**SAMPLE PRINCIPAL 3012-d**

**APPR AGREEMENT:**

**NOTES**

***May, 2016 Edition***



**IMPORTANT NOTES FOR EACH SECTION:**

SAANYS Sample Principal APPR Agreement (May, 2016)

These are best used if separated out and viewed alongside each section of the agreement to frame discussions and local decision making.

* + - There are many places in this sample where units could be much more specific regarding expectations on the district, time frames, and other items. This sample generally takes a “middle of the road” approach to specificity.
		- This is designed as an addendum to the CBA (Collective Bargaining Agreement) to only address requirements under the law (3012-d). Evaluation procedures for other unit members should be handled in a separate addendum or as part of the evaluation article in the contract. Keep this addendum focused on those required under 3012-d: principal or those who serve like principals in a BOCES.
		- This sample is based on 3012-d of 2015 and subsequent NYSED regulations and guidance. Be aware that there may be further changes.
		- Units should continually check the EngageNY website for resource material and updates on 3012d and related regulations: <https://www.engageny.org/resource/appr-3012-d>

**SECTION I GENERAL AGREEMENT NOTES**

- Dates for the CBA and a reference to the evaluation article in the CBA, if one exists, need to be inserted (Delete the reference to an article in the contract if no evaluation provision exists.)

- Section I is designed to be an overview of the basic negotiated points of the APPR plan. It can be signed by both parties as the core of the agreement. Other sections are referenced here and attached to this core agreement to address specific processes, forms, instruments, etc.

- Item #1, Application: We strongly suggest that the first APPR agreement have a defined “shelf life”, ending at or before the end of the “transition” period (2016-2019) which limits the use of state growth scores. It can always be extended. There is also the possibility that law and regulation will change, which would require renegotiation of APPR provisions. We also strongly suggest it only apply to those required by law – principals or, for BOCES, those serving in titles that have responsibilities similar to a principal. For principals on special assignment, not serving in that capacity, it is unclear as to when they would need to be included in 3012-d APPR evaluation procedures; contact SAANYS for analysis of the specifics of any such instance.

- Item #2 Student Performance Category: We include this here to reinforce what is to be used for the student performance category score/rating with more detail in Section II.

- Item #3, Lead Evaluator and Observers: Will someone else be lead evaluator? If it is not the superintendent (or designated district supervisor), as identified here, all subsequent language will have to be revised to match the expectation here. Who else might be an “independent observer” (but not lead evaluator)? Units will need to decide this critical question. At this time, SAANYS does not recommend using the “Peer Observer” option.

- Item #4, Rubric: This agreement utilizes the LCI Multi-dimensional Rubric. Other approved rubrics could be used similarly. In the LCI application to NYSED for rubric approval, the last section “Other” (goals related) is indicated as optional. The six domains cover all ISLLC standards. Note: Surveys are now “prohibited” sources of evidence by law.

- Items #5 & 6. Final evaluation: These should be included, consistent with law, to incorporate such expectations into the agreement. The chart here is from a NYSED document. Although it only references “teachers”, it applies to principals as well

. - Item #7, Improvement Plan: Language which reiterates what is in law and/or regulation but also includes a date for issuance of an improvement plan which units may wish to alter. The “mutually agreed upon” qualifier is not a requirement of law/regulation. Districts may not want to agree to this but it is worth consideration. Also, the districts now have until October 1 to issue improvement plans. SAANYS believes principals should be receiving final evaluations and ratings long before then and should have any required improvement plan in place as soon as possible, preferably over the summer, given the work year of a principal. NYSED has now taken the position that improvement plans are not negotiable items. SAANYS does not necessarily agree. (See the SAANYS APPR: 3012-d Negotiations Resource Packet for further information).

SECTION I GENERAL AGREEMENT NOTES continued

- Item #8, Appeal Process: Identifies what ratings can be appealed and for what reasons (those in the law, which are spelled out in the attachment). There may be resistance to an appeal to anything but ineffective ratings and for anyone but tenured principals, but units should hold firm on what is proposed here. It is increasingly common for compensation, especially related to grants, to be tied to evaluation ratings (usually Highly Effective). Also, there are serious tenure implications for newly hired probationary principals that necessitate them being able to appeal anything less than Effective. There will surely be resistance to the attached process. Some districts have attempted to limit appeals to tenured administrators. We do not recommend agreeing to that.

