessment data set were extremely large (in fact, infinite) in size, one could open the infinite data set and select out those students with the exact same prior scores and compare how the selected student's current year score compares to the current year scores of those students with the same prior year's scores—his/her academic peers. If the student's current year score exceeded the scores of most of his/her academic peers, in a normative sense they have done as well. If the student's current year score was less than the scores of his/her academic peers, in a normative sense they have not done as well.

The four panels of Figure 1 depict what a student growth percentile represents in a situation considering students having only two consecutive achievement test scores.<sup>1</sup>

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<sup>1</sup>By default, the SGP package (Betebenner & VanIwaarden, 2012) uses the entire achievement history of the student subject to some suitability conditions discussed in greater detail later. Figure 1 is presented with just a single prior score to facilitate representing a conditional distribution.



**Upper Left Panel** Considering all pairs of NYSTP prior year and current year NYSTP scores for all students in the state from two consecutive grades in a single content area (e.g., grades 3 and 4 in ELA) yields a bivariate (two variable) distribution. The higher the distribution, the more frequent the pair of scores.

**Upper Right Panel** Taking account of prior achievement (i.e., conditioning upon prior achievement) fixes a the value of the prior year scale score (in this case at 670) and is represented by the red slice taken out of the bivariate distribution.

**Lower Left Panel** Conditioning upon prior achievement defines a *conditional distribution* which represents the distribution of outcomes on the current year test assuming a prior year score of 670. This distribution is indicated with the solid red curve.

**Lower Right Panel** The conditional distribution provides the context against which a student's current year achievement of 700 can be examined and understood in a norm-referenced fashion. Students with achievement in the upper tail of the conditional distribution have demonstrated high rates of growth relative to their academic peers whereas those students with achievement in the lower tail of the distribution have demonstrated low rates of growth. Students with current achievement in the middle of the distribution could be described as demonstrating "average" or "typical". In this case, the student's score of 700 represents a student growth percentile (SGP) of 75. growth.

In Figure 1, the student scores approximately 670 on the current year test. Within the conditional distribution, the value of 700 lies at the 75th percentile. Thus the student's progress from 670 in 2010 the prior year to 700 in 2011 the current year met or exceeded that of approximately 75 percent of students starting from the same place. Thus, relative to others with the same prior achievement score, the progress observed is above average. It is important to note that characterizing a student growth percentile as "adequate", "good", or "enough" requires a qualitative judgment to be rendered—growth standard setting. Later in this paper growth adequacy standards are investigated *vis-à-vis* New York achievement levels.

Non-parametric quantile regression is used to establish curvi-linear functional relationships between the cohort's prior scores and the cohort's current scores. Specifically, for each grade by subject cohort, quantile regression is used to establish 100 (1 for each percentile) curvi-linear functional relationships between prior achievement scores and the current score. For example, given 5 years of assessment data, regression equations relating students' grade 3, grade 4, grade 5, and grade 6 prior scores and their grade 7 scores are generated.<sup>2</sup> The result of these 100 separate analyses is a single coefficient matrix that can be employed as a look-up table relating prior student achievement to current achievement for each percentile. Using the coefficient matrix, one can plug in *any* grade 3, 4, 5, and 6 prior score combination to the functional relationship to get the percentile cutpoints for grade 7 conditional achievement distribution associated with that prior score combination. These cutpoints are the percentiles of the conditional distribution associated with the individual's prior achievement.

Consider a student with the following ELA scores:

Using the coefficient matrix derived from the quantile regression analyses based upon grade 3, 4, 5, and 6 scale scores as independent variables and the grade 7 scale score as the dependent variable together with this student's vector of grade 3, 4, 5, and 6 grade scale scores provides the scale score percentile cutpoints associated with the grade 7 conditional distribution for these prior scores.

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<sup>2</sup>For the mathematical details underlying the use of quantile regression in calculating student growth percentiles, see the Appendix *Student Growth Percentile Estimation* on 16.

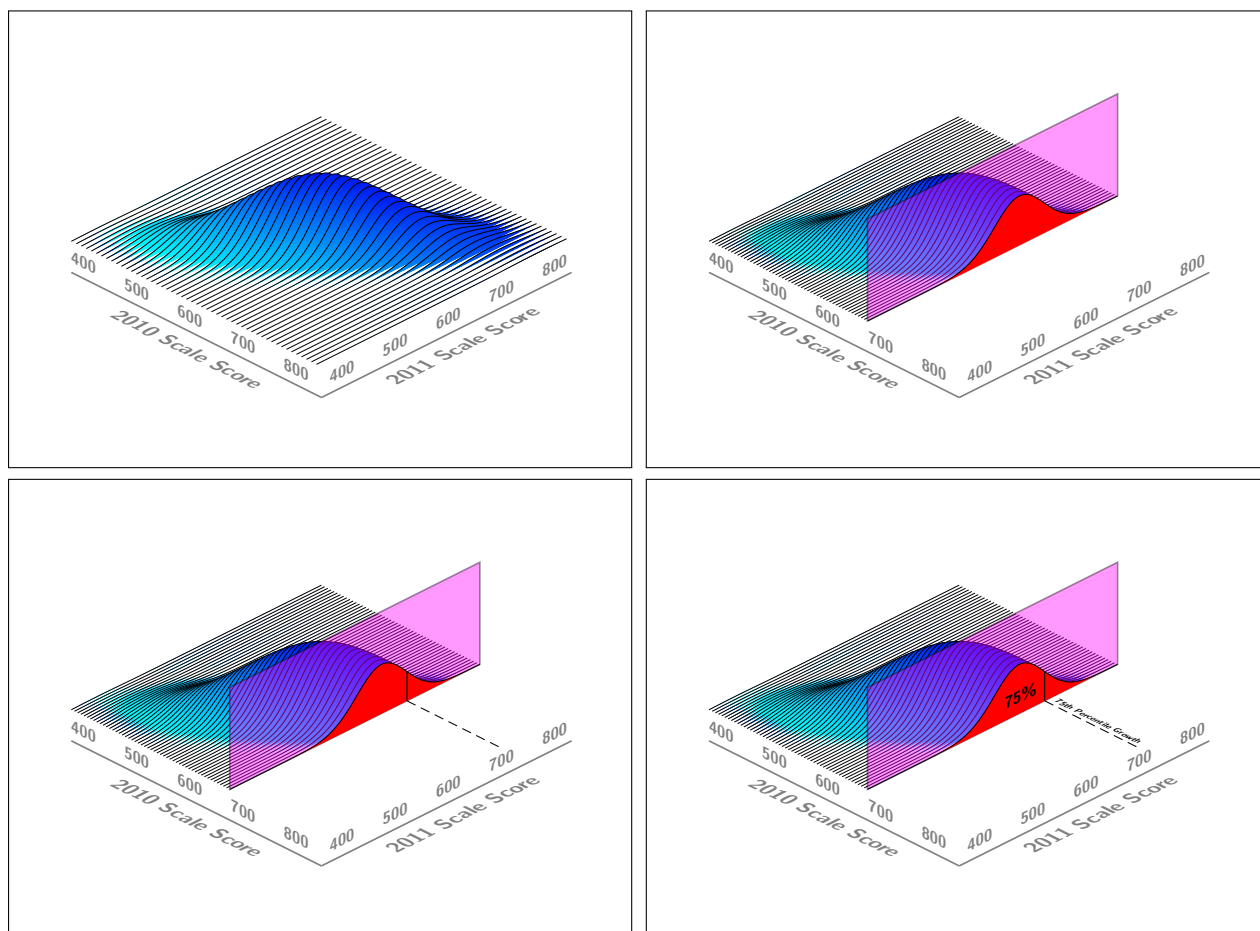


Figure 1: Figures depicting the distribution associated with 2010 (prior year) and 2011 (current year) student scale scores together with the conditional distribution and associated growth percentile

The percentile cutscores for 7th grade ELA in Table 2 are used with the student's *actual* grade 7 ELA scale score to establish his/her growth percentile. In this case, the student's grade 7 scale score of 601 lies above the 50th percentile cut and below the 51st percentile cut, yielding a growth percentile of 50. Thus, the progress demonstrated by this student between grade 6 and grade 7 exceeded that of 50 percent of his/her academic peers—those students with the same achievement history. States can qualify student growth by defining ranges of growth percentiles. For example, like New York the Colorado designate growth percentiles between 35 and 65 as being *typical*. Using Table 2, another student with the exact same grade 3, 4, 5, and 6 prior scores but with a grade 7 scale score of 530, would have a growth percentile of 1, which is designated as *low*.

This example provides the foundation for beginning to understand how growth percentiles in the SGP Methodology are used to determine whether a student's growth is (*in*)adequate. Suppose that in grade 6 a one-year (i.e., 7th grade) achievement goal/target of proficiency was established for the student. Using the lowest proficient scale score for 7th grade ELA, this target corresponds to a scale score of 619. Based upon the results of the growth percentile analysis, this one year target corresponds to 78th percentile growth. Their growth, obviously, is less than this and the student has not met this individualized growth standard.

Grade 3/2004	Grade4/2005	Grade 5/2006	Grade 6/2007	Grade 7/2008
519	518	587	589	601

Table 1: Scale scores for a hypothetical student across 5 years in ELA

1st	2nd	3rd	...	10th	...	25th	...	50th	51st	...	75th	...	90th	...	99th
514.8	534.9	543.9	...	566.9	...	584.8	...	600.5	601.3	...	616.9	...	630.1	...	653.8

Table 2: Percentile cutscores for grade 7 ELA based upon the grade 3, 4, 5, and 6 ELA scale scores given in Table 1

### Percentile Growth Projections/Trajectories

Building upon the example just presented involving only a one-year achievement target translated into a growth standard, this section extends this basic idea and shows how multi-year growth standards are established based upon pre-established achievement targets/goals. That is, by defining a future (e.g., a 3 year) achievement target for each student, we show how growth percentile analyses can be used to quantify what level of growth, expressed as a per/year growth percentile, is required by the student to reach his/her achievement target. Unique to the SGP Methodology is the ability to stipulate *both* what the growth standard is as well as how much the student actually grew in a metric that is informative to stakeholders.

#### Defining Adequate Growth

Establishing thresholds for growth for each student that can be used to make adequacy judgments requires pre-established achievement targets and a time-frame to reach the target for each student against which growth can be assessed (i.e., growth-to-standard). As part of New York's waiver application, the state investigated the adequacy of student growth to reach or maintain proficiency within 3 years, or by grade 8, whichever comes first.

**On track to reach proficient** Those students currently not proficient are expected to reach proficient within 3 years following the establishment of the achievement target or by grade 8, whichever comes sooner.

**On track to maintain proficient** Those students currently at or above proficient are expected to remain at or above proficient in all of the 3 years following the establishment of the achievement target or by grade 8, whichever comes sooner.

The previous definitions specify 3 years or by grade 8 to reach target as the time frame. For example, an non-proficient 3rd grader would be expected to be proficient by 7th grade, assuming a 1 grade/year progression. The first check of the student's progress occurs in 4th grade, when the student's growth over the last year is compared against targets calculated to assess their progress along a multi-year time-line. The question asked following the 4th grade for the student is: Did the student become proficient and if not are they on track to become proficient within 3 years? The expectations for students are thus:

- Student starting at Below standard students are expected to be reach the proficient within 3 years or by grade 8, whichever comes sooner.

- Students meeting the basic standard are expected to reach proficiency within the next 3 years or by grade 8, whichever comes sooner.
- Student meeting the proficient standard are expected to remain proficient over the next 3 years following the establishment of the achievement target or by grade 8, whichever comes sooner.

It is important to note that each student's achievement targets and time-frame to reach these targets are *fixed*. However, depending upon the student's interim rates of growth, the growth percentiles required to reach his/her fixed achievement target are likely going to be adjusted. For example, a 3rd grade non-proficient student in ELA (with an achievement target of proficient in ELA by the 7th grade) might demonstrate sizable growth between 3rd and 4th grade and still remain non-proficient. However, the question of relevance for state departments of education, given that they did not reach proficiency in 4th grade, is whether they demonstrated sufficient growth so that they can be considered on track to become proficient within 3 years. Following the 5th grade, if the student isn't proficient a determination will be made as to whether they are on track to become proficient with 2 years. And following the 6th grade, a determination will be made as to whether they are on track to become proficient in 1 year if they are not already proficient. The destination and the time frame to reach it remain fixed.

#### Calculation of Growth Percentile Targets

As mentioned previously, the calculation of student growth percentiles across all grades and students results in the creation of numerous coefficient matrices that relate prior with current student achievement. These matrices constitute an annually updated statewide historical record of student progress. For the SGP Methodology, they are used to determine what level of percentile growth is necessary for each student to reach future achievement targets. For example, in the calculation of student growth percentiles in 2011 in New York, the following coefficient matrices are produced:<sup>3</sup>

**Grade 4** Using grade 3 prior achievement.

**Grade 5** Using grade 4 and grades 3 & 4 prior achievement.

**Grade 6** Using grade 5, grades 4 & 5, and grades 3, 4, & 5 prior achievement.

**Grade 7** Using grade 6, grades 5 & 6, and grades 4, 5, & 6 prior achievement.

**Grade 8** Using grade 7, grades 6 & 7, and grades 5, 6, & 7 prior achievement

For percentile growth trajectory/growth projection calculation, New York utilizes a maximum of 3 prior scores. Thus, only coefficient matrices derived using a maximum of three prior scores are utilized in student growth projection calculation. To describe how these numerous coefficient matrices are used together to produce 1, 2, and 3 year growth targets, consider, for example, a 2011 4th grade student in ELA with 3rd and 4th grade state ELA scores of 600 (Below Standard) and 625 (Below Standard), respectively. The following are the steps that transpire over 4 years to determine whether this student is on track to reach proficient.<sup>4</sup>

<sup>3</sup>Note that because testing began in 2006 in New York, at present there is a maximum number of 6 consecutive prior achievement scores. For analyses in New York, a maximum of 3 prior scores are used to the calculation of student growth percentiles and percentile growth trajectories.

<sup>4</sup>Three year growth to standard targets occur over a span of four years because the determination about three years to reach standard occurs after year 1 growth is observed. Thus, the achievement target is set at time 0, and growth is observed and judged (in)adequate at t=1, 2, and 3.

**August 2010** Accountability clock begins requiring students to reach state defined achievement targets within 3 years or by grade 8. In this example, the below basic 3rd grade (in 2010) student under consideration is expected to be proficient by grade 7 in 2014.

**August 2011** Employing the coefficient matrices derived in the calculation of 2011 student growth percentiles:

- First, the coefficient matrix relating grade 4 with grade 3 prior achievement is used to establish the percentile cuts (i.e., one-year growth percentile projections/trajectories). If the student's actual 2011 growth percentile exceeds the percentile cut associated with proficient, then the student's one year growth is enough to reach proficient.<sup>5</sup> If the student reaches his/her achievement goal, then the accountability clock is reset for this student, with a new achievement goal of remaining proficient for the next 3 years.
- Next, the 1 year (from present) growth percentile projections/trajectories are calculated, from 2010 to 2012. The student's actual grade 3 scale score together with the 99 hypothetical one-year growth percentile projections/trajectories derived in the previous step are plugged into the most recently derived coefficient matrix relating grade 5 with grade 3 & 4 prior achievement. This yields the percentile cuts (i.e., 2 year growth percentile projections/trajectories) for the student indicating what consecutive two-year 1st through 99th percentile growth (based upon the most recent student growth histories in the state) will lead to. Using the August 2010 established achievement targets (proficient by 7th grade, for this student), 1 year growth sufficient to reach the target is determined and the student's growth percentile is compared to this target. If the student's growth percentile exceeds this target, then the student is deemed on track to reach proficient.
- Next, the 2 year (from present) growth percentile projections/trajectories are established. The student's actual grade 3 scale score together with the 99 hypothetical 1 and 2 year growth percentile projections/trajectories derived in the previous step are plugged into the coefficient matrix relating grade 6 with grade 3, 4, & 5 prior achievement. This yields the percentile cuts (i.e., 3 year growth percentile projections/trajectories) for each student indicating what consecutive three-year 1st through 99th percentile growth (based upon the most recent student growth histories in the state) will lead to in terms of future achievement. Using the August 2010 achievement targets (proficient by 7th grade, for this student), 2 year growth sufficient to reach the target is determined and the student's growth percentile is compared to this target. If the student's growth percentile exceeds this target then the student is deemed on track to reach proficient.
- Lastly, the 3 year (from present) growth percentiles projections/trajectories are established. The student's actual grade 3 scale score together with the 99 hypothetical 1, 2, and 3 year growth percentile projections/trajectories derived in the previous step are plugged into the coefficient matrix relating grade 7 with grade 3, 4, 5, & 6 prior achievement. This yields the percentile cuts (i.e., 3 year growth percentile projections/trajectories) for each student indicating what consecutive four-year 1st through 99th percentile growth (based upon the most recent student growth histories in the state) will lead to in terms of future achievement. Using the August 2010 achievement targets (proficient by 7th grade for this student), 3 year growth sufficient to reach the target is determined and the student's growth percentile is compared to this target. If the student's growth percentile exceeds this target then the student is deemed on track to reach proficient.

