

*Questions and Answers – Undue Burden Independent Evaluator Hardship Waiver*

4. compliance with the independent evaluator requirement could impact the safety and management of a building (i.e., due to the amount of time a principal is required to be outside of their building conducting observations as an independent observer).

***Q3. How is the Undue Burden Independent Evaluator Hardship Waiver different from the Independent Evaluator Hardship Waiver that was authorized beginning in the 2015-2016 school year?***

Subpart 30-3 of the Rules of the Board of Regents, as amended by the Board of Regents at its September 2015 meeting, previously provided for Independent Evaluator Hardship Waivers but only for rural school districts or school districts with only one registered school pursuant to §100.18 of the Commissioner's regulations that, du

*Q5. My district/BOCES already has an approved APPR plan pursuant to Education Law §3012-d for the 2015-2016 school year*

additional groups of educators who will also receive at least one observation/school visit by impartial independent trained evaluators.

***Q9. Where can I access the Undue Burden Independent Evaluator Hardship Waiver application?***

The Hardship Waiver application is accessible through the [NYSED Business Portal](#). Districts/BOCES should use the link for the SED Monitoring and Vendor Performance System to access this application. Please note that only the superintendent of a school district or the district superintendent for a BOCES will have access to this application. However, access may be delegated to other authorized employees using the instruction found in the [SEDDAS User Guide](#).

***Q10. Must I receive approval of my district's Education Law §3021-d APPR plan from the Department before my district's Undue Burden Independent Evaluator Hardship Waiver application can be approved?***

Yes. All districts/BOCES must submit and receive approval of their APPR plans pursuant to Education Law §3012-d before approval of a Hardship Waiver application may be granted. Once a Hardship Waiver is approved by the Department, it shall be considered part of the school district's/BOCES' APPR plan for the school year for which it is approved. Accordingly, a Hardship Waiver may not be incorporated into a district's/BOCES APPR plan until all terms of such plan are resolved through collective bargaining to the extent required and approved by the Department. Further, as Hardship Waivers are approved on an annual basis, the information contained within each district's/BOCES Waiver application will only apply during the school year for which the waiver is in effect. By contrast, the information contained in Task 4 and 9 of an approved APPR plan will continue to operate in each succeeding school year until any material changes to such plan submitted by the district/BOCES are approved by the Department. For school years in which a Hardship Waiver is active, where the terms of the Waiver are inconsistent with the approved §3012-d APPR plan, the information contained in the district's or BOCES' Hardship Waiver application will supersede the information contained in Tasks 4 and 9 of the district's/BOCES' approved Education Law §3012-d APPR plan.

Pursuant to Chapter 73 of the Laws of 2016, districts implementing an approved APPR plan consistent with Education Law §3012-c during the 2015-16 school year pursuant to an approved Hardship Waiver shall continue to be eligible to receive State aid increases for both the 2015-16 and 2016-17 school years, provided the district has fully implemented an approved APPR plan consistent with the requirements of Education Law §3012-d and the corresponding Commissioner's regulations by January 3, 2017 (because December 31<sup>st</sup> falls on a weekend, the deadline becomes January 3 pursuant to General Construction Law §25-a). Should such a district fail to have fully implemented an approved APPR plan consistent with the requirements of Education Law §3012-d and the corresponding Commissioner's regulations by January 3, 2017, such district shall not be eligible to receive State aid increases for both the 2015-16 and 2016-17 school years and shall have its monthly State aid payments reduced accordingly after March 31, 2017.

A district that fully implemented an approved APPR plan consistent with Education Law §3012-d during the 2015-

the 2016-17 school year, provided the district has fully implemented an approved APPR plan consistent with the requirements of Education Law §3012-d and the corresponding Commissioner's regulations for the 2016-17 school year by January 3, 2017. Should such a district fail to have fully implemented an approved APPR plan consistent with the requirements of Education Law §3012-d and the corresponding Commissioner's regulations for the 2016-17 school year by January 3, 2017, such district shall not be eligible to receive a State aid increase for the 2016-17 school year and shall have its monthly State aid payments reduced accordingly after March 31, 2017.

**The Department recommends that districts submit their APPR plans as soon as practicable in order to ensue De**