THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

Commissioner of Education
President of the University of the State of New York
89 Washington Ave., Room 111
Albany, New York 12234

E-mail: commissioner@mail.nysed.gov
Twitter:@JohnKingNYSED
Tel: (518) 474-5844
Fax: (518) 473-4909

March 24, 2014

Revised-ESEA Waiver 2013-2014

Dr. Donald James, Superintendent
Commack Union Free School District
P.O. Box 150
Commack, NY 11725

Dear Superintendent James:

Congratulations. I am pleased to inform you that your Annual Professional Performance Review Plan (APPR) meets the criteria outlined in Education Law §3012-c and Subpart 30-2 of the Commissioner's Regulations and has been approved. As a reminder, we are relying on the information you provided on your APPR form, including the certifications and assurances that are part of your approved APPR. If any material changes are made to your approved APPR plan, your district/BOCES must submit such material changes to us for approval. Please see the attached notes for further information.

Please be advised that, pursuant to Education Law §3012-c, the Department will be analyzing data supplied by districts, BOCES, and/or schools and may order a corrective action plan if there are unacceptably low correlation results between the student growth subcomponent and any other measures of teacher and principal effectiveness and/or if the teacher or principal scores or ratings show little differentiation across educators and/or the lack of differentiation is not justified by equivalently consistent student achievement results.

The New York State Education Department and I look forward to continuing our work together, with the goal of ensuring that every school has world-class educators in the classroom, every teacher has a world-class principal to support his or her professional growth, and every student achieves college and career readiness.

Thank you again for your hard work.

Sincerely,

John B. King, Jr.
Commissioner

Attachment

c: Maureen Whitley

NOTES:

a). Only documents that are incorporated by reference in your APPR have been reviewed and are considered as part of your APPR; therefore, any supplemental documents such as memorandums of agreement or understanding that were uploaded with your APPR but are not incorporated by reference in your APPR have not been reviewed. However, the Department reserves the right to review the uploaded attachments at any time for consistency with your APPR form and/or to ensure compliance with applicable laws and regulations; and as a result of such review, the Department may reject your APPR plan and/or require corrective action.

b). By making this Material Change using the ESEA Waiver Material Change Forms and Certification, you agree that if the ESEA Waiver is not extended beyond the 2013-2014 school year, the terms of your previously approved APPR plan will revert into effect, and the Material Change relating to the ESEA Waiver shall not be applicable. If, however, the ESEA Waiver is extended into the 2014-2015 school year, the previously negotiated and approved ESEA Waiver Material Change Form continues in effect until a revised form is negotiated and approved by the Commissioner, or until the waiver itself expires.

ESEA Waiver Material Change Form Related to Algebra I/Geometry

Directions:

This form must be completed and submitted via EducatorEval (educatoreval@mail.nysed.gov) by no later than March 1, 2014. Please note that the Department will not accept any late submissions of this form. **Please type "ESEA Waiver Material Change Form" in the subject of your email to expedite the review of your material change request.**

Please note that the ESEA waiver currently applies to the 2013-14 school year **only, and** is subject to renewal by the United States Department of Education (USDE) beyond the 2013-14 school year. Later this year, the Department will seek permission from the Board of Regents to submit a request to USDE for renewal of this waiver. However, there is no guarantee that the USDE will extend the waiver beyond the 2013-2014 school year.

Please note that a district or BOCES that chooses to make a material change on the ESEA Waiver Material Change Form agrees that if the ESEA waiver is not extended beyond the 2013-14 school year, the terms of their approved APPR plan shall revert into effect and the material change relating to the ESEA waiver shall not be applicable. If, however, the ESEA waiver is extended into the 2014-15 school year, the previously negotiated and approved ESEA Waiver Material Change Form continues in effect until a revised form is negotiated and approved by the Commissioner. The Department recommends that you consult with your local counsel before determining whether a material change is needed to your currently approved APPR plan to implement the ESEA waiver for APPR purposes.

Please note that the Department will only review the listed material changes included on the ESEA Waiver Material Change Form. No other portion of the APPR plan will be reviewed by the Department for compliance with Education Law §3012-c (see pages 5-6 of the accompanying memo for further details).

For Task 2:

For districts that offer the Regents Examination in Algebra I (Common Core) and/or Geometry (2005 Standards) to students enrolled in seventh and/or eight grades and that do not require these students to take the State assessment in Mathematics for this grade pursuant to the ESEA waiver, it is the Department's understanding that the district or BOCES will be able to use the Regents examination and same HEDI process outlined in the district's currently approved APPR plan in Task 2.8 for those affected teachers and that no material change will need to be made to the APPR plan.