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<sup>5</sup>Checking growth adequacy using one-year achievement targets is equivalent to confirming whether the student reached his/her one-year achievement target since the coefficient matrices used to produce the percentile cuts are based on current data.

**August 2012** Employing the coefficient matrices derived in the calculation of 2012 student growth percentiles:

- First, with the student now presumably completing grade 5, the coefficient matrix relating grade 5 with grade 3 & 4 prior achievement is used to establish 99 percentile cuts (i.e., one-year growth percentile projections/trajectories). If the student's actual 2012 growth percentile exceeds the cut associated with proficient, then the student's one year growth was enough to reach proficient.<sup>6</sup> If the student reaches his/her achievement goal, then the accountability clock is reset for this student, with a new achievement goal of remaining proficient for the next 3 years.
- Next, the student's grade 3 & 4 actual scores together with the 99 hypothetical one-year growth percentile projections/trajectories derived in the previous step are plugged into the coefficient matrix relating grade 6 with grade 3, 4, & 5 prior achievement. This yields 99 percentile cuts (i.e., 1 year (from present) growth percentile projections/trajectories) for the student indicating what consecutive two-year 1st through 99th percentile growth (based upon the most recent student growth histories in the state) will lead to in terms of future achievement. Using the August 2011 accountability achievement targets (proficient by 7th grade for this student), 1 year growth sufficient to reach the target is determined and the student's growth percentile is compared to this target. If the student's growth percentile exceeds this target then the student is deemed on track to reach proficient.
- Finally, the student's grade 3 & 4 actual scores together with the 99 hypothetical 1 & 2 year growth percentile projections/trajectories derived in the previous steps are plugged into the coefficient matrix relating grade 7 with grade 3, 4, 5, & 6 prior achievement. This yields 99 percentile cuts (i.e., 2 year (from present) growth percentile projections/trajectories) for the student indicating what consecutive two-year (from present) 1st through 99th percentile growth (based upon the most recent student growth histories in the state) will lead to in terms of future achievement. Using the August 2011 accountability achievement targets (proficient by 7th grade for this student), 2 year growth sufficient to reach the target is determined and the student growth percentile is compared to this target. If the student's growth percentile exceeds this target then the student is deemed on track to reach proficient.
- No 3 year targets are utilized because they exceed the time-frame initially established for the student to reach proficient.

**August 2013** Employing the coefficient matrices derived in the calculation of 2013 student growth percentiles:

- First, with the student now presumably completing grade 6, the coefficient matrix relating grade 6 with grade 3, 4, & 5 prior achievement is used to establish 99 percentile cuts (i.e., one-year growth percentile projections/trajectories). If the student's actual 2013 growth percentile exceeds the cut associated with proficient, then the student's one year growth was enough to reach proficient.<sup>7</sup> If the student reaches his/her achievement goal, then the accountability clock is reset for this student, with a new achievement goal of remaining proficient for the next 3 years.

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<sup>6</sup>Note, this is equivalent to just checking whether the student reached proficient in 2012 since the coefficient matrices used to produce the 99 percentile cuts are based on 2012 data.

<sup>7</sup>Note, this is equivalent to just checking whether the student reached proficient in 2013 since the coefficient matrices used to produce the 99 percentile cuts are based on 2013 data.



- Next, the student's grade 3, 4, & 5 actual scores together with the 99 hypothetical one-year growth percentile projections/trajectories derived in the previous step are plugged into the coefficient matrix relating grade 7 with grade 4, 5, & 6 prior achievement (NOTE: New York uses at most 3 prior scores for student growth projection calculation). This yields 99 percentile cuts (i.e., 1 year growth (from present) percentile projections/trajectories) for the student indicating what consecutive two-year 1st through 99th percentile growth (based upon the most recent student growth histories in the state) will lead to in terms of future achievement. Using the August 2010 accountability achievement targets (proficient by 7th grade for this student), 1 year growth sufficient to reach the target is determined and the student's growth percentile is compared to this target. If the student's growth percentile exceeds this target then the student is deemed on track to reach proficient.
- No 3 or 4 year targets are utilized because they exceed the time-frame initially established for the student to reach proficient.

**August 2014** Employing the coefficient matrices derived in the calculation of 2014 student growth percentiles:

- Because 2014 is the terminal year of the 4 year time frame (from initial goal setting at time zero to the end of the three year window) established for the student to reach proficient the student is deemed to have grown sufficiently if they have reached proficient.
- No 2, 3, or 4 year targets are utilized because they exceed the accountability time-frame initially established for the student to reach proficient.

The complexity of the previous description belies a simplicity that characterizes  $distance = rate \times time$  in the probability metric of student growth percentiles. Moreover, the analytic complexity of the process just described is minimized by the use of the R software environment in conjunction with an open source software library SGP developed by the NCIEA in conjunction with state departments of education to calculate student growth percentiles and percentile growth projections/trajectories (R Development Core Team, 2011; Betebenner & VanIwaarden, 2012). The open source software embeds state established cutscores that are used to determine growth targets for each student. Every year, following the receipt of the data into the assessment data, student growth percentiles and percentile growth trajectories are calculated for each student. Once calculated, these values are easily used to make the yes/no determinations about the adequacy of each student's growth relative to his/her fixed achievement targets.

### State System Growth and Achievement Charts

Operational work calculating student growth percentiles with state assessment data yields a large number of coefficient matrices derived from estimating Equation 2. These matrices, similar to a lookup table, "encode" the relationship between prior and current achievement scores for students in the norming group (usually an entire grade cohort of students for the state) across all percentiles and can be used both to qualify a student's current level growth as well as predict, based upon current levels of student progress, what different rates of growth (quantified in the percentile metric) will yield for students statewide.

When rates of growth necessary to reach performance standards are investigated, such calculations are often referred to as "growth-to-standard". These analyses serve a dual purpose in that they provide the growth rates necessary to reach these standards and also shed light on the standard setting procedure as it plays out across grades. To establish growth percentiles necessary to reach different performance/achievement levels, it is necessary to investigate what growth percentile is

necessary to reach the desired performance level thresholds based upon the student's achievement history.

Establishing criterion referenced growth thresholds requires consideration of multiple future growth/achievement scenarios. Instead of inferring that prior student growth is indicative of future student growth (e.g., linearly projecting student achievement into the future based upon past rates of change), predictions of future student achievement are contingent upon initial student status (where the student starts) and subsequent rates of growth (the rate at which the student grows). This avoids fatalistic statements such as, "Student  $X$  is projected to be (not) proficient in three years" and instead promotes discussions about the different rates of growth necessary to reach future achievement targets: "In order that Student  $X$  reach/maintain proficiency within three years, she will have to demonstrate  $n$ th percentile growth consecutively for the next three years." The change in phraseology is minor but significant. Stakeholder conversations turn from "where will (s)he be" to "what will it take?"

Parallel growth/achievement scenarios are more easily understood with a picture. Using the results of the New York state SGP analyses Figures 2 and 3 depict future growth scenarios in math and ELA, respectively, for a student starting in third grade and tracking that student's achievement time-line based upon different rates of annual growth expressed in the growth percentile metric. The figures depict the four state achievement levels across grades 3 to 8 in shades of dark to light gray (e.g., below basic, meets proficient, meets proficient and exceeds proficient) together with the 2011 achievement percentiles (inner most vertical axis) superimposed in white. Beginning with the student's achievement starting point at grade 3 a grade 4 achievement projection is made based upon the most recent growth percentile analyses derived using prior 3rd to 4th grade student progress. More specifically, using the coefficient matrices derived in the quantile regression of grade 4 on grade 3 (see Equation 2), predictions of what 10th, 35th, 50th, 65th, and 90th percentile growth lead to are calculated. Next, using these five projected 4th grade scores combined with the student actual 3rd grade score, 5th grade achievement projections are calculated using the most recent quantile regression of grade 5 on grades 3 and 4. Similarly, using these five projected 5th grade scores, the 6 projected 4th grade scores with the students actual third grade score, achievement projections to the 6th grade are calculated using the most recent quantile regression of grade 6 on grades 3, 4, and 5. The analysis extends recursively for grades 6 to 8 yielding the *percentile growth trajectories* in Figures 2 and 3. The figures allow stakeholders to consider what consecutive rates of growth, expressed in growth percentiles, yield for students starting at different points. That is, the figures allow stakeholders to simultaneously consider what is (the consecutive student growth percentile), what should be (the achievement end point of students) and what is reasonable (because the results are based in the percentile metric).

Figure 2 depicts percentile growth trajectories in mathematics for a New York student beginning at the threshold between achievement level 1 (Below Standards) and achievement level 2 (Meets Basic Standard). Based upon the *achievement* percentiles depicted (the white contour lines), approximately 7 percent of the 3rd grade students in 2011 taking the New York state assessment are below standard. Moving toward grade 8, the percentage of students scoring in the below standard level remains fairly constant near the 7% observed in grade 3. Similarly, the cut between the 2nd and 3rd regions (meets basic standard and meets proficiency standard, respectively) starts at grade 3 at 42% not proficient, decreases to less than 35% less than proficient in grades 4 and 5 and by grade 8 is at 41%.

The black lines in the figure represent five different growth scenarios for the student based upon consecutive growth at a given growth percentile, scaled according to the right axis. At the lower end of the scale, for example, consecutive 10th percentile growth leaves the student, unsurprisingly, mired in the below basic category. Consecutive 35th percentile growth (the boundary between low



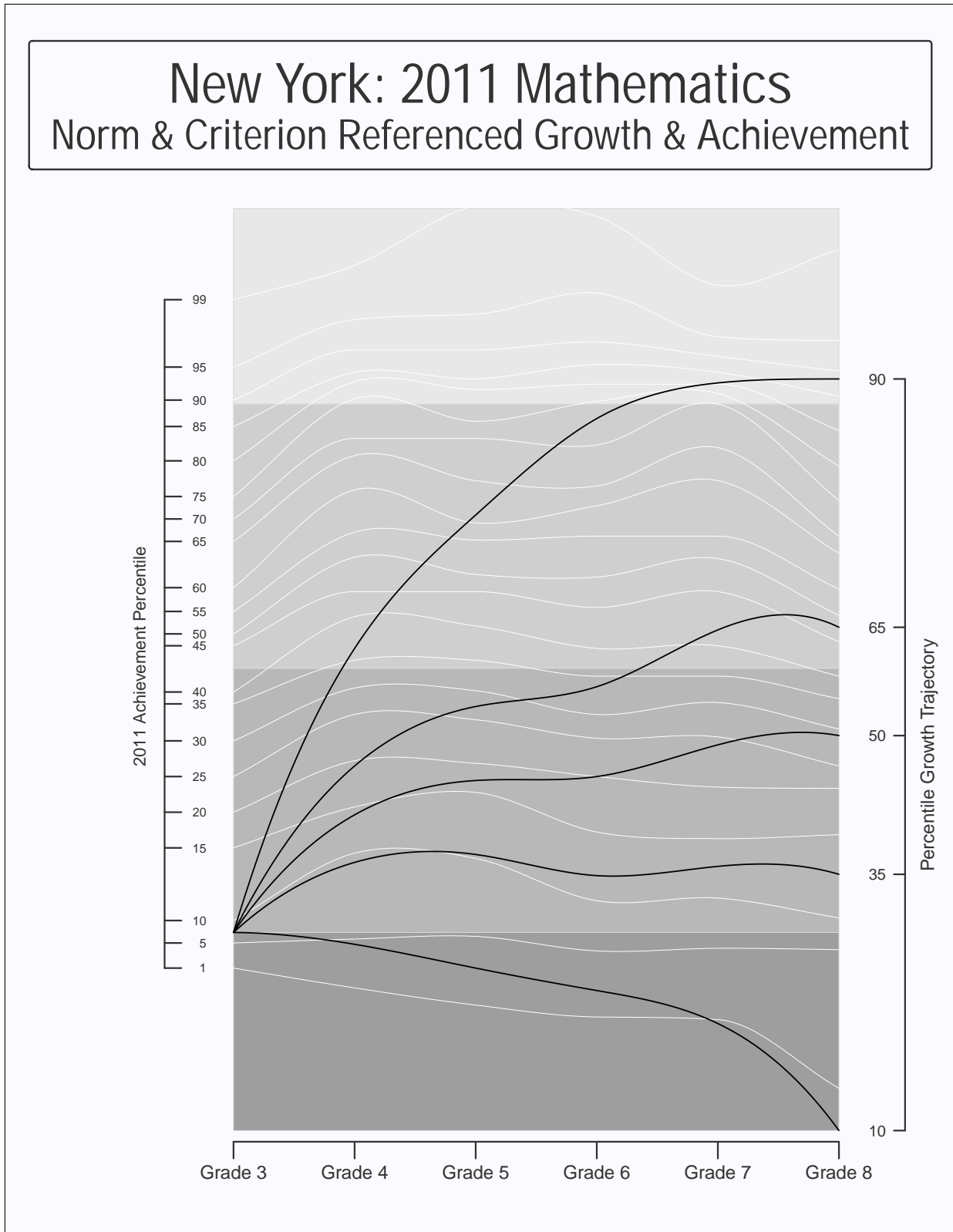


Figure 2: Growth chart depicting future mathematics achievement conditional upon consecutive 10th, 35th, 50th, 65th, and 90th percentile growth for a student beginning the third grade at the cutpoint between lowest and next to lowest achievement levels

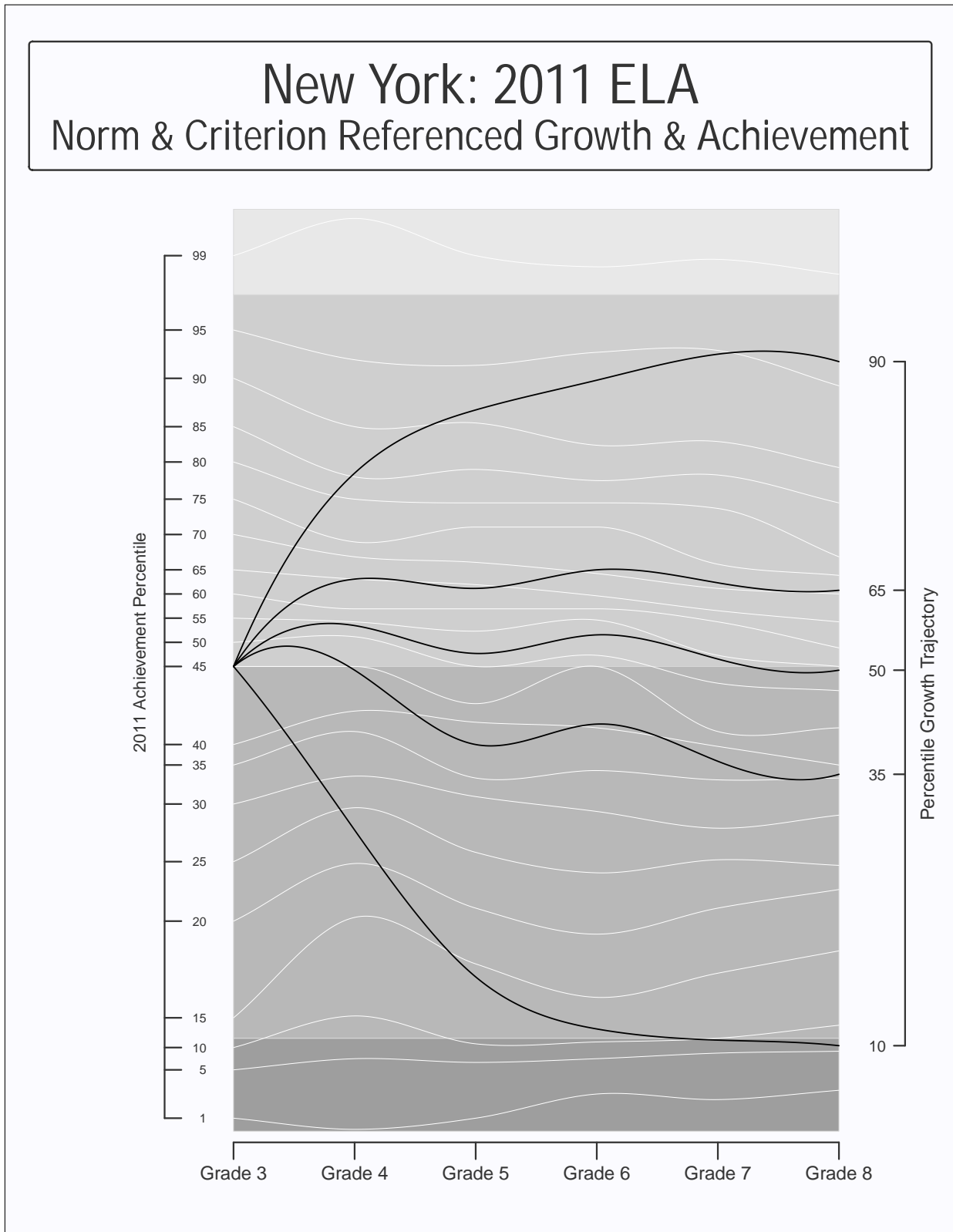


Figure 3: Growth chart depicting future ELA achievement conditional upon consecutive 10th, 35th, 50th, 65th, and 90th percentile growth for a student beginning the third grade at the cutpoint between the achievement level 2 and achievement level 3

and typical growth in New York) and 50th percentile growth (typical) leaves the student in the meets basic standard achievement level. That is, based upon what rates of growth students current exhibit in the state of New York, were the student to do year after year what is currently typical (i.e., 50th percentile growth), they would arrive in grade 8 in the upper half of the meets basic standard category. Considering a goal of reaching proficient by grade 8, a student would need to demonstrate growth percentiles consecutively in near 60. As the students starting point diminishes and/or their time frame to reach the destination lessens, the growth required to reach proficiency increases. The purpose of Figure 2 is to provide a high level overview of what type of calibration is required for the system to achievement its goals of, for example, universal proficiency of students.

