

The following table outlines some of the most common concerns that have been recently raised up by the field.

Concern	TLE Response	Citation of Requirement (Statute and/or Regulations) and Relevant Guidance
<p>1) Why can't I use [insert name of a third party assessment, e.g., Fountas and Pinnell] for my district's/BOCES' K-2 grades?</p>	<p>You are able to use any third party assessment for students in grades K-2 as long as it is not a traditional standardized assessment and it is consistent with the State's K-2 APPR Assessment Guidance.</p> <p>At its February 2014 meeting, the Board of Regents adopted amendments to Subpart 30-2 of the Rules of the Board of Regents that support the commitment made by the Board of Regents and the Commissioner to ensure that students are not unnecessarily burdened by non-essential testing that takes away from the core instructional time in our classrooms and schools. These amendments also help to ensure that our youngest students in grades K-2 are not subject to traditional standardized testing.</p> <p>The Legislature expanded this prohibition in this year's Budget Bill by requiring the Commissioner to prohibit the administration of any traditional standardized tests, as defined by the Commissioner, to students in grades kindergarten through second grade.</p> <p><u>Traditional standardized assessments are defined in the regulations as a systematic method of gathering information from objectively scored items that allow the test taker to select one or more of the given options or choices as their response.</u> Examples include multiple-choice, true-false, and matching items. Traditional standardized assessments are those that require the student (and not the examiner/assessor) to directly use a "bubble" answer sheet. Traditional standardized assessments do not include performance assessments or assessments in which students perform real-world tasks that demonstrate application of knowledge and skills; assessments that are otherwise required to be administered by federal law; and/or assessments used for diagnostic or formative purposes, including but not limited to assessments used for diagnostic screening required by Education Law §3208(5).</p> <p>In addition, effective March 2, 2014, no APPR plan shall be approved by the Commissioner for use in the 2014-15 school year or thereafter that provides for the administration of traditional standardized third-party or vendor assessments to students in grades K-2. Thus, a district/BOCES can still use a third-party assessment for their K-2 grades, but the superintendent, district superintendent, or chancellor must certify in their APPR plan that any third-party assessment being used for APPR purposes for these students is consistent with the State's K-2 APPR Assessment Guidance and is not a traditional standardized assessment.</p>	<p>Subpart A of Part AA of Chapter 56 of the Laws of 2014</p> <p>Subparts 30-2.2(b) and (v), 30-2.5, and 30-2.8 of the Rules of the Board of Regents</p> <p>SED guidance requirements (APPR Guidance Sections C45-C47 and F15; K-2 APPR Assessment Guidance)</p>

<p>2) Do I need to use a pre-test for my SLOs?</p>	<p>No, pre-tests have never been a requirement for SLOs.</p> <p>Educators have always been encouraged to use a variety of past performance trends and student historical data in order to inform and determine appropriate targets and to inform instructional decisions and approaches. This historical academic data might include prior course results, or it might only include the current baseline data from the course taken at the beginning of the interval of instruction. The use of pre-assessments in a grade or subject is a local decision to be made consistent with the superintendent’s instructional vision.</p> <p>The TLE Office also provided all districts with Testing Transparency Reports on or before July 1, 2014 that outlined areas where pre-tests could be removed and offered technical assistance as to how districts could approach this change.</p>	<p>SED guidance requirements (APPR Guidance Sections D28-D29)</p> <p>SLO Webinar: Using Past Performance Trends and Historical Data</p> <p>Teach More, Test Less: Testing Transparency Reports</p>
<p>3) Can teacher observations be short/informal rather than full period/formal?</p>	<p>Yes. The law does not require observations to be a full period/formal.</p> <p>For the Other Measures of Educator Effectiveness subcomponent, the law requires that at least a majority (31) of the 60 points shall be based on multiple (at least 2) classroom observations by the principal or another trained administrator and at least one of which must be unannounced. So long as there are at least two observations, districts/BOCES have local discretion to either require those observations to be formal/long, informal/short, or a combination of both.</p>	<p>Education Law § 3012-c(2)(h)</p> <p>Subpart 30-2.5(d) of the Rules of the Board of Regents</p> <p>See Section H of APPR Guidance</p>
<p>4) It seems as though it is harder now to remove a probationary teacher than it was before the new evaluation system was put into place.</p>	<p>The Board of Regents approved changes to the Regulations in June 2014 that continue to clarify the broad discretion of a school board to terminate a probationary teacher prior to the completion of the teacher’s evaluation. Such reasons may include, but are not limited to, the quality of instruction or services performed by the probationary teacher based on evidence other than the overall composite rating.</p> <p>Education Law §3012-c requires that annual professional performance reviews constitute a “significant factor” in employment decisions, including but not limited to tenure determinations and termination of probationary teachers and principals. However, it does not require that the APPR be the sole or determinative factor in tenure or termination decisions, merely that the APPR be considered in making such determinations.</p> <p>It is also important to note that the “significant factor” requirement does not preclude a school district/BOCES from terminating a probationary teacher or principal for statutorily and constitutionally permissible reasons other than the performance of the teacher, including but not limited to misconduct. The Rules of the Board of Regents defines performance for this purpose as the teacher’s or principal’s overall composite rating. Therefore, permissible reasons for termination include but are not limited to: misconduct,</p>	<p>Education Law §§ 3012-c(1) and (5)(b)</p> <p>Subparts 30-2.1(d) and 30-2.11(c) of the Rules of the Board of Regents</p> <p>June 24, 2014 Board of Regents item</p> <p>See C11-C15 of APPR Guidance</p>