- Item #9. Rounding: This is important to incorporate so there is clarity for mathematical calculations. Some SED guidance documents have indicated that rounding cannot result in a higher HEDI category rating. SAANYS finds nothing in law or regulation that establishes this expectation. We strongly recommend that units insist on full application of rounding procedures.

- Item #10, Procedures and forms: This is important to assure the mutual development of subsequent forms to implement evaluation so that they are consistent with negotiated provisions. These can be attached in an Appendix, if desired, as developed. Including a specified time frame here is not necessary but may be helpful to ensure that both parties accomplish the expectation in a timely manner.

- Item #11, Successor Addendum negotiations: This optional item identifies a date to enter negotiations for the successor. If included, it will need to match the dates of this addendum agreement. Again, we recommend a “sunset” of a year or two separate and apart from the time frame of the CBA.

**SECTION II: STUDENT PERFORMANCE CATEGORY NOTES**

It is possible to use only the state provided growth score or the SLO process, for principals not receiving a state growth score and rating. SAANYS recommends that approach, with no optional measure of student performance negotiated at this time. Optional measures using other state provided growth scores will be set aside as advisory only during the next three years. And if considered at all, the other potential optional measures using approved alternate assessments should be negotiated cautiously. Given the potential increased negative implications for those who receive an “Ineffective” Overall Student Performance Category score & rating when approved alternate assessments are utilized, it does not seem wise to incorporate such measures.

Foundational considerations:

For all locally determined optional measures, we suggest that, whenever possible, the cohort of students utilized shall only include those continuously enrolled in the year of the evaluation from BEDS day until the date of the applicable assessment, and for whom, when necessary, appropriate baseline assessment results from the previous year are available.

Local controls for special education, ELL, and poverty should be incorporated in any manner allowed by regulation.

For percentages between those identified in any Target Results or other scoring chart, units should seek language indicating that the percentage attained shall be rounded up to the next whole percent (e.g., 79.3% becomes 80%).

For all measures in the Student Performance, the following NYSED HEDI Band Chart must be used.

NYSED REQUIRED 3012-D STUDENT PERFORMANCE CATEGORY HEDI BANDS:

|  |
| --- |
| HEDI Bands |
| Highly Effective | 18-20 |
| Effective | 9-17 |
| Developing | 3-8 |
| Ineffective | 0-2 |

If SLOs are necessary for principals in your unit in lieu of a state growth score, what expectations are there for submission and approval? (Districts may claim this is not negotiable. However, as an evaluation procedure, that is an open question. Also, if already in your APPR agreement, our position is that has become a mandatory topic of bargaining, regardless of any decision about whether it is initially negotiable or not.)

Units should gather, review, and analyze historical data on student performance to inform the decisions about what measures of student achievement will be utilized, including any SLOs.

**STUDENT PERFORMANCE CATEGORY NOTES CONTINUED**

Important Notes Re: required “Alternate” SLOs during the “transition period” (2016-19) to replace state growth scores:

During the transition period, as identified by the Board of Regents in regulation (through the 2018-19 school year), state growth scores or “original” SLOs using prohibited state assessments will be advisory only. To determine a Student Performance Category rating, most principals will need “Alternate SLOs”. The results of these will be used in determining the overall “Transition” Score and Rating, which is what will be used for any personnel decisions. SED is now requiring districts to identify which approved assessments will be used for these “Alternate SLOs” by category of teachers and principals. We strongly suggest that this decision be made by mutual agreement prior to a unit president signing the APPR portal verification form. Districts are not being required to submit SLO targets in the portal, only which assessments are to be used. Therefore, we also think it important to have language in the agreement that the SLO targets for student performance on these assessments will be mutually determined, prior to implementation, annually. Districts may object, indicating that SLOs are not negotiable. Given the critical importance that Alternate SLOs will play over the next three years, we suggest insistence on such language. While districts may have the “authority” to develop SLOs, one method of development already commonly used is by “mutual agreement”.