Figure 3 depicts percentile growth trajectories in ELA for a student beginning at the meets basic/meets proficient threshold in grade 3. Looking at the achievement percentiles, in grade 3 45% of students are not proficiency whereas by grade 8 the percentage increase to approximately 55%. In a norm-referenced sense, the performance standards in ELA are more demanding than those in mathematics (particularly in the higher grades). The black lines in the figure represent five growth scenarios for the hypothetical student based upon consecutive growth at a the given growth percentile. In ELA, typical growth for a student starting at the meets basic/meets proficient threshold will keep them at or above that threshold by grade 8. If, however, the goal is to move up to the exceeds threshold category, then the growth necessary exceeds consecutive 90th percentile growth indicating just how difficult (and unlikely such a move is for students in the state of New York. It is equally unlikely for a student starting at the meets basic/meets proficient threshold of moving down to the below basic level, requiring consecutive 10th percentile growth to reach that level of achievement.

The growth scenarios presented in Figures 2 and 3 are but two of many possibilities. A complete set of figures considering students beginning grade 3 at the cuts between each of the four NYSTP achievement levels are available in the Appendix beginning on page 25. The SGP package allows for these and other growth and achievement plots to be produced based upon any starting point.

## Calculation of Student Growth Percentiles and Percentile Growth Trajectories

The calculation of student growth percentiles using the SGP package is meant to ease much of the difficult for the state analyst tasked with all of the concurrent analyses. Based upon feedback and use from analysts in more than a dozen states SGP package is currently capable of performing a wide variety of analyses including cohort and baseline referenced student growth percentiles, cohort and baseline referenced student growth projections, and cohort and baseline referenced lagged student growth projections. The difference between the latter two projection analyses is indicative of whether the analyses are being used to project from the current time about what levels of growth lead to or whether they will be lagged and used to determine growth adequacy. The package also allows users to summarize their data in many ways and construct summary visualizations including bubble plots, the growth and achievement plots depicted in Figures 2 and 3, and individual student growth and achievement charts that are being used by a number of states to construct reports that are shared with parents around their state.

### Data Preparation

The SGP package is designed to ease the data management and analysis burden by requiring the user to set up and clean their data in a pre-specified format. For comprehensive of use of the SGP package, users conducting state levels analyses annually are directed to place their data into a LONG format file where each row in the file is a unique *student by content area by year* combination. A detailed overview of data set up can be found in the appendix begin on page 20.

For New York analyses data was provided by NYSED to the NCIEA for analysis. Data supplied by NYSED included data in both *mathematics* and *ELA* for assessment years 2006, 2007, 2008, 2009, 2010, and 2011 in grades 3, 4, 5, 6, 7, and 8.

All data provided by NYSED is included in the data fed into the *SGP* package but only students fulfilling certain criteria receive student growth percentiles and percentile growth trajectories. Students receiving a student growth percentile are required to have:

1. A valid unique student identifier allowing for matching student achievement records over time.
2. Valid scale scores on the New York state assessment from a single content area in consecutive years and consecutive grades. That is, for calculation of a student growth percentile in a given year, the student must have a record in that year and record from the previous year in the grade preceding the current year grade.<sup>8</sup>
3. Students with duplicate records on the New York state assessment in a content area in a given year are considered invalid.

### Data Analysis

Once data is properly formatted as a long file (See the section on data preparation in the appendix beginning on page 20), student growth percentile analyses and percentile growth trajectories are easy to calculate using the *SGP* package. We assume that the long data file has been correctly created with object name `New_York_Data_LONG`. Calculation of student growth percentiles, percentile growth trajectories, summaries and visualizations occurs in 5 steps:

#### prepareSGP

The `prepareSGP` function of the *SGP* package take the long data file and embeds that file in a larger R object of class *SGP* that will be used to orderly store all the output from the *SGP* analyses for later use in visualizations.

```
### STEP 1: prepareSGP

New_York_SGP <- prepareSGP(New_York_Data_LONG)
```

#### analyzeSGP

The `analyzeSGP` function performs all the calculations associated with student growth percentile and percentile growth trajectory calculation. For these calculations the function utilizes and embedded meta data set named `SGPstateData` containing:

- A fixed set of knots and boundaries with which to conduct analyses so that the non-parametric regression analyses are data independent.
- Cutscores (old and new) for the state that are used for growth to standard calculations. By default growth to standard analyses are calculated

---

<sup>8</sup>We are currently investigating the feasibility of performing analyses on retained students and determining whether their frequency suffices to calculate student growth percentiles.

- Labels associated with the growth levels used by New York: 1 to 34 Low, 35 to 65 Typical, 66 to 99 High.
- Baseline coefficient matrices established for New York allowing New York to calculate baseline referenced SGPs if desired.
- NYSED information embedded in reports for ease of generation.
- Conditional standard error of measurement for the NYSTP that are used for calculation of confidence intervals for SGPs.
- A configuration argument telling analyzeSGP how many prior year scores to be used in calculating coefficient matrices.

```
SGPstateData[["NY"]][["SGP_Configuration"]] <- list(max.order.for.percentile=3,  
max.order.for.projection=3)
```

### ### STEP 2: analyzeSGP

```
New_York_SGP <- analyzeSGP(New_York_SGP)
```

### combineSGP

The `combineSGP` function combines results derived in step 2 with `analyzeSGP` with the original long data set, matching student growth percentiles and sgp targets with individual students based upon a three years to reach/maintain proficiency window.

### ### STEP 3: combineSGP

```
New_York_SGP <- combineSGP(New_York_SGP)
```

### summarizeSGP

The `summarizeSGP` step takes the results merged with `combineSGP` and creates dozens of summary tables (e.g., summaries by school, content area, and year) that include summary measures like the median student growth percentile, the median target student growth percentile, percent at above proficient, and counts for those statistics.

### ### STEP 4: summarizeSGP

```
New_York_SGP <- summarizeSGP(New_York_SGP)
```

## visualizeSGP

The last step currently implemented in the `SGP` package is `visualizeSGP` that take both individual and summary level results and provides the users the very high quality graphical representation to help them both understand and communicate the results to stake holders. The growth and achievement charts in Figures 2 and 3 are output from `visualizeSGP`. In addition, interactive bubble plots and individual student growth and achievement plots are available.

```
### STEP 5: visualizeSGP  
  
visualizeSGP(New_York_SGP)
```

The `SGP` package and the R software environment in general comes with embedded documentation that allows the users to explore a number of different options available. For any command, one can view the associated documentation by type `?the.command.name` at the prompt.

## References

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## Student Growth Percentile Estimation

Calculation of a student’s growth percentile is based upon the estimation of the conditional density associated with a student’s score at time  $t$  using the student’s prior scores at times  $1, 2, \dots, t-1$  as the conditioning variables. Given the conditional density for the student’s score at time  $t$ , the student’s growth percentile is defined as the percentile of the score within the time  $t$  conditional density. By examining a student’s current achievement with regard to the conditional density, the student’s growth percentile normatively situates the student’s outcome at time  $t$  taking account of past student performance. The percentile result reflects the likelihood of such an outcome given the student’s prior achievement. In the sense that the student growth percentile translates to the probability of such an outcome occurring (i.e., rarity), it is possible to compare the progress of individuals not beginning at the same starting point. However, occurrences being equally rare does not necessarily imply that they are equally “good.” Qualifying student growth percentiles as “(in)adequate,” “good,” or as satisfying “a year’s growth” is a standard setting procedure requiring external criteria (e.g., growth relative to state performance standards) combined with the wisdom and judgments of stakeholders.

Estimation of the conditional density is performed using quantile regression (Koenker, 2005). Whereas linear regression methods model the conditional mean of a response variable  $Y$ , quantile regression is more generally concerned with the estimation of the family of conditional quantiles of  $Y$ . Quantile regression provides a more complete picture of both the conditional distribution associated with the response variable(s). The techniques are ideally suited for estimation of the family of conditional quantile functions (i.e., reference percentile curves). Using quantile regression, the conditional density associated with each student’s prior scores is derived and used to situate the student’s most recent score. Position of the student’s most recent score within this density can then be used to characterize the student’s growth. Though many state assessments possess a vertical scale, such a scale is not necessary to produce student growth percentiles.

In analogous fashion to the least squares regression line representing the solution to a minimization problem involving squared deviations, quantile regression functions represent the solution to the optimization of a loss function (Koenker, 2005, p. 5). Formally, given a class of suitably smooth functions,  $\mathcal{G}$ , one wishes to solve

$$\arg \min_{g \in \mathcal{G}} \sum_{i=1}^n \rho_{\tau}(Y(t_i) - g(t_i)), \quad (1)$$

where  $t_i$  indexes time,  $Y$  are the time dependent measurements, and  $\rho_{\tau}$  denotes the piecewise linear loss function defined by

$$\rho_{\tau}(u) = u \cdot (\tau - I(u < 0)) = \begin{cases} u \cdot \tau & u \geq 0 \\ u \cdot (\tau - 1) & u < 0. \end{cases}$$

The elegance of the quantile regression Expression 1 can be seen by considering the more familiar least squares estimators. For example, calculation of  $\arg \min \sum_{i=1}^n (Y_i - \mu)^2$  over  $\mu \in \mathbb{R}$  yields the sample mean. Similarly, if  $\mu(x) = x'\beta$  is the conditional mean represented as a linear combination of the components of  $x$ , calculation of  $\arg \min \sum_{i=1}^n (Y_i - x'_i\beta)^2$  over  $\beta \in \mathbb{R}^p$  gives the familiar least squares regression line. Analogously, when the class of candidate functions  $\mathcal{G}$  consists solely of constant functions, the estimation of Expression 1 gives the  $\tau$ th sample quantile associated with  $Y$ . By conditioning on a covariate  $x$ , the  $\tau$ th conditional quantile function,  $Q_y(\tau|x)$ , is given by

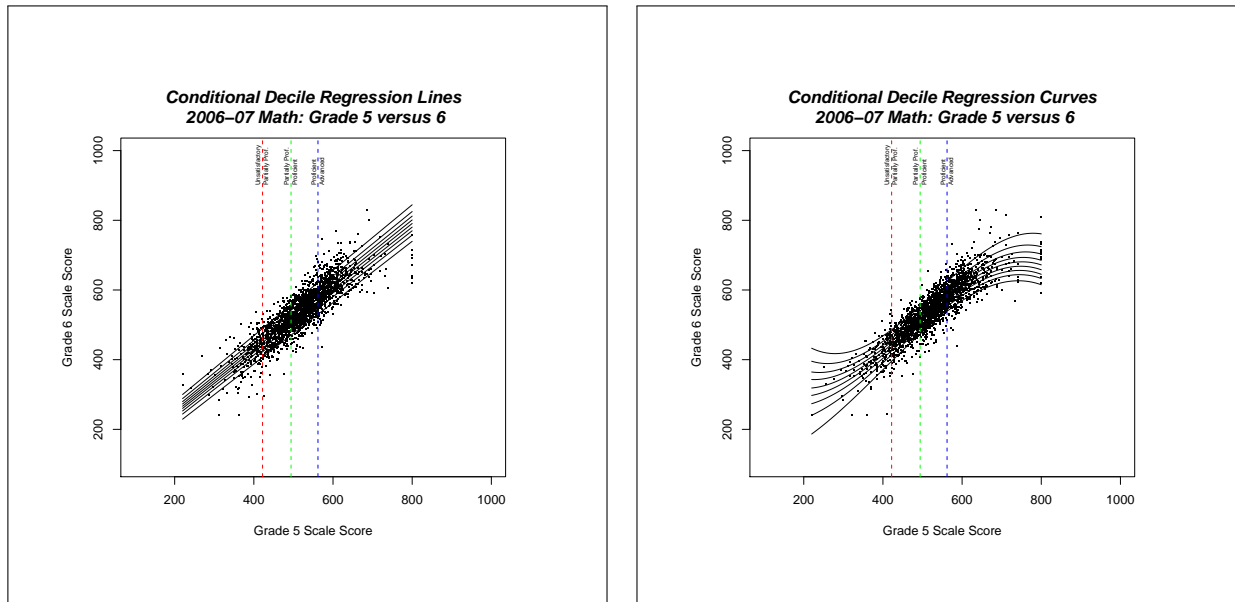


Figure 4: Linear and B-spline conditional deciles based upon bivariate math data, grades 5 and 6

$$Q_y(\tau|x) = \arg \min_{\beta \in \mathbb{R}^p} \sum_{i=1}^n \rho_\tau(y_i - x_i' \beta).$$

In particular, if  $\tau = 0.5$ , then the estimated conditional quantile line is the median regression line.<sup>9</sup>

Following Wei & He (2006), we parametrize the conditional quantile functions as a linear combination of B-spline cubic basis functions. B-splines are employed to accommodate non-linearity, heteroscedasticity and skewness of the conditional densities associated with values of the independent variable(s). B-splines are attractive both theoretically and computationally in that they provide excellent data fit, seldom lead to estimation problems (Harrell, 2001, p. 20), and are simple to implement in available software.

Figure 4 gives a bivariate representation of linear and B-splines parametrization of decile growth curves. The assumption of linearity imposes conditions upon the heteroscedasticity of the conditional densities. Close examination of the linear deciles indicates slightly greater variability for higher grade 5 scale scores than for lower scores. By contrast, the B-spline based decile functions better capture the greater variability at both ends of the scale score range together with a slight, non-linear trend to the data.

