



## State Council for Educator Effectiveness Draft Recommendations for an Appeals Process for Teachers

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### Recommendations

1. Each district shall develop and adopt an appeals process for nonprobationary teachers who wish to appeal a second consecutive performance rating of partially effective or ineffective. This process shall be a determination of nonprobationary status, not a determination of employment and/or termination. Further, the appeals process shall be:
  - a) Specifically appropriate to the size, demographics, and location of the district or BOCES;
  - b) Fair and transparent to teachers, evaluators, principals and where appropriate, parents and students;
  - c) A component of a larger system that serves to increase the number of educators able to be successful rather than provide excuses for failure<sup>1</sup>;
  - d) Clearly connected to the evaluation process;
  - e) Constructed to produce appeals decisions in a timely and decisive manner;
  - f) Developed through collective bargaining, where applicable; and
  - g) Structured to strongly encourage the use of qualified and trained peers in the evaluation and/or appeals process.
2. Nonprobationary teachers receiving a second consecutive performance rating of partially effective or ineffective shall have an opportunity to appeal the second performance rating. The teacher shall have the burden of demonstrating that a rating of effectiveness is appropriate. A nonprobationary teacher appealing their rating of ineffectiveness may use evidence and artifacts of their performance to demonstrate effectiveness.
3. The appeals process shall begin on the date a teacher submits a written notice of intent to appeal and shall conclude no more than 90 calendar days thereafter. A teacher wishing to appeal a second consecutive performance rating of partially effective or ineffective shall:
  - a) Submit written notice of intent to appeal to the appropriate district representative no later than 15 calendar days after receiving the second ineffective or partially effective rating;
  - b) Have an additional fifteen days from the date of submitting a written notice to appeal to file a completed appeal; and
  - c) Describe all reasons for appeal within one appeal. Any grounds not raised at the time the appeal is filed shall be deemed waived.

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<sup>1</sup> See "Guiding Principle Five: Educator Evaluations Must Take Place Within A Larger System that is Aligned and Supportive"; *Final Report of the State Council for Educator Effectiveness* (April 2011).

4. The appeals process for nonprobationary teachers receiving their second consecutive performance rating of partially effective or ineffective shall be the final determination in regard to performance rating and loss of nonprobationary status.
5. CDE shall develop an appeals process for nonprobationary teachers receiving a second consecutive performance rating of partially effective or ineffective for use as part of the state model evaluation system. In addition to meeting recommendations 1 through 4 outlined above, the state model system appeals process shall include, at a minimum, the following.
  - a) The local superintendent shall be the local decision making authority in regard to loss of nonprobationary status for nonprobationary teachers receiving their second consecutive rating of partially effective or ineffective.
  - b) The statewide model system shall include a standing review panel for the appeals process. The panel may serve in either an advisory capacity or the superintendent may delegate his/her decision making authority to the review panel.
    - i) The superintendent may appoint him/herself to the review panel.
    - ii) A simple majority of the panel shall have the authority to recommend or decide if so authorized by the superintendent that an effectiveness rating is appropriate.
    - iii) If the superintendent disagrees with the review panel recommendation or decision, the superintendent shall provide a written rationale to the teacher.
    - iv) The panel shall have equal numbers of peers and district appointed members.
    - v) The process of appointing members to the panel shall be determined, where applicable, through collective bargaining. In the absence of a collective bargaining agreement, peers shall be appointed in collaboration with the local association.
    - vi) Local districts/BOCES shall select and train panel members in a manner designed to ensure the credibility and expertise of the panel members.
    - vii) Districts/BOCES shall develop a process to ensure continuity of the review panel members.
    - viii) The appealing teacher shall be given the opportunity to address and provide evidence to the panel in person or in writing. The panel can invite the teacher or principal to present in person or in writing where clarification is necessary; however, the teacher and principal have the right of refusal without prejudice.
6. As a part of its annual review of the educator evaluation system, CDE shall review the functionality of the state model system and shall report to the State Board of Education on the role of the appeals process as a lever to ensure broader system accountability. Specifically, CDE will report on how the appeals process supports the following.
  - a) Early identification of performance problems to teachers, well in advance of their second consecutive partially effective or ineffective rating.
  - b) Targeted and timely opportunities, including resources and training are provided to teachers to address their identified areas of deficiency promptly after an initial rating of partially effective or ineffective rating and throughout the following school year.
  - c) A process to ensure that effective teachers are not inappropriately rated as ineffective or partially effective.
  - d) The completion of formal evaluations only by evaluators who have received adequate training from a CDE-approved program.