**SECTION III: “OBSERVATION/SCHOOL VISIT” CATEGORY**

§3012-d “Observation” Category (Professional Performance) considerations:

1. Principal rubric to be used (Are you satisfied with the one you currently use? If not, which one would you propose?)
2. Does your current rubric scoring process match the expectations of the new law/regulation? If so, are you happy with it? If it doesn’t fit new expectations, what will you use? The suggested process in this SAANYS SAMPLE APPR AGREEMENTS will work
3. Will you weight any elements of the rubric as more (or less) important? If so, how will you differentiate?
4. Definition of school visits: when, length, number (2 required – one unannounced), expectations of what will be observed and how. Will there be different expectations for tenured vs. probationary principals?
5. How will school records and documents be utilized as part of the visit/observation process?
6. Will organizational goals be part of the process? If so, how?
7. Will superintendent be the lead evaluator for the principal (typically recommended)?
8. Who will be the “independent observer”? (Can be the same supervisor who does the “regular” visit.) What % will be given to the independent observer? (10 to 20%; Lead evaluator must have at least 80%).
9. Will you use a peer observer? If so, who and what % will be given to that person? (Some portion of no more than 20% total for independent and peer observers; the mix is negotiable.) SAANYS does not recommend this option at this time.
10. Which type of observation(s) will be unannounced?
11. What will be the “cut points” and scoring ranges for determining HEDI levels of performance? (NOTE: regulation allows a range; units should insist on the 1.5, 2.5, and 3.5 cut points as the most advantageous and logically consistent with normal rounding procedures; anything else disadvantages principals).
12. What rounding method will you use for average scores that fall between the scores on the chart?

**OBSERVATION CATEGORY NOTES CONTINUED:**

* If goals are to be used as a source of evidence, they must be “organizational goals” related to elements
of the rubric. SAANYS believes this can be broadly interpreted to include professional growth (skills)
goals, as all districts should expect and encourage continued professional growth as educational
organizations. If you regularly develop district and building goals, it is possible to have them incorporated into the assessment on the rubric. Many rubrics contain language about goal setting and
LCI includes it as an optional component of the rubric.
* SAANYS recommends rating and scoring each element of a rubric “observed”, even if weighted. Units
wishing to look at a more general approach, either by component or subsections, should be aware that
a system that assigns points for sections or components may present challenges to reach a desired “score” and rating on this component. The fewer scores to be averaged, the greater impact one low score will have on the average and subsequent HEDI rating for this category.
* In this sample, we use a rounding process that moves an earned percentage between those on the required chart to the next whole percentage. Districts may want “normal rounding”.
* A summary mechanism is needed to track points earned on the rubric. This sample agreement incorporates a method to give varying weight to rubric elements. These weightings are strictly for example only and do not represent any recommended weighting by SAANYS. Units will need to determine whether to use a weighting to increase or decrease the relative value of certain elements or sections of a rubric.
* There are multiple ways to determine the supervisor’s overall end-of-year summative evaluation scores/ratings on the rubric, some purely mathematical in nature. This sample uses an approach that has the supervisor consider all observed evidence over the year to produce a final overall summative evaluation score/rating. While each element “observed” in any visit is scored, there is no mathematical computation of those individual observation scores. If units agree with this approach, it will be important to retain the language we developed indicating that no final element score will be lower than the lowest score for that element during an observational visit. The major advantage to this approach is to allow growth and improvement over the course of the year to be considered more heavily by the supervisor.

**SECTION IV: IMPROVEMENT PLAN NOTES**

(NOTE: NYSED has taken the position that improvement plans are within the authority of school districts to develop and implement. Some law firms representing districts have already advised their clients to remove all language regarding improvement plans. SAANYS does not agree with this and believes that improvement plans are a mandatory topic of bargaining once in a negotiated agreement. Please continue to propose language that addresses the improvement plan process. If the district refuses, contact SAANYS immediately for assistance in addressing this issue.)

§3012-d Improvement Plan Considerations:

1. Structure of process (e.g., opportunity to confer with person issuing the Plan)
2. Required documentation required from principal
3. Required resources needed to accomplish plan
4. Completion date
5. Formative review process to protect principal from “surprises”
6. Requirement for a written, documented summary of the PIP completion and accomplishments should be required from the supervisor.

 **Additional Notes:**

* This agreement outlines a basic improvement plan process. It includes required components but there are other pieces, with more specificity for time frames, feedback, etc. that could be added.
* It does identify two formative meetings; units may wish to add more or adjust dates; written feedback should be required in conjunction with these meetings as well as upon completion of the improvement plan.

