

Appeals Process for Teachers

Washington-Saratoga-Warren-Hamilton-Essex BOCES

APPR APPEALS PROCESS

BOCES and SABEA are committed to providing a fair, objective and expeditious appeal process.

I. Grounds for Appeal:

The burden of proof to establish a rational basis for the appeal rests with the Teacher. Pursuant to Education Law Section 3012-d, a teacher may only challenge the following in an appeal:

1. the substance of the annual professional performance review; which shall include the following:
 1. in the instance of a teacher rated Ineffective on the student performance category, but rated Highly Effective on the school visit category based on an anomaly, as determined locally
 2. the BOCES adherence to the standards and methodology required for such reviews, pursuant to Education Law section 3012-d
 3. the adherence to the regulations of the Commissioner and compliance with any applicable locally negotiated procedures, as well as the BOCES issuance and/or implementation of the terms of the teacher improvement plan, as required under Education Law section 3012-d.

Procedures

The procedures for ensuring that appeals of annual performance evaluations will be handled in a timely and expeditious way.

II. APPR Subject to Appeal Procedure:

Tenured teachers who receive an APPR rating of “ineffective” or “developing” may appeal their APPR or the issuance or implementation of the Teacher Improvement Plan. Only one written appeal may be filed for each APPR or Teacher Improvement Plan, in accordance with Education Law 3012-d and the BOCES APPR Plan.

Probationary Teachers may not file an appeal, but may attach a rebuttal to their APPR.

III. Notification of the Appeal:

The notification of the appeal must be filed by the tenured teacher, in writing, within ten (10) school days, based on the BOCES school calendar for instructional staff, after the teacher has received the composite APPR rating. If the tenured teacher is challenging the issuance and/or implementation of a Teacher Improvement Plan, the appeal must be filed, in writing, within ten (10) school days of the issuance and/or implementation of the terms of such plan. Notification of the appeal must be provided to the District Superintendent and date stamped upon receipt. All grounds for appeal must be clearly stated in writing by the tenured teacher with specificity within one appeal to explain in detail on what basis the appeal is being filed and any relief being sought. The notice must also include any and all documents or written materials that are specific to the point(s) of disagreement and/or relevant to the appeal. The notice and all documents and written materials will become the Appeals Packet. Any grounds not raised or materials not submitted at the time the appeal is filed shall not be considered in the deliberations relating to the resolution of the appeal.

IV. Decisions on Appeal:

Stage 1 Conference with the Evaluating Administrator

The tenured teacher filing the appeal shall have a conference with the evaluating administrator within five (5) school days from the date the appeal is received by the District Superintendent. The tenured teacher may request a SABEA representative and the evaluating administrator may invite

another BOCES representative to attend such a conference. If either party is bringing a representative, he/she will notify the other at least twenty-four (24) hours prior to the conference. The evaluating administrator will report his/her findings in writing to the District Superintendent and the teacher within five (5) school days of the conference. The findings will be included as part of the appeals packet. The teacher will notify the District Superintendent within two (2) school days from receipt of the findings as to whether he/she agrees or disagrees with the evaluating administrator's findings. Within two (2) school days after receiving the teacher's response to the evaluating administrator's findings, the District Superintendent will:

- a. if the teacher agrees, issue a final and binding notice to both the administrator and teacher that agreement has been reached and no further appeal may take place; or
- b. if the teacher disagrees, forward the full record of the appeal (Appeals Packet) to the APPR Review Panel.

Stage 2 APPR Review Panel

The charge of the APPR Review Panel is to determine whether the teacher has met the burden of proof in regard to the grounds for appeal as noted in Section I.

A number of teachers and administrators will be called upon to participate in the APPR Review Panel process. Each member of the APPR Review Panel will be asked to make a one-year commitment. BOCES may recommend a number of master teachers to the President of the Association, to be considered for membership to the Panel. Up to nine (9) teacher representatives will be named by the President of the Association, to be called three (3) at a time to serve. Such teachers will be trained in the appeal process and have an understanding of teacher evaluation, specifically the Danielson 2013 Rubric, at BOCES expense. In the event that the number of teachers available to serve on the Panel falls below six (6) for any reason, replacements will be made as soon as training is available. Administrative representatives will be named by the District Superintendent. For each appeal to be considered, the APPR Review Panel will be comprised of five members:

1. Two (2) certified administrators: one cabinet member and one principal designated by the District Superintendent. The principal will have supervisory responsibilities over a different program from that of the teacher filing the appeal.
2. Three (3) certified teachers designated by the President of the Association.
3. Neither the evaluating administrator nor the tenured teacher who filed the notification of appeal shall participate as a member of the Panel considering such an appeal.

The APPR Review Panel will convene to consider all the materials in the appeals packet within five (5) school days. The Panel will render a decision on a single appeal within two (2) school days. If the panel with the same five members reviews multiple appeals on the same date, a decision will be rendered on each of the appeals within five (5) school days. The Panel will write a collective decision outlining each of the grounds submitted by the appealing teacher, and report its decision to the District Superintendent. If the decision of the panel is unanimous, the District Superintendent will report the decision to the appealing teacher and the evaluating administrator within two (2) school days. If the panel reaches unanimous agreement to sustain or deny the appeal, the appeal will end with the written decision of the Panel, and will not be subject to further consideration. Such unanimous decisions shall be final and binding, and not subject to any further appeal pursuant to the contractual grievance procedure, or to any administrative or judicial tribunal.

Stage 3 District Superintendent

If the Panel is unable to reach a unanimous decision, the Panel will forward the appeals packet with the full record of the proceedings to the District Superintendent within the timeframe noted in Stage 2 (within two (2) days after hearing a single appeal or five (5) days after hearing multiple appeals). Within five (5) school days of receipt of the Panel's non-unanimous decision, the District Superintendent shall have the final authority to resolve the appeal and report his/her final findings in writing to the appealing teacher and the evaluating administrator. The District Superintendent's decision shall be final and binding, and not subject to any further appeal pursuant to the contractual grievance procedure, or to any administrative or judicial tribunal.

V. Exclusivity of 3012-d Appeals Procedure:

The 3012-d appeal procedure contained herein shall constitute the exclusive means for initiating, reviewing and resolving any and all challenges and appeals related to a teacher performance review and/or improvement plan.