If, however, a district or BOCES has some, but not all, students across grade/course sections taking the Regents Examination in Algebra I (Common Core) or the Regents Examination in Geometry (2005 Standards) in seventh and/or eighth grade, then it is the expectation of the Department that the district or BOCES will follow the state's requirements around the "50% rule" for purposes of determining if SLOs are required and for constructing SLOs.

- If 50% or more of the teacher's students across grade/course sections take the grade appropriate State Common Core Assessment in Mathematics and the teacher meets the minimum "n" size requirement, then the teacher will receive a State-provided growth score based on the grade appropriate State Common Core Assessment in Mathematics, as applicable.
- If fewer than 50% of the teacher's students take the Grade 7 and/or 8 NYS Common Core Assessment in Mathematics and/or the teacher does not meet the minimum "n" size requirement, then it is the Department's expectation that districts and BOCES will use SLOs as the comparable growth measures following all State SLO rules (see APPR Guidance D20: http://www.engageny.org/sites/default/files/resource/attachments/appr-field-guidance.pdf and the SLO Guidance Document: http://www.engageny.org/sites/default/files/resource/attachments/slo-guidance.pdf). For example, a teacher with one section with thirty students who take the Grade 8 State Common Core Assessment in Mathematics and four sections with one hundred students who take the Regents Examination in Algebra I (Common Core) will have two SLOs. In the first SLO, the State will provide a growth score for the section of students who take the Grade 8 NYS Common Core Assessment in Mathematics and this score will be weighted proportionately with the results from the second SLO that will be based on the results of the students who take the Algebra I Regents examination.

The Department continues to recommend that all educators with students close to the minimum "n" size also set SLOs for comparable growth measures, in the event that there are not enough students, not enough scores, or unforeseen issues with the data to generate a State-provided growth score.

If the district or BOCES has determined that it will utilize a pretest to measure growth, and no pretest was taken by seventh and/or eighth grade students to set targets for measuring growth when using the Regents Examination in Algebra I (Common Core) or the Regents Examination in Geometry (2005 Standards) as the summative assessment, districts and BOCES should consult with their local counsel; however, a minimum rigor expectation for growth could be developed by the Superintendent of the district or BOCES and used to calculate the HEDI results at the end of the year for Student Learning Objectives (SLOs) for the State growth or Other Comparable Measures subcomponent.

If this is not the process the district or BOCES will employ for the State Growth or Other Comparable Measures subcomponent, please clarify below what has been collectively bargained for teachers with some or all students enrolled in seventh and/or eighth grade taking the Regents Examination in Algebra I (Common Core) and/or Geometry (2005 Standards):

Course(s) or Subject(s)	Option	Name of the Assessment
Algebra I	◉ State Assessment ○ State-approved 3rd party assessment ○ District, Regional or BOCES-developed ○ School/BOCES-wide/group/team results based on State	Integrated Algebra I Regents Exam and Common Core Algebra I Regents Exam
	○ State Assessment ○ State-approved 3rd party assessment ○ District, Regional or BOCES-developed ○ School/BOCES-wide/group/team results based on State	

Use this box, if needed, to describe the general process for assigning HEDI categories for these grades/subjects in this subcomponent.	The students' previous year Grade 7 NYSTP Math Assessment scaled score of 1-4 will be compared to the converted scaled score on the Integrated Algebra Regents Exam or the Common Core Algebra Regents Exam. The SLO Target will be met based on the provided conversion chart. The starting level will be determined from the prior year's Grade 7 NYSTP Math Assessment scaled score of 1 - 4. The higher score of the regents exams will be counted towards a teacher's APPR score. Eighth grade students will be required to take both the Integrated Algebra Regents aligned to the previous standards as well as the Common Core aligned Algebra Regents Exam. The higher of the two grades will be converted to a scaled score of 1 – 4. As for the conversion of Regents exams, students scoring 85-100 will receive a scaled score of 4; students scoring a 85 - 84 will receive a scaled score of 3; 55 - 64 will receive a score of scaled 2; and, students receiving a score of 54 or below will receive a scaled score of 1.
Highly Effective (18 - 20 points) Results are well-above District goals for similar students.	A teacher in this category will have 80-100% of his/her students meet their growth target.
Effective (9 - 17 points) Results meet District goals for similar students.	A teacher in this category will have 60-79% of his/her students meet or exceed their growth target.
Developing (3 - 8 points) Results are below District goals for similar students.	A teacher in this category will have 30-59% of his/her students meet or exceed their growth target.
Ineffective (0 - 2 points) Results are well-below District goals for similar students.	A teacher in this category will have 0-29% of his/her students meet or exceed their growth target.