**SECTION V: APPEAL PROCESS NOTES**

Strongly consider improvements to any current appeals process that has severe limitations.

§3012-d Appeals process considerations:

1. Who should hear the appeal?
2. What ratings may be appealed (Should be “I”, “D”, and any rating tied to compensation)?
3. What may be appealed? (Use all identified in 3012-d. This includes the newly identified appeal of an “anomaly” for a principal receiving an overall “I” when the “Observation School Visit” Category is “HE” and the Student Performance Category is “I”.)
4. Who may appeal?

NOTE: SAANYS strongly recommends you include language to allow any principal to appeal for all ratings included in your agreement. It will be especially important now, with new rules for the granting of tenure, that probationary principals be allowed to appeal any rating less than “Effective.”

1. Manner in which the meeting/hearing will be conducted.
2. Time period within which the principal may file an appeal (Be careful to include separate time frames for appeal of the issuance or implementation of a PIP).
3. Timeline for district response to an appeal.
4. Definition of “substance”.
5. Selection of hearing panel or individual.
6. Nature of appeal (place, time, ability to provide documentation or witnesses, opportunity to be represented.
7. Who should bear the costs?
8. Timeline for acting on appeal.
9. Who conducts the evaluation following an appeal?

The process in this sample agreement is based on the SAANYS recommended appeal process but may be difficult to achieve. Units will need to carefully negotiate this section and work to maximize protection for members.

* Time frames may be adjusted.
* Reasons should include all allowed in law, not just those listed in SED guidance sample; appeals of implementation of an improvement plan should be different and have different time frames than appealing the issuance of an improvement plan.
* Districts may want burden of proof shifted to the appellant to prove the evaluation rating is wrong.

APPEAL PROCESS NOTES CONTINUED

* Other options as to who will hear appeals include but are not limited to:
* The final step in the grievance procedure if it ends in binding arbitration (may be difficult)
* Use of multi-person outside panels (likely to be more difficult to get than the model presented)
* Internal hearing committees (panels – one chosen by the unit, one by the district, one mutually agreed upon); these could also be the first step in a multi-step process
* The Board of Education or some sub-committee; the superintendent if someone else writes the evaluations (not recommended by SAANYS)
* A local BOCES hearing procedure service
* A multi-leveled approach where one process applies for a principal’s first appeal and another for the second consecutive detrimental evaluation
* Identifying different processes for the appeals of ratings vs. appeals about an improvement plan

Remember that even SED, in its flawed model appeal process and guidance document, indicated that the person responsible for determining the overall score and rating should not be deciding an appeal.

* Be cautious about language that limits any and all other action regarding APPR (some law firm samples do this).
* Be cautious about language that unreasonably restricts who can appeal.

This may well be the most difficult component in negotiations. SAANYS recommends negotiating the strongest protection possible, given the implications of APPR under *§*3012-d.

**SECTION VI: ADDITIONAL ATTACHMENT NOTES**

* The list of any NYSED approved assessments used in the district should be part of the agreement.
* While not necessary to attach the actual negotiated rubric in the agreement, it may be helpful; at the very least information on how to get access to the rubric should be provided.

APPENDIX NOTES

The form included here is just one of many that may be needed to fully implement an APPR agreement for principals. Section I identifies a process and time frame for the development of such forms. All could be incorporated into the APPR agreement, but do not necessarily have to be included.

REMEMBER: Units need to make multiple decisions about ALL negotiable aspects of APPR. This sample made certain decisions but should not be viewed as recommended to be the “best” decisions for a unit. Units will also be faced with different perspectives from the district on all aspects of the process. This is our best attempt to construct at least one sample agreement based on the law, current regulations, and various NYSED documents as we read and interpret them. There are still significant differences of interpretation as well as some inconsistencies across the source documents. SAANYS will continue to provide updates in communications to members and on our website. Assistance is available to every unit in proceeding with negotiation of APPR provisions.

**Regularly check the following websites for updates:**

**NYS Education Department:**

www.nysed.gov

**Engage New York:**

http://engageny.org/

**SAANYS Website (Members only section):**

www.saanys.org