Calculation of student growth percentiles is performed using R (R Development Core Team, 2011), a language and environment for statistical computing, with SGP package (Betebenner & VanIwaarden, 2012). Other possible software (untested with regard to student growth percentiles) with quantile regression capability include SAS and Stata. Estimation of student growth percentiles is conducted using all available prior data, subject to certain suitability conditions. Given assessment scores for  $t$  occasions, ( $t \geq 2$ ), the  $\tau$ -th conditional quantile for  $Y_t$  based upon  $Y_{t-1}, Y_{t-2}, \dots, Y_1$  is

<sup>9</sup>For a detailed treatment of the procedures involved in solving the optimization problem associated with Expression 1, see Koenker (2005), particularly Chapter 6.



given by

$$Q_{Y_t}(\tau|Y_{t-1}, \dots, Y_1) = \sum_{j=1}^{t-1} \sum_{i=1}^3 \phi_{ij}(Y_j) \beta_{ij}(\tau), \quad (2)$$

where  $\phi_{i,j}$ ,  $i = 1, 2, 3$  and  $j = 1, \dots, t - 1$  denote the B-spline basis functions. Currently, bases consisting of 7 cubic polynomials are used to “smooth” irregularities found in the multivariate assessment data. A bivariate rendering of this is found in Figure 4 where linear and B-spline conditional deciles are presented. The cubic polynomial B-spline basis functions model the heteroscedasticity and non-linearity of the data to a greater extent than is possible using a linear parametrization.

### Discussion of Model Properties

Student growth percentiles possess a number of attractive properties from both a theoretical as well as a practical perspective. Foremost among practical considerations is that the percentile descriptions are familiar and easily communicated to teachers and other non-technical stakeholders. Furthermore, implicit within the percentile quantification of student growth is a statement of probability. Questions of “how much growth is enough?” or “how much is a year’s growth?” ask stakeholders to establish growth percentile thresholds deemed adequate. These thresholds establish growth standards that translate to probability statements. In this manner, percentile based growth forms a basis for discussion of rigorous yet attainable growth standards for all children supplying a normative context for Linn’s (2003) existence proof with regard to student level growth.

In addition to practical utility, student growth percentiles possess a number of technical attributes well suited for use with assessment scores. The more important theoretical properties of growth percentiles include:

**Robustness to outliers** Estimation of student growth percentiles are more robust to outliers than is traditionally the case with conditional mean estimation. Analogous to the property of the median being less influenced by outliers than is the mean, conditional quantiles are robust to extreme observations. This is due to the fact that influence of a point on the  $\tau$ -th conditional quantile function is not proportional (as is the case with the mean) to the distance of the point from the quantile function but only to its position above or below the function (Koenker, 2005, p. 44).

**Uncorrelated with prior achievement** Analogous to least squares derived residuals being uncorrelated with independent variables, student growth percentiles are not correlated with prior achievement. This property runs counter to current multilevel approaches to measuring growth with testing occasion nested within students (Singer & Willett, 2003). These models, requiring a vertical scale, fit lines with distinct slopes and intercepts to each student. The slopes of these lines represent an average rate of increase, usually measured in scale score points per year, for the student. Whereas a steeper slope represents more learning, it is important to understand that using a normative quantification of growth, one cannot necessarily infer that a low achieving student with a growth percentile of 60 “learned as much” as a high achieving student with the same growth percentile. Growth percentiles bypass questions associated with magnitude of learning and focus on normatively quantifying changes in achievement.

**Equivariance to monotone transformation of scale** An important attribute of the quantile regression methodology used to calculate student growth percentiles is their invariance to monotone transformations of scale. This property, denoted by Koenker (2005) as *equivariance to monotone transformations* is particularly helpful in educational assessment where a variety of

scales are present for analysis, most of which are related by some monotone transformation. For example, it is a common misconception that one needs a vertical scale in order to calculate growth. Because vertical and non-vertical scales are related via a monotone transformation, the student growth percentiles do not change given such alterations in the underlying scale. This result obviates much of the discussion concerning the need for a vertical scale in measuring growth.<sup>10</sup>

Formally, given a monotone transformation  $h$  of a random variable  $Y$ ,

$$Q_{h(Y)|X}(\tau|X) = h(Q_{Y|X}(\tau|X)).$$

This result follows from the fact that  $\Pr(T < t|X) = \Pr(h(T) < h(t)|X)$  for monotone  $h$ . It is important to note that equivariance to monotone transformation does not, in general, hold with regard to least squares estimation of the conditional mean. That is, except for affine transformations  $h$ ,  $E(h(Y)|X) \neq h(E(Y|X))$ . Thus, analyses built upon mean based regression methods are, to an extent, scale dependent.

---

<sup>10</sup>As already noted with regard to pediatrics, the existence of nice “vertical” scales for measuring height and weight still leads to observed changes being normed.

## Data Preparation

### Data must be in long format

The first and most fundamental requirement for the data is that it must be in long, as opposed to wide, format. For analysis purposes, this means that each row represents a unique *student* by *content area* by *year* combination. This uniqueness is relaxed somewhat with the addition of a `VALID_CASE` variable that defines which case is unique if there are duplicate records by student, content area and year. Thus, in the final long file, each student, by content area by year by valid case identifier *must* be unique.<sup>11</sup> By contrast, a row in the wide data format would contain all available information for a single student. This format is used by the `studentGrowthPercentiles` and `studentGrowthProjections` functions and is exemplified in the embedded wide data set `sgpData`. To illustrate the format of a long file suitable for `SGP` analysis, consider the first four rows (only the first 7 columns) of the sample data, `sgpData_LONG`:

```
> sgpData_LONG[1:4, 1:7]
  ID LAST_NAME FIRST_NAME CONTENT_AREA YEAR GRADE SCALE_SCORE
1 1000079   Nixon   Daniela MATHEMATICS 2006_2007 8      463
2 1000079   Nixon   Daniela MATHEMATICS 2007_2008 9      519
3 1000079   Nixon   Daniela  READING 2006_2007 8      587
4 1000079   Nixon   Daniela  READING 2007_2008 9      614
```

Notice that the same student is in each row, but that the rows represent different grades and content area combinations. The reader is encouraged to further examine the structure of the `sgpData_LONG` file. Note that in this file, all cases are flagged as `VALID_CASE` as there are no duplicate records by student, content\_area, and year. This may not be the case in many state testing programs.

### Required Variables

To conduct `SGP` analyses, there are some variables that are required and others that are nice to have but not necessary. Note that it is *not* necessary to change the names of the variables from your own native names to those used internally by the `SGP` functions. Following this, we describe a `Names` lookup table that is defined by the user to allow for translation between the two naming conventions. This allows the user to focus on getting their data formatted exactly as necessary within their naming conventions and then turn the rest over to the `SGP` package for analysis.

The following list gives the variables (i.e., columns in the long data file) that are required for the calculation of Student Growth Percentiles using the higher level functions `abcSGP` and `analyzeSGP` as well as how these variables should be formatted (if applicable).

**ID** This column contains the unique student identifiers. Values may be of either `integer` or `factor` class. Note that if the unique student ID for a given state is larger than  $2^{32}$ , then a factor class must be used as the maximum value for an integer in R is  $2^{32}$ .

**CONTENT\_AREA** This column describes the content area for a given row. Most NCLB compliant assessment systems would presumably contain `MATHEMATICS` and `READING`, but other values and names are possible. These values must be all caps and match the states' assessment information

<sup>11</sup>The `SGP` class available as of version 0.1-0.0 will include validity checks that mandate the supplied long data is appropriately set up and attempt to correct simple issues allowing `SGP` analyses to proceed effortlessly

contained in the `SGPstateData` object that comes with `SGP`. Please contact `dbetebenner@nciea.org` to have assessment data added to this object. These values should be of class `factor`.

**YEAR**—This column gives either the academic year (e.g., `2006_2007` as in the sample data) or the year in which the assessment took place (e.g., `2007`). If the latter form is used, the class of this column should be set to `integer` otherwise the `YEAR` is of class `factor`. Hyphens should NOT be used (e.g., `2006-07`).

**GRADE** The grade in which the assessment was administered. The column of this class should be set to either `integer` or `factor`.

**SCALE\_SCORE** The assessment scale score for each observation. This column's class should be set to `integer` or `numeric`.

**VALID\_CASE** This column identifies those students who should be included in subsequent analyses (value set to `VALID_CASE`) and those that should not be included (value set to `INVALID_CASE`). Duplicate cases are often left in the data and flagged as an `INVALID_CASE`.

As most analysts do not perform data preparation natively in R and instead read their data into R from either text files or native formats to other software packages (e.g., SAS or SPSS). There can be some inconsistency as to how the data arrives into R and is prepared for analysis. In general, when reading in from text files, R will convert any character vectors/variables to `factor` and others to `numeric`. For example, if the `CONTENT_AREA` variable supplied in a text file is provided as either `MATHEMATICS` or `ELA`, then R will read that variable as a `factor`. If, however, that variable were coded as 1 for `MATHEMATICS` and 2 for `READING`, then the variable will be read in as class `numeric`. Note that it is critical that factors have text labels as these are used as either text labels in the graphics or as labels to match with the embedded `SGPstateData` data set.

## Secondary Columns

Although these columns are not required for Growth Percentile analyses, one (`ACHIEVEMENT_LEVEL`) is required for percentile growth trajectory/projection analysis and others are required to produce aggregate summary tables that are often used by the visualization functionality:

**ACHIEVEMENT\_LEVEL** The achievement or proficiency category associated with each observed scale score. Values in this column should be set to an `ordered factor`, and should match the assessment program information included in contained in the `SGPstateData` object. These values are used to determine growth to standard growth targets as well as summary aggregate statistics (e.g., percent at/above proficient).

**FIRST\_NAME** Students' first names. A character string or `factor`. Student names are used only for individual student report production within the `SGP` package.

**LAST\_NAME** Students' last names. A character string or `factor`. Student names are used only for individual student report production within the `SGP` package.

**INSTRUCTOR\_NUMBER\_1** A unique identifier for a teacher/instructor associated with the student in the content area in the given year. Either an `integer` or `factor`. Used for creating summary tables for instructors.

**INSTRUCTOR\_NUMBER\_2** A unique identifier for a teacher/instructor associated with the student in the content area in the given year. Either an `integer` or `factor`. Used for creating summary

tables for instructors. Note that there is no limitation on the number of instructors a student can be associated with.

**SCHOOL\_NUMBER** A unique identifier for the school/institution in which a student is enrolled in a given year. Either an **integer** or **factor**. Used for creating summary tables for schools.

**SCHOOL\_NAME** Name of the school/institution in which a student is enrolled in a given year. A character string or **factor**. Used for labeling purposes in SGP visualizations.

**DISTRICT\_NUMBER** A unique identifier for the district/educational authority in which a student is enrolled in a given year. Either a **factor** or **integer**. Used for creating summary tables for districts.

**DISTRICT\_NAME** District/educational authority name in which a student is enrolled in a given year. A character string or **factor**. Used for labeling purposes in SGP visualizations.

**INSTRUCTOR\_1\_WEIGHT** A proportion (between 0 and 1 inclusive) indicating the assigned weight associated with the student and **INSTRUCTOR\_NUMBER\_1**.

**INSTRUCTOR\_2\_WEIGHT** A proportion (between 0 and 1 inclusive) indicating the assigned weight associated with the student and **INSTRUCTOR\_NUMBER\_2**.

**INSTRUCTOR\_1\_ENROLLMENT\_STATUS** Binary indicator of whether the student was enrolled with **INSTRUCTOR\_NUMBER\_1** and should be included in summary statistics. Indicator must be a **factor**, preferably with informative labels such as those in `sgpData_LONG: Enrolled Instructor: Yes` and `Enrolled Instructor: No`.

**INSTRUCTOR\_2\_ENROLLMENT\_STATUS** Binary indicator of whether the student was enrolled with **INSTRUCTOR\_NUMBER\_2** and should be included in summary statistics. Indicator must be a **factor**, preferably with informative labels such as those in `sgpData_LONG: Enrolled Instructor: Yes` and `Enrolled Instructor: No`.

**STATE\_ENROLLMENT\_STATUS** Binary indicator of whether the student was enrolled (e.g., continuously enrolled) in the state and should be included in summary statistics. Indicator must be a **factor**, preferably with informative labels such as those in `sgpData_LONG: Enrolled State: Yes` and `Enrolled State: No`.

**DISTRICT\_ENROLLMENT\_STATUS** Binary indicator of whether the student was enrolled (e.g., continuously enrolled) and should be included in district summary statistics. Indicator must be a **factor**, preferably with informative labels such as those in `sgpData_LONG: Enrolled District: Yes` and `Enrolled District: No`.

**SCHOOL\_ENROLLMENT\_STATUS** Binary indicator of whether the student was enrolled (e.g., continuously enrolled) and should be included in school summary statistics. Indicator must be a **factor**, preferably with informative labels such as those in `sgpData_LONG: Enrolled School: Yes` and `Enrolled School: No`.

**GENDER** Variable indicating the gender of the student with labels, for example, male and female. Variable is required for summary statistics and is also required to produce gender correct random names for students when anonymized student reports are produced. Variable should be a **factor**.

**ETHNICITY** Variable indicating the ethnicity of the student with labels, for example, White, Hispanic, Asian, African American, . . . . Variable is required for summary statistics and is also required to produce ethnicity correct random names for students when anonymized student reports are produced. Variable should be a **factor**.

**FREE\_REDUCED\_LUNCH\_STATUS** Variable indicating the Free and Reduced Lunch Status of the Student. Variable is required for summary statistics and should be a **factor**.

**IEP\_STATUS** Variable indicating the IEP (individual education plan) status for a student. Variable is required for summary statistics and should be a **factor**.

**ELL\_STATUS** Variable indicating the ELL (English Language Learner) status for a student. Variable is required for summary statistics and should be a **factor**.

**GIFTED\_AND\_TALENTED\_PROGRAM\_STATUS** Variable indicating the Gifted and Talented Program status for a student. Variable is required for summary statistics and should be a **factor**.

**EMH\_LEVEL** Variable indicating whether the score in the grade, year, and content area reported for a student is considered to be at the Elementary, Middle, or High School level. Variable is required in summaries by Elementary, Middle, High School level are desired. Variable should be of type **factor**.

This list isn't intended to be exhaustive of all variables a state might supply. It does supply a very comprehensive list that leads to the production of a great deal of data that can be used from the individual to the school, district, and state level to comprehensively understand the progress of students throughout a state education system.

### Variable Lookup Table

Users are permitted to either rename variable names manually in the creation of their long file or take advantage of the built in renaming functionality of the **SGP** class. If a user does not wish to rename the columns in their data to match the conventions used in the **SGP** package listed above, the **Names** option can be used. The user must supply an appropriate list of variable names in the **var.names** argument of the **prepareSGP** function. For example, if a state has a unique student identifier named "My\_Student\_ID" and an assessment subject variable named "My\_Subject" (all other variable names match), an example call to **prepareSGP** would include this argument:

```
New_York_SGP <- prepareSGP(...,
  var.names=list(ID="MyStudent_ID", CONTENT_AREA="My_Subject"))
```

The **var.names** list *must* include all required columns that do not match the **SGP** conventions, as well as all secondary columns needed for summarization and reporting.

### Processing

Once a dataset is properly prepared, a comprehensive analysis can be conducted using **abcSGP**. An example of the call using the sample data **sgpData\_LONG** is below. The developers of the package have tested **SGP** functionality on numerous state data sets and have found the package to be perform without error when the data is properly formatted.

```
New_York_SGP <- abcSGP(sgp_object=New_York_Data_LONG, state="NY")
```

This call not only returns the `DEMO_Data` object which contains student growth percentiles and other information, but it also produces goodness of fit and visualization folders containing PDF output files. The `state` option in the call is used to get state-specific assessment information such as achievement level cutscores, achievement level labels, fixed knots and boundaries, and assessment program information. As of `SGP` versions 0.8-0.0, state data is included for 24 states. To view the states with data, simply open R, load the `SGP` package (`require(SGP)`), and type `names(names(SGPstateData))`.

## Supplementary Growth and Achievement Plots

The following figures provide additional scenarios to Figures 2 and 3 with students starting at each of the NYSTP cutpoints in grade 3.