	<p>insubordination, time and attendance issues, conduct inappropriate for a teaching professional, and other performance issues. They may also include the quality of the instruction or services provided by the probationary teacher or principal based on evidence other than the overall composite rating.</p>	
<p>5) Why can't my teachers score their own summative assessments, especially if there is only one person qualified to teach and score a particular subject area?</p>	<p>While the Regulations prohibit teachers and principals from scoring assessments where they have a vested interest in the outcome, the Department has put forth guidance that recognizes there are rare instances where complying with vested interest is simply not practicable (e.g., in K-2 when administering a reading inventory or when administering the NYSAA). In these instances, the Department recommends that districts/BOCES <i>make every attempt possible</i> to ensure that teachers and principals do not score assessments where they have a vested interest in the outcome, even in cases where the teacher is the only one in the district with the specific content expertise.</p> <p>Districts/BOCES should consult with their local counsel to determine what measures should be taken to mitigate against security risks, e.g., certification, periodic audits, etc.</p> <p>For all Regents exams, State assessments in grades 3-8 ELA and math, and grades 4 and 8 science, teachers and principals may not score their own students' assessments. The security rules for the 3-8 State assessments are located in the following document: http://www.p12.nysed.gov/assessment/sam/ei-samcc13rev.pdf. The security procedures for assessments used for the locally-developed measures should be comparable to the security protocol for the 3-8 State assessments as described in the document at the link above, <i>to the greatest extent practicable</i>.</p> <p>Prior to finalizing through local decisions any processes around scoring assessments and vested interest procedures, BOCES and district leaders should consult with their local counsel.</p>	<p>Subpart 30-2.3(b)(3) of the Rules of the Board of Regents</p> <p>Section G of APPR Guidance</p>
<p>6) Can my district seek a waiver from conducting teacher and principal evaluations on an annual basis?</p>	<p>No, Education Law §3012-c does not provide a process for districts to seek waivers from conducting evaluations of teachers and principals and teachers on an annual basis. On the contrary, the law is clear that districts must conduct APPRs for all classroom teachers and building principals on an annual basis and that such APPRs must differentiate teacher and principal effectiveness using four rating categories – Highly Effective, Effective, Developing, and Ineffective. The law also says that districts must have an APPR plan approved by the Commissioner and that State aid increases are linked to full implementation each year of the approved APPR plan.</p>	<p>Education Law §§ 3012-c(2)(a) and (2)(d)</p> <p>Subparts 30-2.5(a) and 30-2.6(e)(5) of the Rules of the Board of Regents</p> <p>See Section C of APPR Guidance</p>
<p>7) Why can't my APPR plan use the same scoring bands as found in the Commissioner's</p>	<p>Based on the arguments presented in the NYC arbitration proceeding held on May 30-31, 2013 and pursuant to his authority under Education Law §3012-c(2)(a), the Commissioner imposed new proportional scoring ranges for use in NYC for the 2013-14, 2014-15, 2015-16, and 2016-17 school years. This section of the</p>	<p>Education Law § 3012-c(2)(a)(7)</p> <p>Subpart 30-2.6(a)(2) of the Rules of the</p>

<p>Decision for the New York City APPR plan?</p>	<p>Education Law grants the Commissioner the authority to impose the process for assigning points for each of the subcomponents on NYCDOE for the 2013-14 school year and thereafter. The Commissioner further ruled that if any educator is rated Ineffective in both the State Growth and Other Comparable Measures and Locally Selected Measures subcomponents, s/he must be rated Ineffective overall in accordance with the legislative intent of Education Law §3012-c. NYC has since submitted – and had approved by Commissioner – a material change to this plan that continues to use these proportional scoring bands.</p> <p>For the 2013-14 school year and thereafter, the Education Law states that the Commissioner shall review the specific scoring ranges for each of the rating categories annually before the start of each school year and shall recommend any changes to the Board of Regents for consideration.</p>	<p>Board of Regents</p> <p>NYC Approved APPR Plan</p>
<p>8) Can I use performance-based assessments with APPR?</p>	<p>Performance assessments or assessments in which students perform real-world tasks that demonstrate application of knowledge and skills are allowable for use in educator evaluations.</p> <p>For example, one approach may use baseline/historical data and an end of the year performance-based assessment scored on a common rubric developed by the district that uses a scale from 1-4. The rubric delineates the aspects of student skill and knowledge with descriptions of the four different levels of performance.</p>	<p>See APPR Assessment Guidance</p>