

# **EXHIBIT 74**

**2018 8 NYCRR § 30-2.8**

2018 New York Administrative Code Archive

**NEW YORK CODES, RULES AND REGULATIONS > 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 CONDUCTED PRIOR TO THE 2015-2016 SCHOOL YEAR OR FOR ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO ON OR BEFORE APRIL 1, 2015 WHICH REMAINS IN EFFECT ON OR AFTER APRIL 1, 2015 UNTIL A SUBSEQUENT AGREEMENT IS REACHED**

**§ 30-2.8 Approval process for student assessments**

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**(a)**Approval of student assessments for the evaluation of classroom teachers and building principals. Except as otherwise provided in subdivision (e) of this section for assessments in grades kindergarten through two, 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)** Approvals 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.

**(e)** Pursuant to section 30-2.2 of this Subpart, effective March 2, 2014, the commissioner will remove the names of any traditional standardized assessments approved for use in kindergarten through grade two from the list of approved assessments for use in the 2014-2015 school year and thereafter. However, an assessment that is not a traditional standardized assessment may be considered an approved student assessment if the superintendent, district superintendent, or chancellor certifies in its plan that the assessment is not a traditional standardized assessment and that the assessment meets the minimum requirements prescribed by the commissioner in guidance.

## History

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Added 30-2.8(effective 05, 20, 11) on 6/08/11, expired 90 days after filing. Added 30-2.8(effective 08, 16, 11) on 8/31/11, expired 60 days after filing. Added 30-2.8(effective 10, 07, 11) on 10/26/11, expired 60 days after filing. Added 30-2.8(effective 12, 06, 11) on 12/21/11, expired 60 days after filing. Added 30-2.8(effective 02, 04, 12) on 2/22/12, expired 60 days after filing. Added 30-2.8(effective 04, 04, 12) on 4/25/12, expired 60 days after filing. Added 30-2.8(effective 04, 24, 12) on 5/09/12, expired 60 days after filing. Added 30-2.8 on 6/13/12. Amended 30-2.8(a)(effective 02, 11, 14) on 2/26/14, expired 90 days after filing. Amended 30-2.8(a)(effective 03, 11, 14) on 3/26/14, expired 60 days after filing. Amended 30-2.8(a)(effective 05, 10, 14) on 5/14/14, expired 60 days after filing. Amended 30-2.8(a)(effective 05, 10, 14) on 5/14/14, expired 60 days after filing. Amended 30-2.8(a) on 7/30/14. Added 30-2.8(e)(effective 03, 11, 14) on 3/26/14, expired 60 days after filing. Added 30-2.8(e)(effective 05, 10, 14) on 5/14/14, expired 60 days after filing. Added 30-2.8(e) on 7/30/14.

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