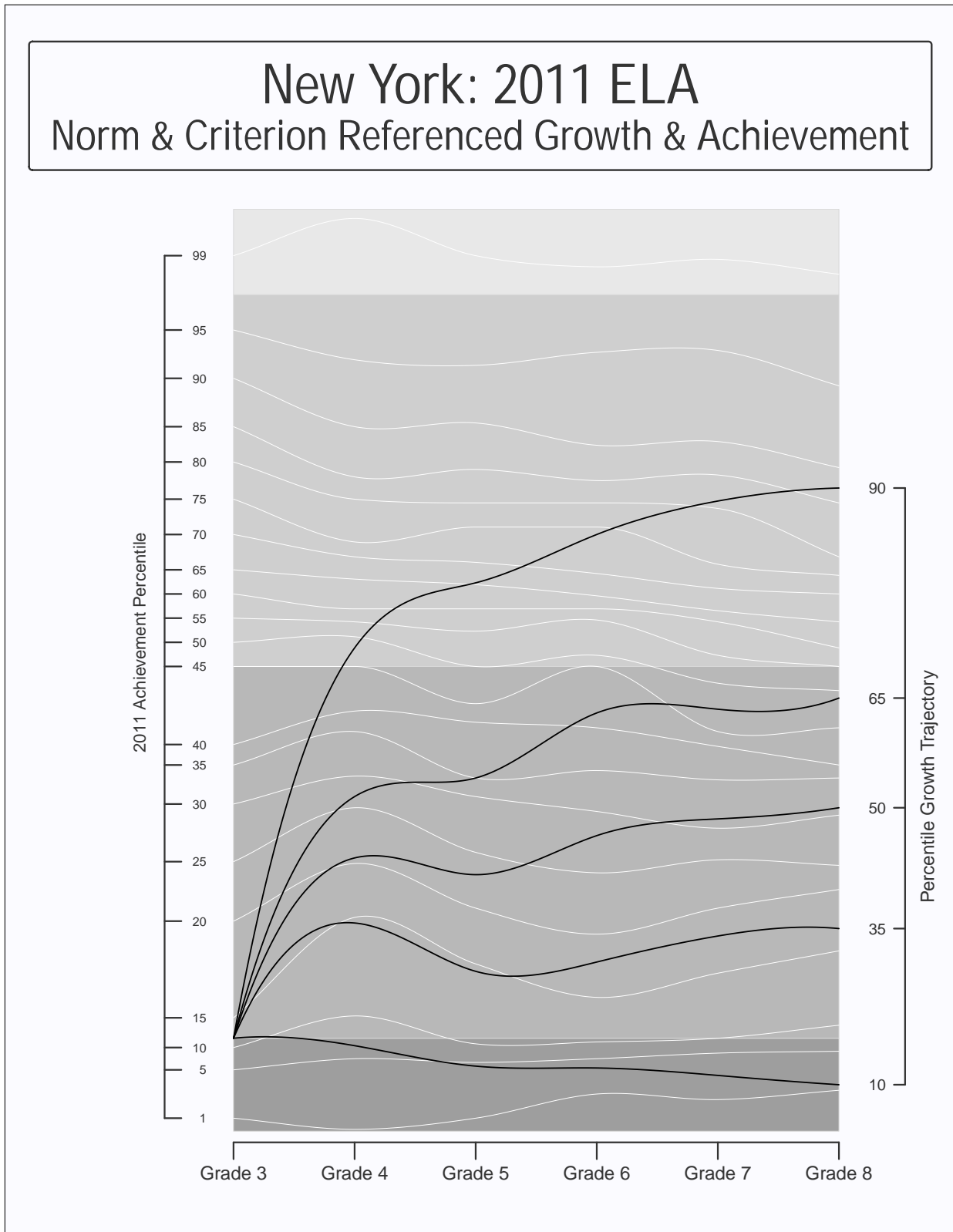


Figure 5: Growth chart depicting future ELA achievement conditional upon consecutive 10th, 35th, 50th, 65th, and 90th percentile growth for a student beginning the third grade at the cutpoint between below basic and meets basic levels

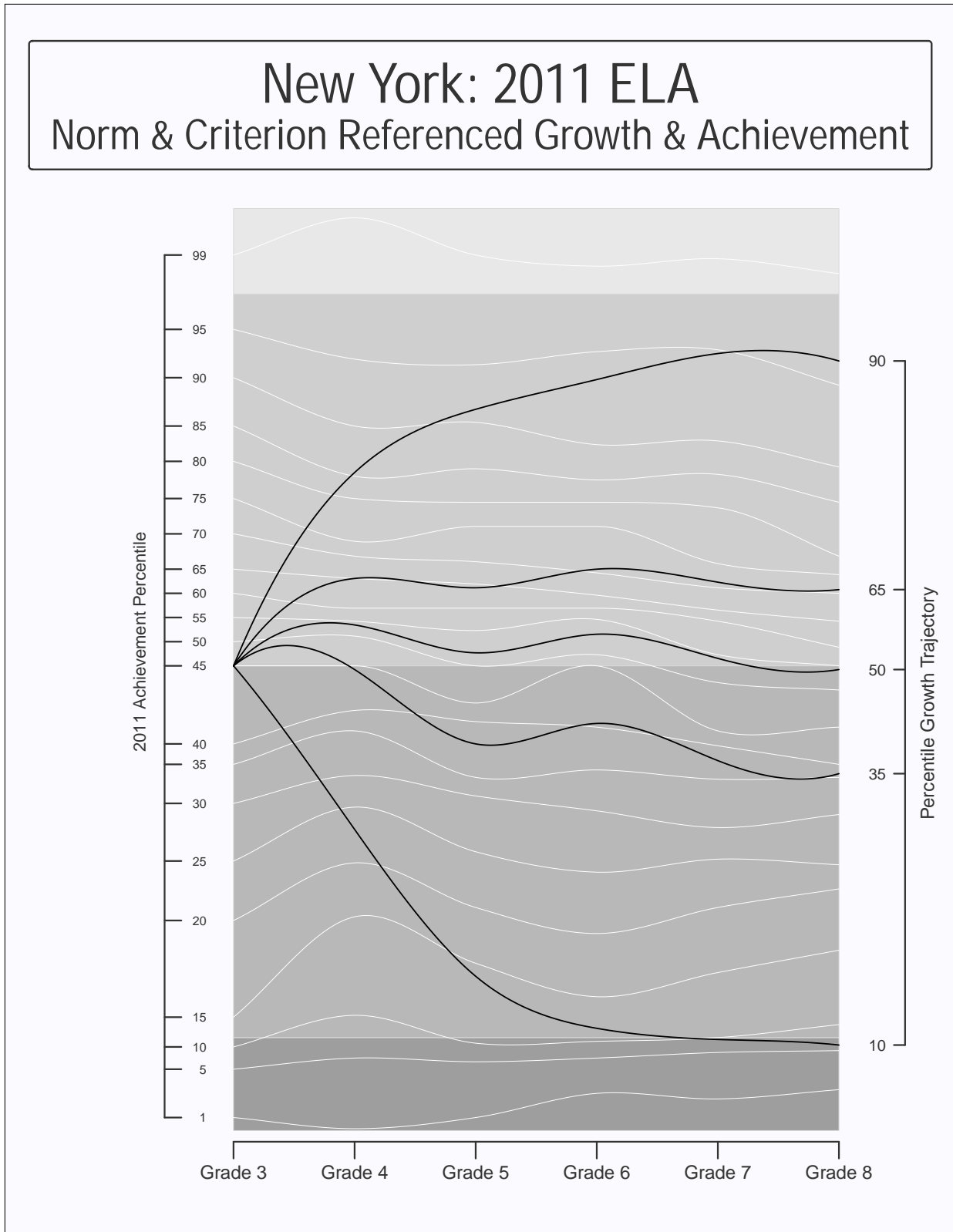


Figure 6: Growth chart depicting future ELA achievement conditional upon consecutive 10th, 35th, 50th, 65th, and 90th percentile growth for a student beginning the third grade at the cutpoint between meets basic and meets proficient levels

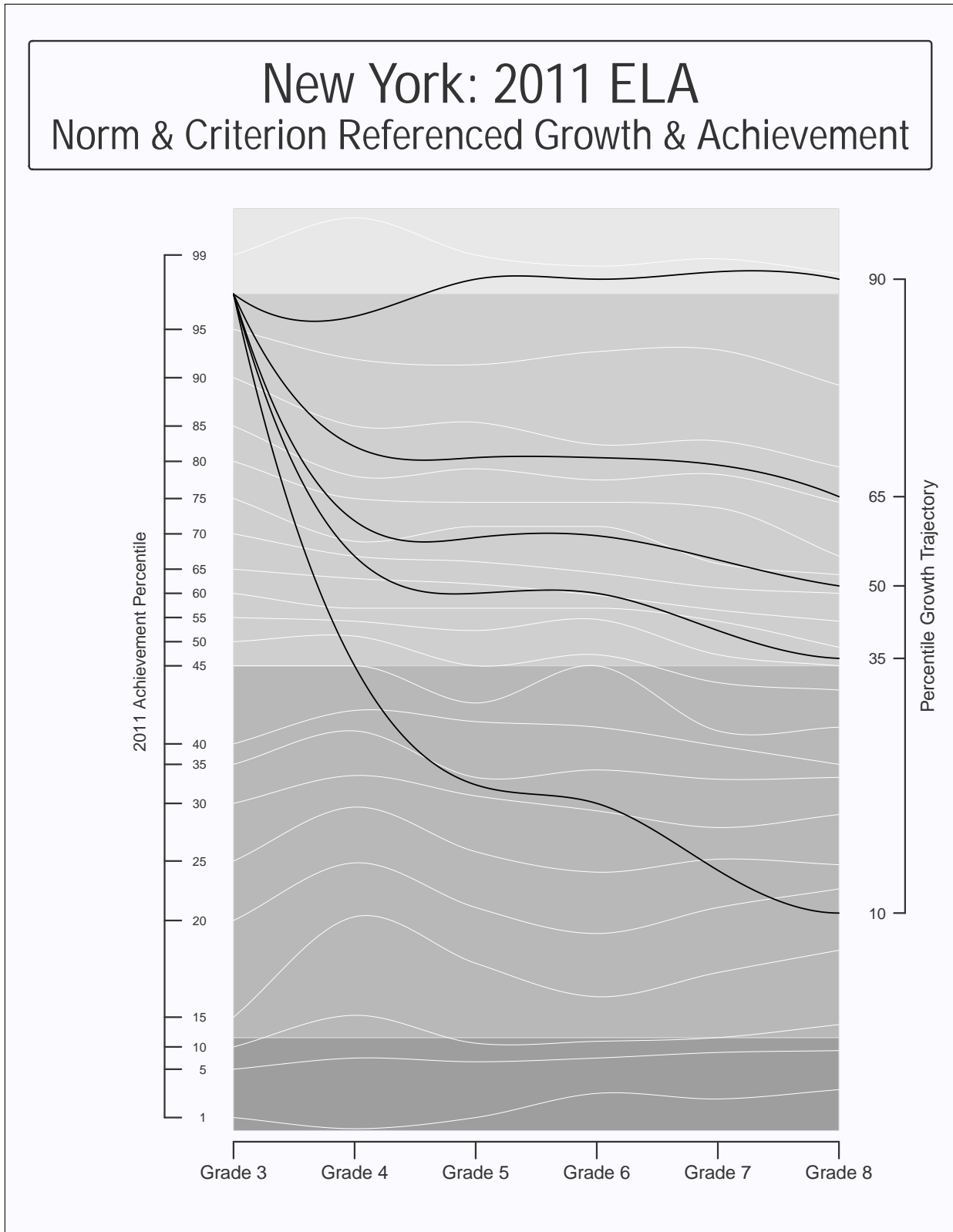


Figure 7: Growth chart depicting future ELA achievement conditional upon consecutive 10th, 35th, 50th, 65th, and 90th percentile growth for a student beginning the third grade at the cutpoint between meets proficient and exceeds levels

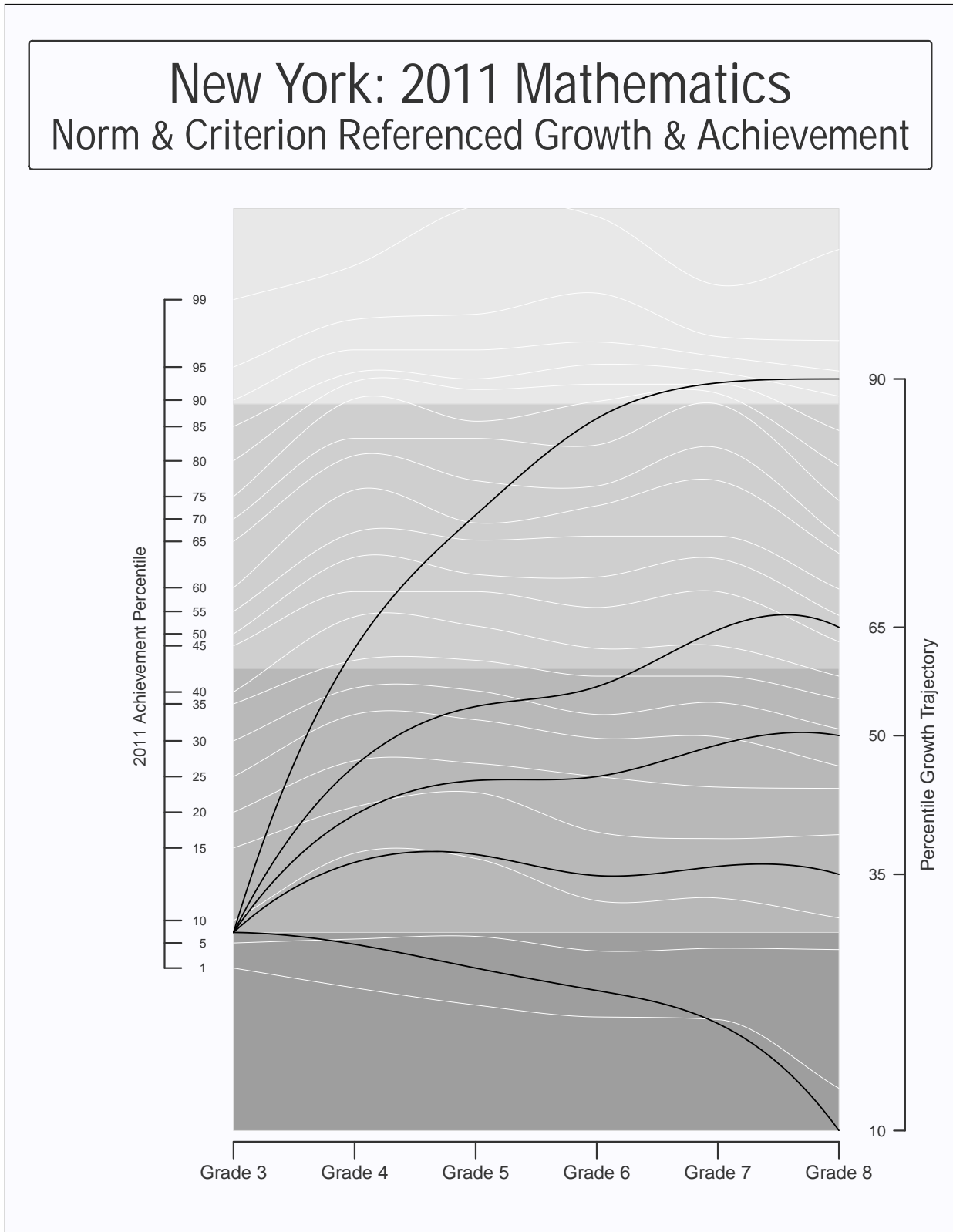


Figure 8: Growth chart depicting future mathematics achievement conditional upon consecutive 10th, 35th, 50th, 65th, and 90th percentile growth for a student beginning the third grade at the cutpoint between below basic and meets basic levels