For Task 3:

For teachers, districts and BOCES must continue to implement the locally selected measure negotiated in their APPR plan for seventh and/or eighth grade teachers (as applicable) for those teachers with students who are accelerating into Regents level courses for Algebra I (Common Core) and/or Geometry. Most APPR plans use a school-wide measure, a growth or achievement measure based on a district, regional, or BOCES-developed assessment, or a state-approved third party assessment for these grades/subjects. Therefore, the Department does not anticipate that districts and BOCES will require a material change to their Locally Selected Measures subcomponent for teachers or for principals. However, districts and BOCES should consult with their local counsel to determine if a material change is needed to their APPR plan.

If this is not the process the district or BOCES will employ for the Locally Selected Measures subcomponent, please clarify below what has been collectively bargained for teachers with some or all students taking the Regent Examination in Algebra I (Common Core) and/or Geometry (2005 Standards):

Course(s) or Subject(s)	Locally-Selected Measure from List of Approved Measures	Name of the Assessment
	○ 1) Change in % of student performance level on State ○ 2) Teacher specific growth computed by NYSED ○ 3) Teacher specific achievement/growth score computed locally ○ 4) State-approved 3rd party ○ 5) District/regional/BOCES–developed ○ 6(i) School-wide measure based on State-provided measure ○ 6(ii) School wide measure computed locally ○ 7) Student Learning Objectives	

Use this box, if needed, to describe the process for assigning HEDI categories in this subcomponent. If needed, you may - include a table or graphic below.	
Highly Effective (18 - 20 points) (14 – 15 points) Results are well above state average for similar students (or District goals if no state test).	
Effective (9 - 17 points) (8 - 13 points) Results meet state average for similar students (or District goals if no state test).	

Developing (3 - 8 points) (3 - 7 points) Results are below state average for similar students (or District goals if no state test).	
Ineffective (0 - 2 points) (0 - 2 points) Results are well below state average for similar students (or District goals if no state test).	

For Task 7:

If a seventh or eighth grade student does not take the grade appropriate NYS Common Core Mathematics Assessment, that student will not have a student growth percentile (SGP) calculated for him or her and therefore that student's score not be included in his or her principal's State-provided growth results for grades six through eight in the 2013-14 school year. In the rare circumstances whereby a principal no longer meets the minimum "n" size requirement and/or less than 30% of a principal's students school-wide are covered by a State-provided growth measure, the principal will need to develop a comparable growth measure for the purposes of APPR (e.g., 6-8 building with almost all seventh and/or eighth grade students taking only Regents assessments and fewer than 30% of students school-wide taking the sixth grade State mathematics assessments). For some districts and BOCES, this will require a material change to their APPR plan. In these rare circumstances, districts and BOCES will be required to submit an expedited material change to their approved APPR plan in the State-provided Growth and Other Comparable Measures subcomponent for principals (see Question 16: http://www.p12.nysed.gov/accountability/waivers/documents/DoubleTestingFieldMemo11-25-13_1.pdf). Typically, middle school principals will still receive a State-provided Growth score as more than 30% of their students will still take the 6-8 State assessments and no material change will need to be made to the APPR plan.

Since the State-provided growth scores take into account the prior academic history of ninth grade students, including those that have taken Regents exams prior to entering ninth grade, the change in requirements for seventh and eighth grade students who take a course of study in Algebra 1 (Common Core) or Geometry (2005 Standards) should not have an impact on grades 9-12 principals (see Question 17: http://www.p12.nysed.gov/accountability/waivers/documents/DoubleTestingFieldMemo11-25-13_1.pdf).

