

Procedural Violation Claim Review

Procedural violations include violations of any locally negotiated procedures applicable to annual professional performance reviews or improvement plans and the districts issuance and/or implementation of the teacher improvement plan under Education Law 3012-d.

1. A **claim** of an alleged procedural violation shall be brought in a meeting with the evaluator or lead evaluator within seven (7) school days of such alleged procedural violation.
2. If the teacher is not satisfied with the response of the evaluator or lead evaluator, the teacher may bring the procedural violation concern in writing to the Inquiry Team within seven (7) school days of the date of the meeting with the evaluator or lead evaluator. The Inquiry Team will meet with the teacher within seven (7) school days after receiving the letter outlining the alleged procedural violation and shall issue a written response within seven (7) school days after the meeting with the teacher.
3. If the teacher is not satisfied with the response of the Inquiry Team, the teacher may bring the procedural review to the Superintendent in writing within seven (7) school days of the Inquiry Team decision.
4. The Superintendent or designee shall provide a written response to the teacher within seven (7) school days of the receipt of the procedural review. If the teacher is not satisfied with the written response of the Superintendent, the teacher may **present the claim** to the Board of Education by submitting **said claim** in writing to the Clerk of the Board within five (5) school days of receipt of the Superintendent's decision.
5. Once the **claim** is received by the Clerk of the Board of Education, Stage 3 – Board of Education grievance procedures as outlined in the Teachers' Collective Bargaining Agreement will commence. This will include Stage 4 – Binding Arbitration if necessary.
6. The failure to file a procedural violation **claim** review within these timeframes shall be deemed a waiver of the right to a procedural violation **claim** and the **said claim** shall be deemed abandoned.

Appeals

Appeals of an APPR shall be limited to only those teachers/principals that receive a rating of ineffective or developing.

What may be challenged in an appeal: The scope of appeals under Education law 3012-d shall be limited to the following subjects:

1. The substance of the annual professional performance review;
2. The school district's adherence to the standards and methodologies required for such reviews, pursuant to Education Law 3012-d;
3. The adherence to the Commissioner's Regulations, as applicable to such review;
4. The BOCES issuance and/or implementation of the terms of the teacher or principal improvement plan under Education Law 3012-d

Prohibition against more than one appeal: A teacher may not file multiple appeals regarding the same performance review or improvement plan. All grounds for appeals must be raised with specificity within one appeal. Any grounds not raised at the time the appeal is filed shall be deemed null and void.

Burden of proof: In appeal, the teacher or principal has the burden of demonstrating a clear and legal right to the relief requested and the burden of establishing the facts upon which petitioner seeks relief.

Timeframe for filing substantive appeal: All substantive appeals must be submitted in writing no later than fourteen (14) calendar days of the date when the teacher or principal receives his/her annual professional performance review. If a teacher or principal is challenging the issuance of an improvement plan, appeals must be filed within fourteen (14) calendar days of the issuance of such plan. The failure to file an appeal within these timeframes shall be deemed a waiver of the right to appeal and the appeal shall be deemed abandoned.

Substantive appeal process: When filing an appeal, the teacher must submit a detailed written description of the specific areas of disagreement over his or her performance review, or the issuance and/or implementation of the terms of his or her improvement plan and any additional documents or materials relevant to the appeal. The performance review and/or improvement plan being challenged must also be submitted with the appeal. Any information not submitted at the time the appeal is filed shall not be considered. After receiving a teacher or principal appeal, the superintendent or designee will convene a hearing within twenty one (21) calendar days of the receipt of the appeal.

The presence of the appellant and the evaluator(s) are requested on the day of the hearing. If the person making the appeal chooses not to be present, the appeal moves directly to the decision of the superintendent.

Decision-maker on appeal: A decision shall be rendered by the superintendent of schools or the superintendent's designee within (7) calendar days except that an appeal may not be decided by the same individual who was responsible for making the final rating decision. In such case, the board of education shall appoint another person to decide the appeal at their next regularly scheduled Board of Education meeting. A decision shall be rendered by the appointee within (7) calendar days of the Board of Education Meeting.

Decision: A written decision based on the merits of the appeal shall be rendered by the superintendent or his/her designee no later than fourteen (14) days after the conclusion of the hearing.

The appeal shall be based on the written record, submitted to the superintendent, comprised of the teacher or principal's appeal papers and any documentary evidence accompanying the appeal, as well as the school district's response to the appeal and additional documentary evidence submitted with such papers. Such decision by the superintendent shall be final and binding and shall not be subject to further appeal under the collective bargaining agreement or in any administrative or judicial forum.

Nothing in this APPR Plan shall abrogate the rights of ONC BOCES, its Board of Education and Superintendent of Schools to discontinue the employment of a probationary teacher in accordance with Education Law §§3012 and 3031 or the collective bargaining agreement, as applicable, or restrict or limit the discretion of the Superintendent of Schools or Board of Education in making a determination on the status of a probationary teacher, and/or to deny tenure.

Exclusivity of section 3012-d appeal procedure: The 3012-d appeal procedure shall constitute the exclusive means for initiating, reviewing and resolving any and all substantive challenges and substantive appeals related to a teacher performance review and/or improvement plan. A teacher may not resort to any other contractual grievance procedures, or to any other administrative or judicial forum, for the resolution of substantive challenges and substantive appeals related to a professional performance review and/or improvement plan.