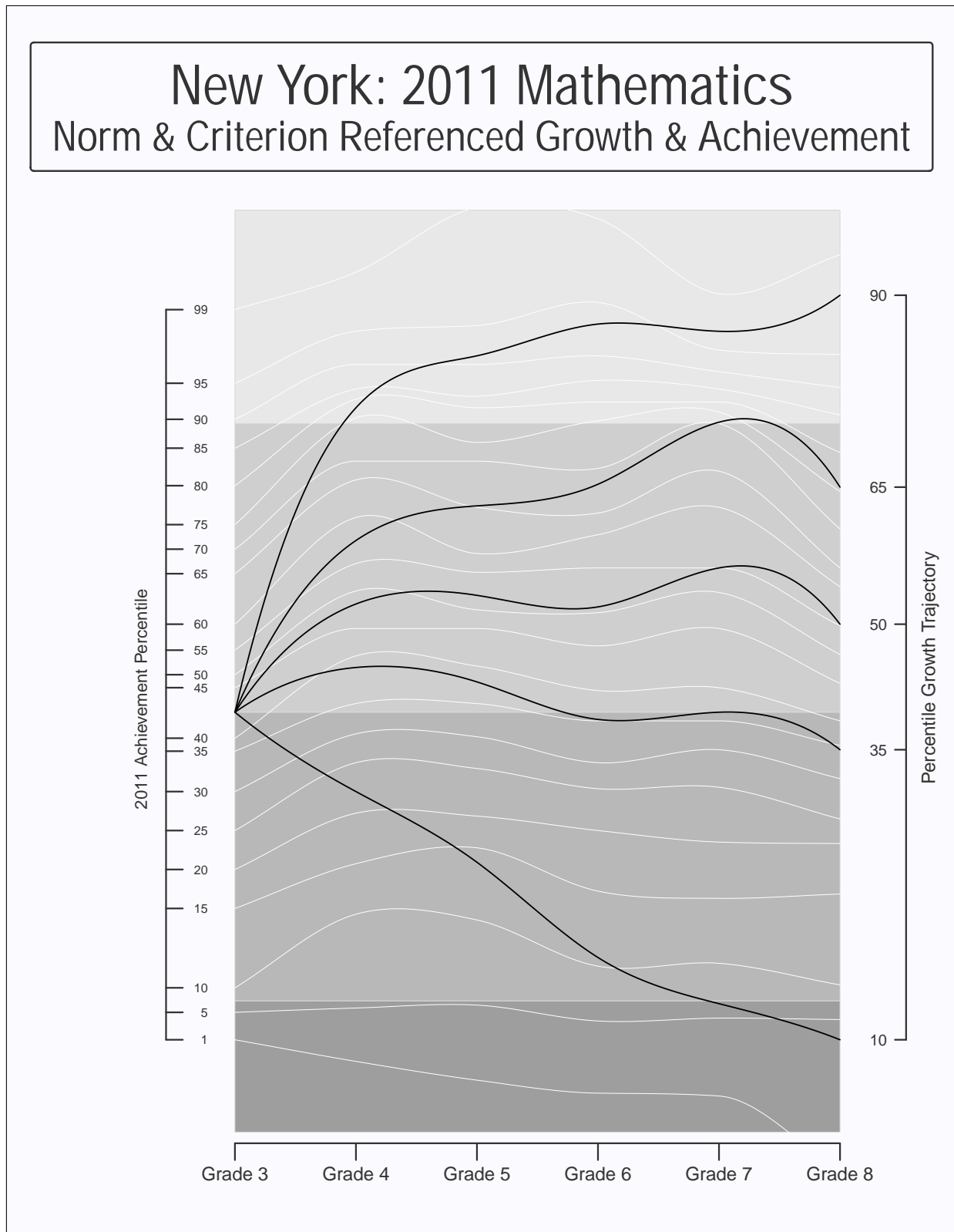


Figure 9: Growth chart depicting future mathematics achievement conditional upon consecutive 10th, 35th, 50th, 65th, and 90th percentile growth for a student beginning the third grade at the cutpoint between meets basic and meets proficient levels

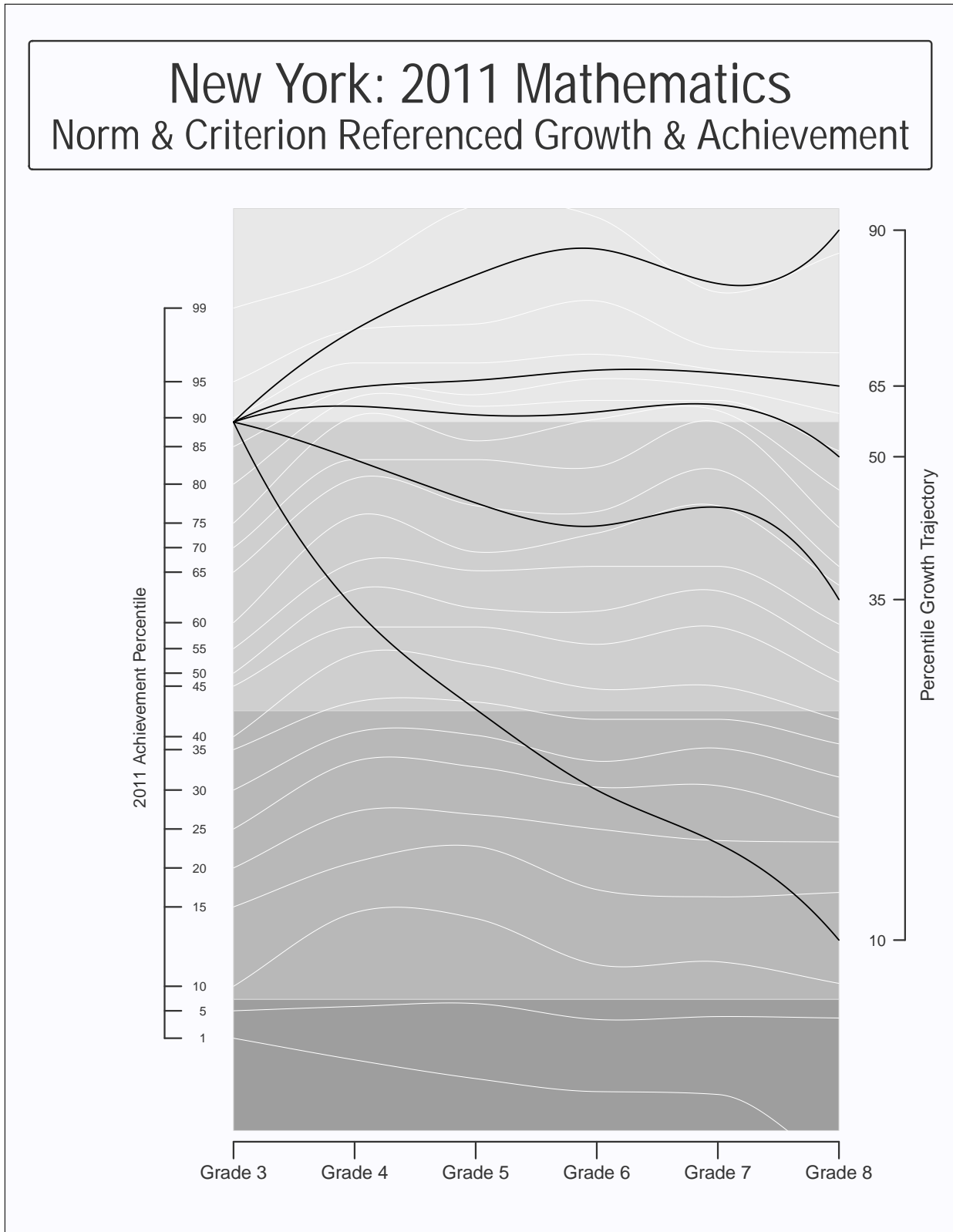
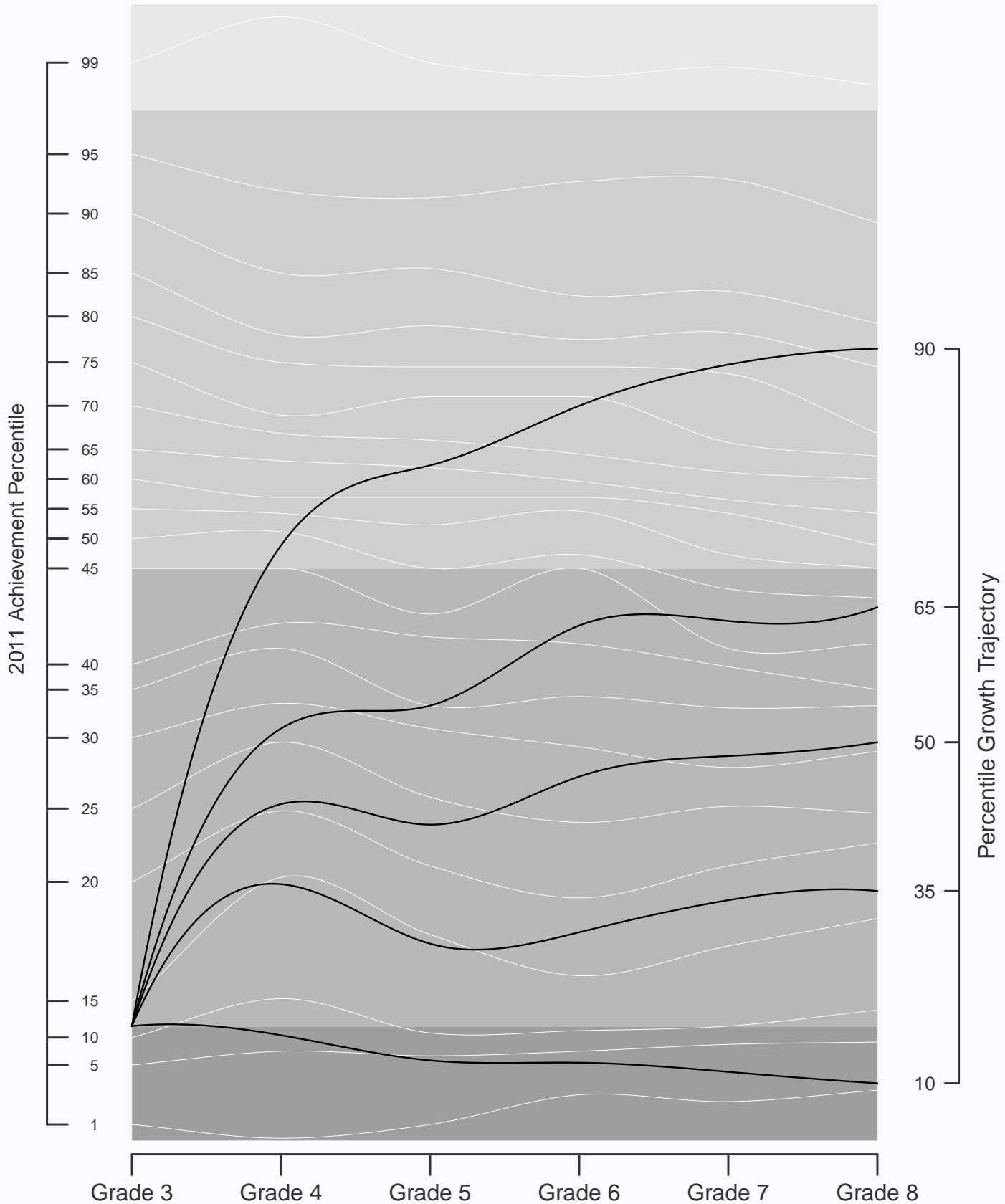


Figure 10: Growth chart depicting future mathematics achievement conditional upon consecutive 10th, 35th, 50th, 65th, and 90th percentile growth for a student beginning the third grade at the cutpoint between meets proficient and exceeds levels

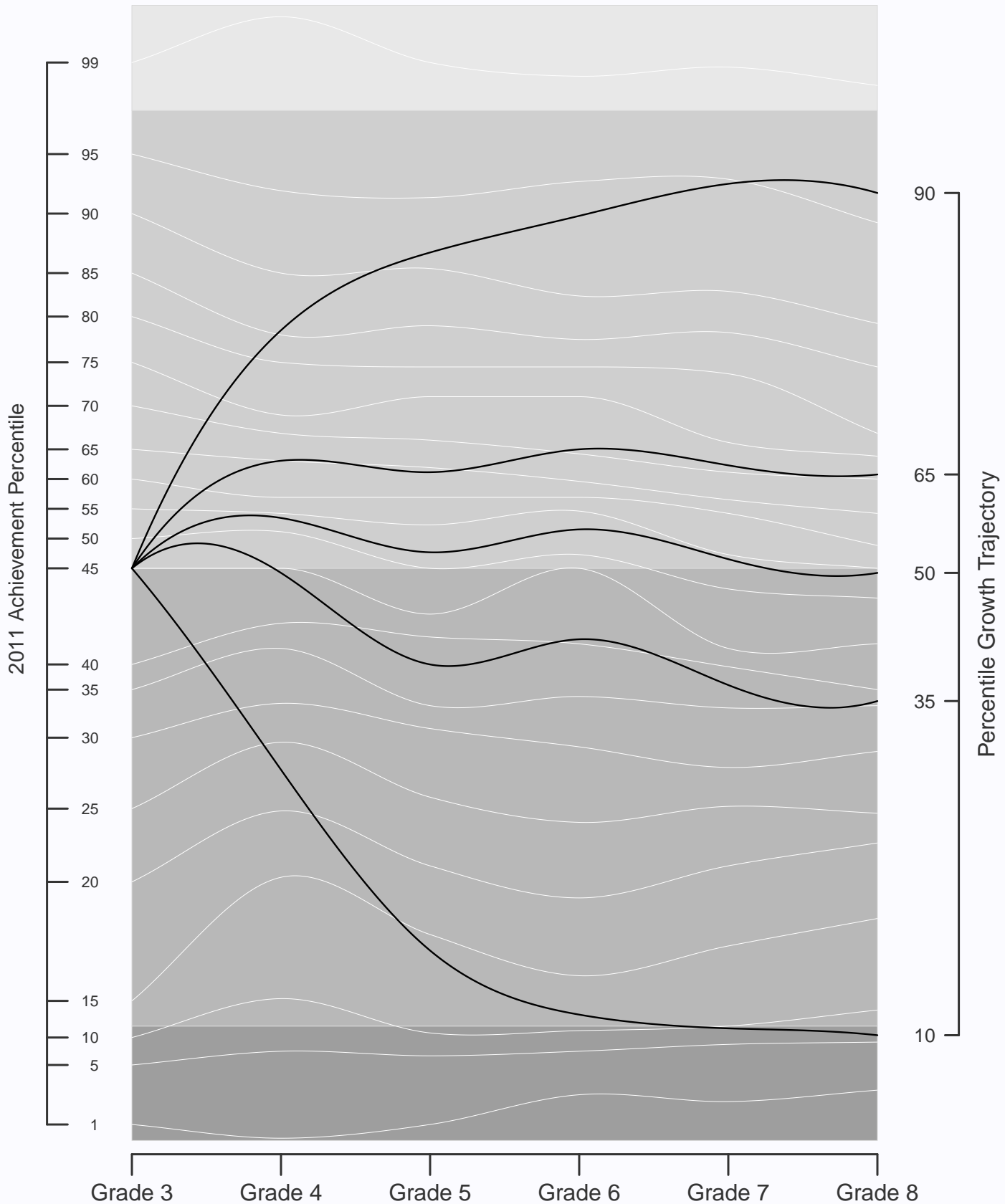
# New York: 2011 ELA

## Norm & Criterion Referenced Growth & Achievement



# New York: 2011 ELA

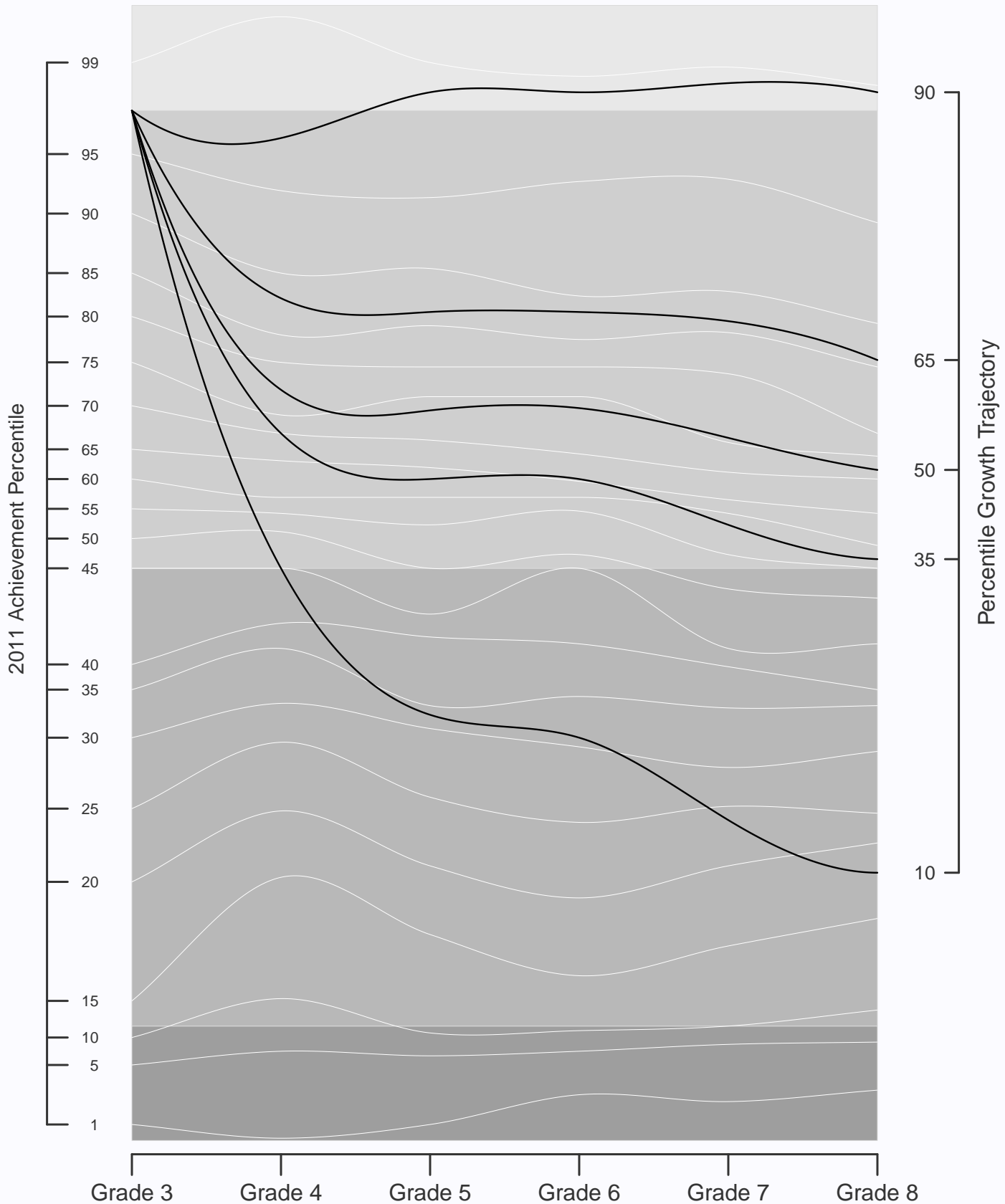
## Norm & Criterion Referenced Growth & Achievement