If your district or BOCES principal no longer meets the minimum "n" size requirement and/or less than 30% of a principal's students school-wide are covered by a State-provided growth measure and your currently approved APPR plan does not account for SLOs for State Growth or Other Comparable Measures subcomponent in Task 7.3, please clarify below what has been collectively bargained for principals with some or all students taking the Regent Examination in Algebra I (Common Core) and/or Geometry (2005 Standards):

School or Program Type	SLO with Assessment Option	Name of the Assessment
	○ State assessment ○ State-approved 3rd party assessment ○ District, regional, or BOCES-developed	

Use this box, if needed, to describe the process for assigning HEDI categories in this subcomponent. If needed, you may include a table or graphic below.	
Highly Effective (18 - 20 points) Results are well above state average for similar students (or District goals if no state test).	
Effective (9 - 17 points) Results meet state average for similar students (or District goals if no state test).	
Developing (3 - 8 points) Results are below state average for similar students (or District goals if no state test).	
Ineffective (0 - 2 points) Results are well below state average for similar students (or District goals if no state test).	

For Task 8:

For principals, districts and BOCES must implement those assessments that are currently listed for their building/program configurations in Task 8.1 or 8.2, as applicable, and which are currently administered within their school building/program, and no material change will need be made to the APPR plan.

If this is not the process the district or BOCES will employ, please clarify below what has been collectively bargained for principals with some or all seventh and eighth grade students in their buildings/programs now taking the Regent Examination in Algebra I (Common Core) and/or Geometry (2005 Standards):

Grade Configuration/Program	Locally-Selected Measure from List of Approved Measures	Name of the Assessment
	○ (a) achievement on State assessments ○ (b) results for students in specific performance levels ○ (c) results for SWD's and ELL's ○ (d) measures used by district for teacher evaluation ○ (e) 4, 5, and/or 6-year high school grad and/or dropout rates ○ (f) % of students with advanced Regents or honors ○ (g) % achieving specific level on Regents or alternatives ○ (h) students' progress toward graduation	
Use this box, if needed, to describe the process for assigning HEDI categories. If needed, you may include a table or graphic online.		
Highly Effective (14 - 15 points) (18 - 20 points) Results are well above District- or BOCES-adopted expectations for growth or achievement for grade/subject.		

Effective (8- 13 points) (9 - 17 points) Results meet District- or BOCES-adopted expectations for growth or achievement for grade/subject.	
Developing (3 - 7 points) (3 - 8 points) Results are below District- or BOCES-adopted expectations for growth or achievement for grade/subject.	
Ineffective (0 - 2 points) (0 - 2 points) Results are well below District- or BOCES-adopted expectations for growth or achievement for grade/subject.	

Statement of Assurances

By signing this document, the superintendent, the president of the board of education and the collective bargaining agent(s) of the school district or BOCES, where applicable, certify that this ESEA Waiver Material Change Form constitutes part of the district's or BOCES' Annual Professional Performance Review (APPR) Plan, that collective negotiations have been completed on the affected provisions of the currently approved APPR plan that are subject to collective bargaining, and that such APPR Plan, along with this Waiver Form, complies with all of the requirements of Education Law §3012-c and Subpart 30-2 of the Rules of the Board of Regents and has been adopted by the governing body of the school district or BOCES.

The district or BOCES and its collective bargaining agent(s), where applicable, also assure that upon information and belief, all statements made herein are true and accurate and that any applicable collective bargaining agreements for teachers and principals are consistent with and/or have been amended and/or modified or otherwise resolved to the extent required by Article 14 of the Civil Service Law, as necessary to require that all classroom teachers and building principals will be evaluated using a comprehensive annual evaluation system that rigorously adheres to Education Law §3012-c and Subpart 30-2 of the Rules of the Board of Regents.

The school district or BOCES and its collective bargaining agent(s), where applicable, also certify that this ESEA Waiver Material Change Form, in conjunction with the currently approved APPR plan, is the district's or BOCES' complete APPR plan and that such plan will be fully implemented by the school district or BOCES; that there are no collective bargaining agreements, memoranda of understanding or any other agreements in any form that prevent, conflict or interfere with full implementation of the APPR Plan; and that no material changes will be made to the plan through collective bargaining or otherwise except with the approval of the Commissioner in accordance with Subpart 30-2 of the Rules of the Board of Regents.