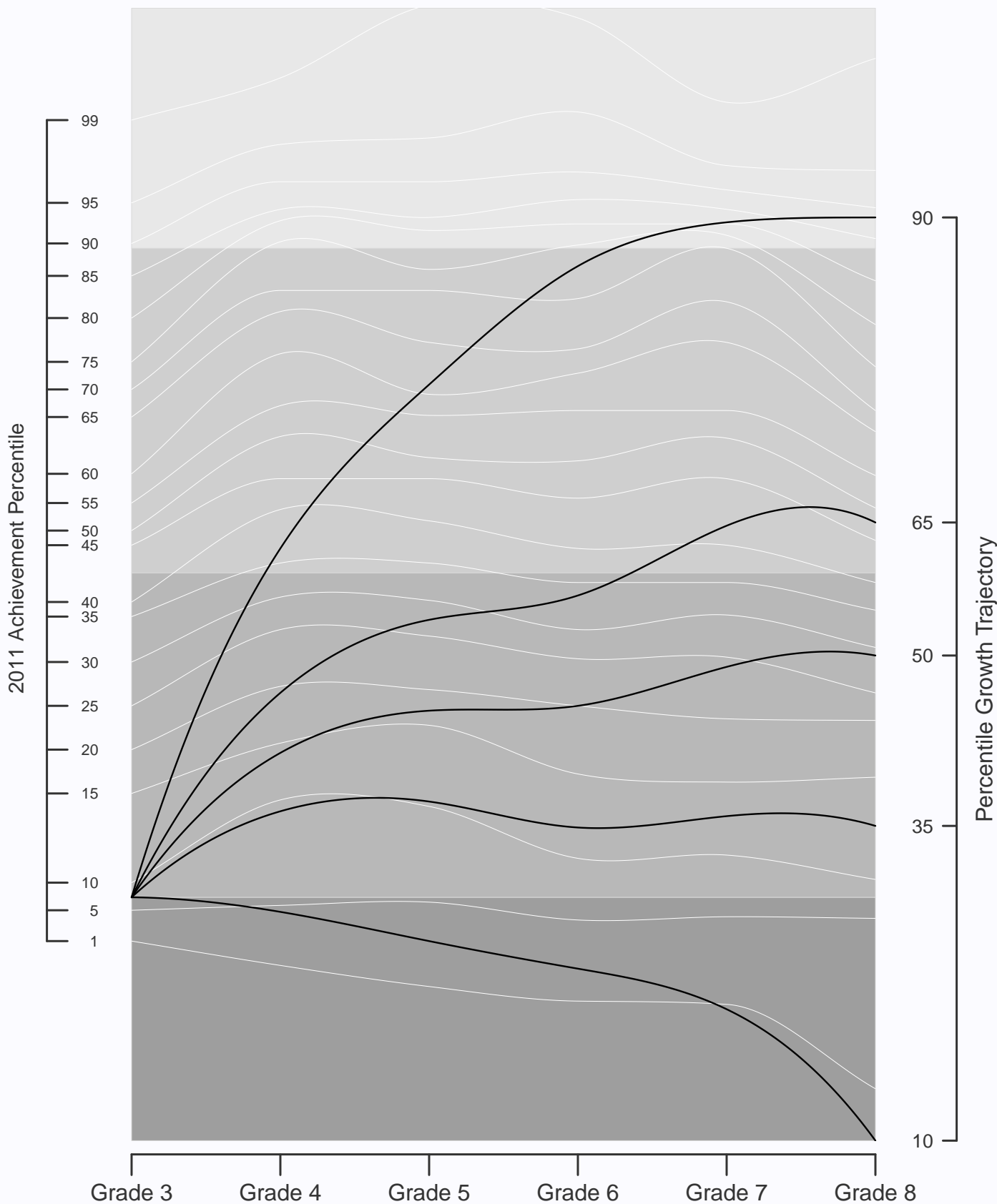
# New York: 2011 ELA

## Norm & Criterion Referenced Growth & Achievement



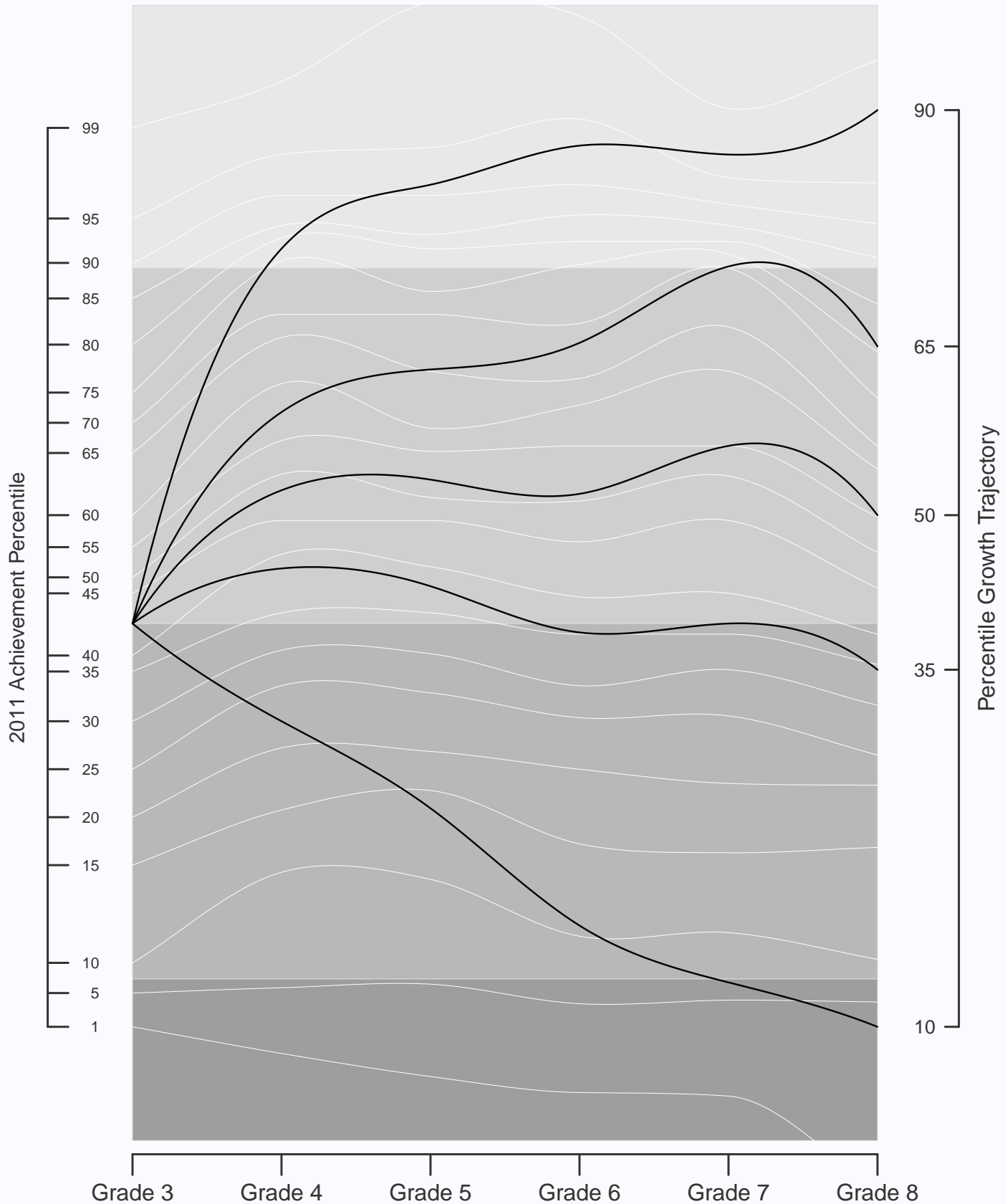
# New York: 2011 Mathematics

## Norm & Criterion Referenced Growth & Achievement



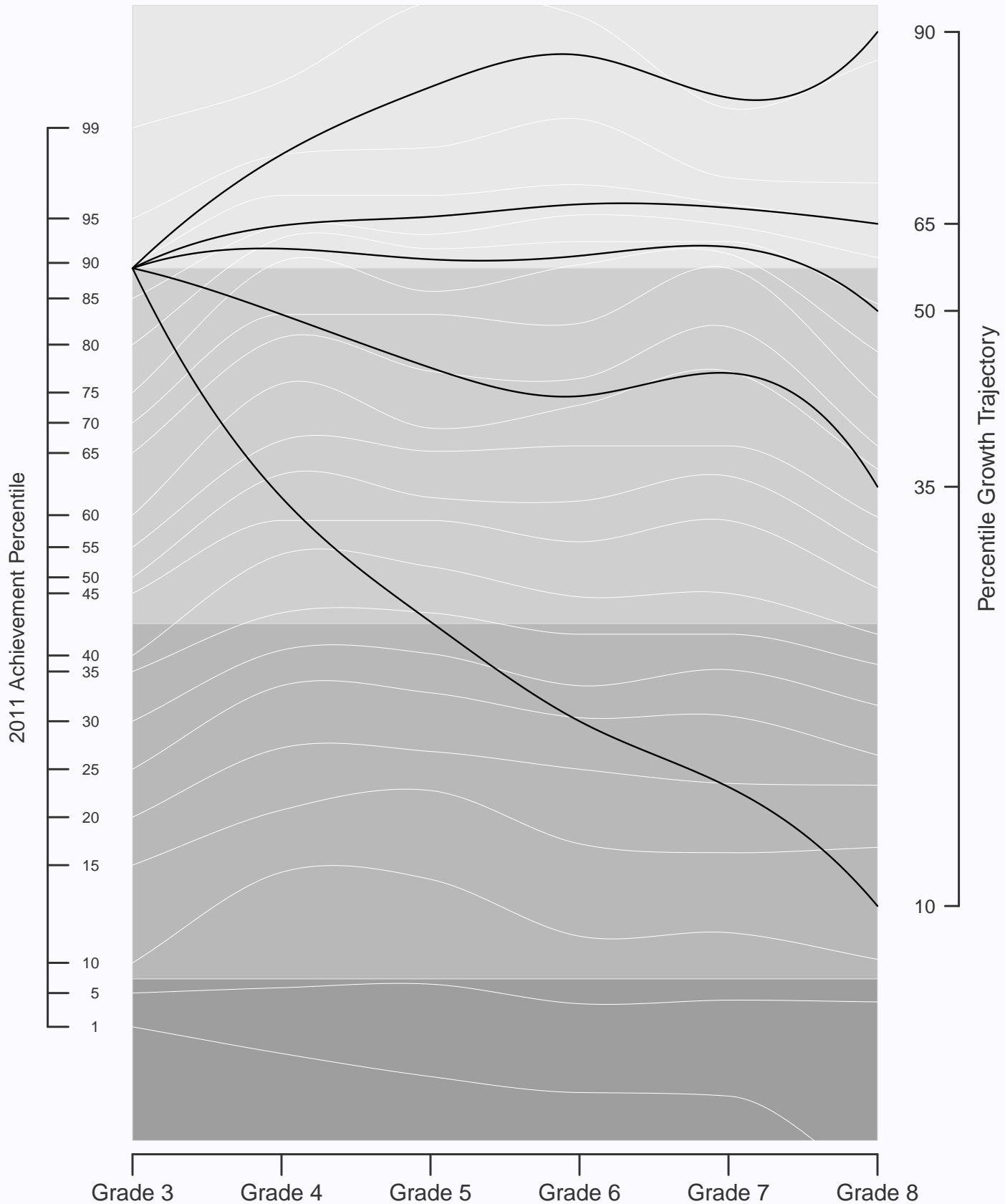
# New York: 2011 Mathematics

## Norm & Criterion Referenced Growth & Achievement



# New York: 2011 Mathematics

## Norm & Criterion Referenced Growth & Achievement





Attachment 22 Example of how NY will report Accountability Results Under This Waiver

Not Migrant	#	#	#%	#	#	#	#	#	#	#	#	#%	#%
-------------	---	---	----	---	---	---	---	---	---	---	---	----	----

<b>Key</b>	
✓ Made AYP	✗ Did Not Make AYP
✓ <sup>SH</sup> Made AYP Using Safe Harbor Target	— Fewer Than 40 for Partic or 30 for Perf

## 2

## ESEA Accountability: Graduation Rate

School [School Name]

School ID [School BEDS Code] District [District Name]

**Graduation Rate**

Number of groups that made AYP in graduation rate in 2011–12: [# of #]

**Accountability Groups**

Student Group	Final AYP for Group	4-year Graduation-Rate Total Cohort					5-year Graduation-Rate Total Cohort				
		2007 Total Cohort Members	AYP for Cohort	Graduation Rate	State Standard	2011–12 Progress Target	2006 Total Cohort Members	AYP for Cohort	Graduation Rate	State Standard	2011–12 Progress Target
<b>All Students</b>	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]
<b>Ethnicity</b>											
American Indian or Alaska Native	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]
Black or African American	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]
Hispanic or Latino	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]
Asian or Native Hawaiian/ Other Pacific Islander	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]
White	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]
Multiracial	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]
<b>Other Groups</b>											
Students with Disabilities	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]
Limited English Proficient	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]
Economically Disadvantaged	[✓/✗]	#	[✓/✗]	[#%]	80%	[#%]	#	[✓/✗]	[#%]	80%	[#%]

**Non-Accountability Groups**

Student Group	2007 Total Cohort Members	Graduation Rate	State Standard
Female	#	[#%]	80%
Male	#	[#%]	80%
Migrant	#	[#%]	80%

**Key**

- ✓ Made AYP
- ✓<sup>PT</sup> Made AYP Using Progress Target
- ✗ Did Not Make AYP
- Fewer Than 30 Graduation-Rate Total Cohort Members

**Aspirational Goal**

The Board of Regents has set an aspirational goal that 95% of students in each public school and school district will graduate within five years of first entry into grade 9. The graduation rate for the 2007 total cohort through June 2012 (after 5 years) is [#%] and, therefore, the goal was [met/not met]. The aspirational goal does not impact accountability.

**Advanced Designation**

The percentage of 2007 Graduation-Rate Total Cohort members who graduated as of August 31, 2011 with a Regents Diploma with an Advanced Designation is [#%], which [exceeded/did not exceed] the State average of [#%].

**CTE Endorsement**

Attachment 22 Example of how NY will report Accountability Results Under This Waiver

The percentage of 2007 Graduation-Rate Total Cohort members who graduated as of August 31, 2011 with a Regents Diploma with CTE Endorsement is [#%], which [**exceeded/did not exceed**] the State average of [#%].



### Rewards School Identification Technical Documentation

New York identifies a school as high performing if the “all students” group achieves all applicable State standards, and the school makes AYP on applicable performance measures. A school can be identified as rapidly improving, if the school makes AYP on applicable performance measures and the school demonstrates a specified amount of improvement.

There is currently no reward for these schools beyond their posting to SED’s website.

New York will identify Reward Schools in a significantly more rigorous way than previously done for high performing schools.

Only the 2,242 schools that were considered “In Good Standing” under our current accountability system were under consideration as a Rewards School. Descriptive statistics for each criteria can be found in the technical appendix on pages 6-10.

Rewards Schools	Elementary	High School
Achieve	118	59
Progress	18	19
Both	2	0

Rewards Schools	Elementary		High School	
	Achieve	Progress	Achieve	Progress
Average Needs	18	6	16	10
Large City	29	10	12	3
Low Needs	73	4	30	3
Rural High Needs	0	0	1	3
Big 4*	0	0	0	0

\*Yonkers CSD but its NRC was Large City - not Big 4

### Reward School Criteria Methodology

#### **High Achieving Schools - Elementary**

**Performance Index** – a school’s composite ELA and Math performance index must be among the top 20% statewide in 2009-10 & 2010-11.

- Each school’s ELA and Math performance index for both years was combined into a student-weighted composite and given a percentile rank.

**Adequate Yearly Progress** – the school must have made adequate yearly progress for the past two academic school years.

**Growth** – a school's average ELA and Math student growth percentiles must equal or exceed 50 for the past two years.

- The school-level student growth percentiles were first averaged for each subject across 2009-10 & 2010-11; then schools were identified as having an average school-wide SGP in ELA and Math greater than 50.
- Schools that had only one year of growth were eligible, as well as schools with fewer than **30** students were ineligible for this metric.

**Bottom Quartile Student Growth** – students in the bottom quartile of the school last year must demonstrate above average growth in the current year.

- As a first step, every student within a school was ranked by their student growth percentile in 2009-10 to determine which made up the bottom quartile for that particular school. Note: Students who were above the statewide could be in the bottom quartile for that school.
- Next, the average SGP of the bottom quartile students was calculated within subject, and then averaged across subjects for a single measure.
- Schools could be included if they only had one subject of growth scores for bottom quartile students.
- Schools were excluded if there were fewer than **15** students in the bottom quartile (or 40 students in the whole school).

**Gap Closing** - the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of that subgroup.

- For all schools, the performance index gap between each subgroup and students who are not part of that subgroup was calculated using a student weighted formula for all subgroups in 2007-08 & 2010-11.
- The maximum subgroup gap for both years was calculated, and the difference in the maximum gap was calculated next to determine if any gaps had grown between the two years. For instance, a school that had a performance index gap for any group of 30 points in 2007-08 and 40 points in 2010-11 would not have made this measure.
- Gaps in subgroup performance index were considered across all levels for which the school was accountable, i.e. gaps were not considered only at the elementary or only at the high school level. A K-12 school with a performance index could not make this criterion if their elementary performance index gaps were reduced, but their high school performance index gaps grew in the same time period.
- Schools that had closed the gap within their school made this criterion, even if the gap grew in 2010-11. For instance, if the gap was -7 in 2007-08 and -4 in 2010-11, the school would have made the metric.

- Schools where the gap was smaller than five points in 2010-11 also would have met the criteria
- Schools that did not have enough the minimum number of students to calculate a gap within their school for either year made this criterion as well. For instance, a school with 19 students with disabilities could be included.

***High Achieving – High Schools***

**Performance Index** – a school’s composite ELA and Math performance index must be among the top 20% statewide in 2009-10 & 2010-11.

- Each school’s ELA and Math performance index for both years was combined into a student-weighted composite and given a percentile rank.

**Adequate Yearly Progress** – the school must have made adequate yearly progress for the past two academic school years.

**Graduation Rate** – a school must have a cohort graduation rate that exceeds 80% and exceed the state average for students graduating with advanced designation or a CTE designation.

- Using 2010-11 graduation data that includes diploma code (for advanced designation and CTE) as well as their district exit code for having graduated, a school-level graduation rate for students with these types of diplomas was calculated for all schools with graduates.
- Next, the state average for students graduating with these diplomas was calculated, and a determination was made as to whether the school exceeded the state average for students with either. A school could have made this criteria if it exceeded either the state average for students graduating with advanced designation OR a CTE endorsement.
- Schools that had fewer than 30 graduates in either group were excluded.

**Graduating At-Risk Students** – the percentage of the students who scored Level 1 or Level 2 on an ELA or mathematics exam in Grade 8 who subsequently graduated within four years of first entry in Grade 9 equaled or exceeded the State average for these students

- Students 8<sup>th</sup> grade assessment data from 2006-07 were first related to graduation data provided to the state for 2010-11.
- Using these data, a school-level graduation rate for all students who scored a Level 1 or L2 on either the ELA or Math assessment in 8<sup>th</sup> grade was calculated.
- The state average graduation rate for these students was calculated next, and the difference between the two was calculated to determine if the school exceeded the state average.
- Schools that did not have sufficient L1 or L2s but had a cohort graduation rate above 80% made this criterion.
- Students were considered a L1 or L2 as long as they scored in one of those performance categories in either subject, and could be included in this calculation if they scored a L3 on one assessment.

**Gap Closing** - the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of that subgroup.

- For all schools, the performance index gap between each subgroup and students who are not part of that subgroup was calculated using a student weighted formula for all subgroups in 2007-08 & 2010-11.
- The maximum subgroup gap for both years was calculated, and the difference in the maximum gap was calculated next to determine if any gaps had grown between the two years. For instance, a school that had a performance index gap for any group of 30 points in 2007-08 and 40 points in 2010-11 would not have made this measure.
- Gaps in subgroup performance index were considered across all levels for which the school was accountable, i.e. gaps were not considered only at the elementary or only at the high school level. A K-12 school with a performance index could not make this criterion if their elementary performance index gaps were reduced, but their high school performance index gaps grew in the same time period.
- Schools that had closed the gap within their school made this criterion, even if the gap grew in 2010-11. For instance, if the gap was -7 in 2007-08 and -4 in 2010-11, the school would have made the metric.
- Schools where the gap was smaller than five points in 2010-11 also would have met the criteria
- Schools that did not have enough the minimum number of students to calculate a gap within their school for either year made this criterion as well. For instance, a school with 19 students with disabilities could be included.

**High Progress – Elementary**

**Performance Index** – the school’s combined ELA and mathematics Performance Index places it among the top ten percent in the State in terms of gains between the most recent assessment data and the data from the prior year.

- The difference between each school’s percentile rank for 2009-10 and 2010-11 school-wide composite performance index was calculated.
- Next, each school was given a percentile rank based on the difference in the percentile rank between the two years, and schools that were in the top 10 percent were considered to have made this criterion.

**Adequate Yearly Progress** – the school must have made adequate yearly progress for the past two academic school years.

- Note: Schools that made AYP in only one year were ineligible.

**Growth** – a school’s average ELA and Math student growth percentiles must equal or exceed 50 for the past two years.

- The school-level student growth percentiles were first averaged across 2009-10 & 2010-11, and then averaged across both subjects for a school-level student growth percentile in ELA and Math combined for a single measure.
- Note: Schools that had only one year of growth were eligible.

**Bottom Quartile Student Growth** – students in the bottom quartile of the school last year must demonstrate above average growth in the current year.

- As a first step, every student within a school was ranked by their student growth percentile in 2009-10 to determine which made up the bottom quartile for that particular school. Note: Students who were above the statewide could be in the bottom quartile for that school.
- Next, the average SGP of the bottom quartile students was calculated within subject, and then averaged across subjects for a single measure.
- Schools could be included if they only had one subject of growth scores for bottom quartile students.
- Schools were excluded if there were fewer than **15** students in the bottom quartile (or 40 students in the whole school).

**Gap Closing** - the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of that subgroup.

- For all schools, the performance index gap between each subgroup and students who are not part of that subgroup was calculated using a student weighted formula for all subgroups in 2007-08 & 2010-11.
- The maximum subgroup gap for both years was calculated, and the difference in the maximum gap was calculated next to determine if any gaps had grown between the two years. For instance, a school that had a performance index gap for any group of 30 points in 2007-08 and 40 points in 2010-11 would not have made this measure.
- Gaps in subgroup performance index were considered across all levels for which the school was accountable, i.e. gaps were not considered only at the elementary or only at the high school level. A K-12 school with a performance index could not make this criterion if their elementary performance index gaps were reduced, but their high school performance index gaps grew in the same time period.
- Schools that had closed the gap within their school made this criterion, even if the gap grew in 2010-11. For instance, if the gap was -7 in 2007-08 and -4 in 2010-11, the school would have made the metric.
- Schools where the gap was smaller than five points in 2010-11 also would have met the criteria
- Schools that did not have enough the minimum number of students to calculate a gap within their school for either year made this criterion as well. For instance, a school with 19 students with disabilities could be included.

### ***High Progress – High School***

**Performance Index** – the school’s combined ELA and mathematics Performance Index places it among the top ten percent in the State in terms of gains between the most recent assessment data and the data from the prior year.

- The difference between each school’s percentile rank for 2009-10 and 2010-11 school-wide composite performance index was calculated.

- Next, each school was given a percentile rank based on the difference in the percentile rank between the two years, and schools that were in the top 10 percent were considered to have made this criterion.

**Adequate Yearly Progress** – the school must have made adequate yearly progress for the past two academic school years.

- Note: Schools that made AYP in only one year were ineligible.

**Graduation Rate** – a school must have a cohort graduation rate that exceeds 80% and exceed the state average for students graduating with advanced designation or a CTE designation.

- Using 2010-11 graduation data that includes diploma code (for advanced designation and CTE) as well as their district exit code for having graduated, a school-level graduation rate for students with these types of diplomas was calculated for all schools with graduates.
- Next, the state average for students graduating with these diplomas was calculated, and a determination was made as to whether the school exceeded the state average for students with either. A school could have made this criteria if it exceeded either the state average for students graduating with advanced designation OR a CTE endorsement.
- Schools that had fewer than 30 graduates in either group were excluded.

**Graduating At-Risk Students** – the percentage of the students who scored Level 1 or Level 2 on an ELA or mathematics exam in Grade 8 who subsequently graduated within four years of first entry in Grade 9 equaled or exceeded the State average for these students

- Students 8<sup>th</sup> grade assessment data from 2006-07 were first related to graduation data provided to the state for 2010-11.
- Using these data, a school-level graduation rate for all students who scored a Level 1 or L2 on either the ELA or Math assessment in 8<sup>th</sup> grade was calculated.
- The state average graduation rate for these students was calculated next, and the difference between the two was calculated to determine if the school exceeded the state average.
- Schools that did not have sufficient L1 or L2s but had a cohort graduation rate above 80% made this criterion.
- Students were considered a L1 or L2 as long as they scored in one of those performance categories in either subject, and could be included in this calculation if they scored a L3 on one assessment.

**Gap Closing** - the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of that subgroup.

- For all schools, the performance index gap between each subgroup and students who are not part of that subgroup was calculated using a student weighted formula for all subgroups in 2007-08 & 2010-11.
- The maximum subgroup gap for both years was calculated, and the difference in the maximum gap was calculated next to determine if any gaps had grown between the two years. For instance, a school that had a performance index gap for any group of 30 points in 2007-08 and 40 points in 2010-11 would not have made this measure.

- Gaps in subgroup performance index were considered across all levels for which the school was accountable, i.e. gaps were not considered only at the elementary or only at the high school level. A K-12 school with a performance index could not make this criterion if their elementary performance index gaps were reduced, but their high school performance index gaps grew in the same time period.
- Schools that had closed the gap within their school made this criterion, even if the gap grew in 2010-11. For instance, if the gap was -7 in 2007-08 and -4 in 2010-11, the school would have made the metric.
- Schools where the gap was smaller than five points in 2010-11 also would have met the criteria
- Schools that did not have enough the minimum number of students to calculate a gap within their school for either year made this criterion as well. For instance, a school with 19 students with disabilities could be included.

DRAFT

**Technical Appendix**  
**Descriptive Statistics for Reward School Criteria**

Criteria	Elementary		High School		# of Schools Met Criteria
	Achieve	Progress	Achieve	Progress	
Adequate Yearly Progress – Made Adequate Yearly Progress for in 2009-10 & 2010-11	Yes	Yes	Yes	Yes	1,981
Performance Index – Top 20% for Elementary Grades	Yes				510
Performance Index – Top 20% for High Schools			Yes		146
Performance Index – Top 10% for Difference b/n 2010 & 2011 – Elementary Schools		Yes			266
Performance Index – Top 10% for Difference b/n 2010 & 2011 – High Schools				Yes	72
Average SGP for 2010 & 2011 > 50	Yes	Yes			743
Average SGP for Bottom Quartile Students > 50 in 2011	Yes	Yes			784
Largest Gap in 2010 < 2008*	Yes	Yes	Yes	Yes	1,211
2006 Cohort Graduation Rate > 80%			Yes		512
2006 Cohort Graduation Rate > 60%				Yes	558
Graduation Rate with Advanced Designation or CTE Endorsement > State Average			Yes	Yes	431
L1 & L2 Students Graduate at Rate > State Average*			Yes	Yes	525

\*The number of schools meeting these criteria are more than reflected in later tables. Schools with no subgroups or Level 1 or Level 2 students were considered having made the metric.



**Performance Index Descriptives**

<b>Elementary Schools - Top 20% Performance Index in 2010-11</b>				
	Made Metric		Did Not Make Metric	
	2009-10	2010-11	2009-10	2010-11
Mean	181	183	156	160
Min	172	174	75	112
Max	199	200	185	189
<b>High Schools - Top 20% Performance Index in 2010-11</b>				
	Made Metric		Did Not Make Metric	
	2009-10	2010-11	2009-10	2010-11
Mean	182	181	151	149
Min	172	168	50	62
Max	200	200	188	183

<b>Percentile Rank Change Difference b/n 2010 &amp; 2011 – Elementary – Top 10%</b>				
	Made Metric		Did Not Make Metric	
	2009-10	2010-11	2009-10	2010-11
Mean	42%	61%	69%	68%
Min	5%	18%	0%	6%
Max	84%	98%	100%	100%
<b>Percentile Rank Change Difference b/n 2010 &amp; 2011 - High Schools – Top 10%</b>				
	Made Metric		Did Not Make Metric	
	2009-10	2010-11	2009-10	2010-11
Mean	41%	65%	66%	67%
Min	10%	28%	1%	2%
Max	76%	94%	100%	100%

<b>Largest Gap in School</b>				
	<b>Made Metric*</b>		<b>Did Not Make Metric</b>	
	2007-08	2010-11	2007-08	2010-11
Mean	38	20	17	36
Min	-95	-92	-68	0
Max	120	98	68	112
N	684	866	1039	1039

\*Additional Schools made this metric as a result of not having any subgroups

DRAFT

**Student Growth Percentile Descriptives**

<b>School-wide Average SGP</b>								
	Made Metric				Did Not Make Metric			
	ELA		Math		ELA		Math	
	2010	2011	2010	2011	2010	2011	2010	2011
Mean	57	59	60	61	47	47	46	46
Min	39	38	38	32	16	14	9	2
Max	87	93	83	87	76	77	77	88
N	737	737	737	737	855	877	855	878

<b>Average SGP for Bottom Quartile Students</b>				
	Made Metric		Did Not Make Metric	
	ELA	Math	ELA	Math
Mean	56	58	44	43
Min	35	36	28	22
Max	82	85	59	63

**Graduation Rate Descriptives**

<b>Percent of Students Graduating with Advanced Designation or CTE Endorsement in 2010-11</b>						
	Made Metric		Did Not Make Metric		State Average	
	Advanced Designation	CTE Endorse	Advanced Designation	CTE Endorse	Advanced Designation	CTE Endorse
Mean	47%	4%	14%	0%	32%	2%
Min	0%	0%	0%	0%		
Max	99%	53%	32%	2%		
N	431	431	117	117		

<b>Level 1 &amp; Level 2 Graduation Rate</b>			
	Made Metric	Did Not Make Metric	State Average
Mean	86%	61%	69%
Min	69%	24%	
Max	100%	69%	
N	425	33	

\*Additional schools made this metric if they had a graduation rate above 80% & did not have enough Level 1s and 2s to qualify (>30).