The school district or BOCES and its collective bargaining agent(s), where applicable, also make the following specific assurances with respect to their APPR Plan:

- Assure that the material changes in this form are in compliance with Education Law §3012-c and Subpart 30-2 of the Rules of the Board of Regents.
- Assure that if the ESEA waiver is not extended beyond the 2013-14 school year, the terms of their approved APPR plan shall revert into effect and the material change relating to the ESEA waiver shall not be applicable.
- Assure that if the ESEA Waiver is extended beyond the 2013-14 school year, the terms of this ESEA Waiver Material Change Form shall remain in effect until there is a subsequent APPR plan is negotiated and approved by the Commissioner.
- Assure that any ESEA Material Change Form approved by the Commissioner shall constitute part of the school district's or BOCES' currently approved APPR plan.
- Assure that upon information and belief, all statements made herein are true and accurate and that any applicable collective bargaining agreements for teachers and principals are consistent with and/or have been amended and/or modified or otherwise resolved to the extent required by Article 14 of the Civil Service Law, as necessary to require that all classroom teachers and building principals will be evaluated using a comprehensive annual evaluation system that rigorously adheres to Education Law §3012-c and Subpart 30-2 of the Rules of the Board of Regents.
- Assurance that the district's or BOCES' entire approved APPR plan, including the information contained within this ESEA Waiver Material Change Form, has been posted on the district or BOCES website within 10 days after it is approved by the Commissioner.
- Assure that the district's or BOCES' request for a material change in this ESEA Waiver Material Change Form will not prevent, conflict, or interfere with any existing collective bargaining agreement and/or full implementation of the APPR Plan currently approved by the Department in any way or the described timeframes for submission of data in Education Law §3012-c and Subpart 30-2 of the Rules of the Board of Regents. This includes, but is not limited to, that results will be provided and completed for each

teacher or principal as soon as practicable, but in no case later than September 1 of the school year next following the school year for which the classroom teacher or building principal's performance is being measured.

- Assure that the district or BOCES understands that the Department will only review the listed material changes included on the ESEA Waiver Material Change Form and that no other portion of the APPR plan will be reviewed by the Department for compliance with Education Law §3012-c.
- Assure that if material changes are made to the locally-selected measures subcomponent, such measures are rigorous and comparable across all classrooms (for teachers, the same locally-selected measure is used across a subject and/or grade level; for principals, the same locally-selected measure must be used for all principals in the same or similar program or grade configuration).
- Assure that the district or BOCES will continue to fully implement the currently approved APPR plan and will not have outside agreements that would prevent, conflict, or interfere with full implementation of the APPR plan.
- Assure that, if more than one type of locally-selected measure is used for different groups of teachers within a grade/subject, the measures are comparable based on the Standards of Educational and Psychological Testing.
- Assure that, if more than one type of locally-selected measure is used for principals in the same or similar grade configuration or program, the measures are comparable based on the Standards of Educational and Psychological Testing.
- Assure that the process for assigning points for all subcomponents and the composite scores will use the narrative HEDI descriptions described in the regulations to effectively differentiate educators' performance in ways that improve student learning and instruction.
- Assure that district or BOCES will develop SLOs according to the rules and/or guidance established by SED and that past academic performance and/or baseline academic data of students is taken into account when developing an SLO.
- Assure that Student Growth/Value Added Measure will be used where applicable.
- Assure that this Waiver Form applies to the listed classroom teachers and building principals.
- Assure that the district or BOCES will provide the Department with any information necessary to conduct annual monitoring pursuant to the regulations.
- Assure that the district or BOCES understands that the use of the ESEA Waiver Material Change Form does not preclude the Department from conducting annual monitoring regarding the implementation of the requested change or of its entire approved APPR plan pursuant to the regulations.

Signatures, Dates

Superintendent Signature: Date: 3/24/14

Administrative Union President Signature: Date: 3-24-14

Teachers Union President Signature: Date: 3/24/14

Board of Education President Signature: Date: 3/24/14

Matrix for 1-4 performance levels

	End Level 1	End Level 2	End Level 3	End Level 4
Start Level 1	No	Yes	Yes	Yes
Start Level 2	No	No	Yes	Yes
Start Level 3	No	No	Yes	Yes
Start Level 4	No	No	No	Yes

Local and State worth 20%	HEDI Points	Percent of students in targeted measurement
Highly Effective	20	95%-100%
	19	90%-94%
	18	80%-89%
Effective	17	77%-79%
	16	74%-76%
	15	72%-73%
	14	70%-71%
	13	68%-69%
	12	66%-67%
	11	64%-65%
	10	62%-63%
	9	60%-61%
Developing	8	55%-59%
	7	50%-54%
	6	45%-49%
	5	40%-44%
	4	35%-39%
	3	30%-34%
Ineffective	2	21%-29%
	1	11%-20%
	0	≤ 10%