



Paul F. Toner, President  
Tim D. Sullivan, Vice President  
Ann Clarke, Executive Director-Treasurer

August 23, 2013

TO: MTA PreK-12 Local Presidents, Board Members and Staff

FROM: Paul Toner, MTA President  
Tim Sullivan, MTA Vice President

RE: Guidance on Commissioner Mitchell Chester's August 15, 2013, Memorandum:  
*District-Determined Measures: Supports, Timeline, and Pilot Expectations*

This memorandum provides MTA local associations with background information about the guidance and support of the Department of Elementary and Secondary Education (DESE) relative to the use of student performance measures in the evaluation of educators. It also alerts local associations that issues related to the identification and implementation of these measures are subject to collective bargaining.

On June 28, 2011, the Massachusetts Board of Elementary and Secondary Education approved new regulations on evaluation of educators that establish specific performance standards and create a statewide framework to evaluate professional practice. The regulations also require that results of student performance measures, including District-Determined Measures (DDMs), be used to determine trends and patterns in annual student learning, growth, and achievement. These trends and patterns must then be analyzed to assess an educator's impact on growth in student learning as low, moderate, or high. Included among the student performance measures are the MCAS Student Growth Percentile (SGP), Massachusetts English Proficiency Assessment (MEPA) gain scores, and DDMs bargained between the school committee and the local association. DDMs may include commercial assessments of student learning, portfolios, pre- and post-unit and course assessments, and capstone projects. (These requirements are mandated by the evaluation regulations at 603 CMR 35.09 and 603 CMR 35.02.)

A critical feature of the Massachusetts teacher evaluation framework is the distinction between a teacher's Summative Rating and his or her Impact on Student Learning. The Summative Rating is the evaluator's evidence-based judgment of the educator's performance on the four performance standards that have been established and serves as a basis to make personnel decisions. The Impact on Student Learning uses data from student performance measures to inform educator practice and to determine the type of Educator Plan a teacher will have.<sup>1</sup>

Student learning impact must be limited to informing "self-assessment, collaborative inquiry, conversation, and action, resulting in an Educator Plan with goals that lead to improvement in professional practice and student learning."<sup>2</sup> On August 15, Commissioner Mitchell Chester reinforced

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<sup>1</sup> Types of educator plans include Developing Educator Plan, Self-Directed Growth Plan, Directed Growth Plan, and Improvement Plan. 603 CMR 35.02.

<sup>2</sup> *Rating Educator Impact on Student Learning Using District-Determined Measures of Student Learning, Growth and Achievement, August 2012 (Rating Educator Impact on Student Learning)*, p. 32.



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the point that the Impact on Student Learning is “separate” from the Summative Performance Rating.<sup>3</sup> The MTA agrees that the evaluation system is designed to separate an educator’s Impact on Student Learning from his or her Summative Rating, but, as noted below, all features of both are subject to collective bargaining because they are both part of the teacher evaluation process.

Over the past year, the MTA has actively engaged the DESE in discussions regarding the selection and piloting of DDMs and the proper process for determining an educator’s Impact on Student Learning. The MTA’s Center for Education Policy and Practice has provided technical assistance to local associations, and the MTA has appointed an interdivisional group to provide input on policy development concerning this issue.

The timeline issued by the commissioner on August 15 sets out the schedule, commencing in the 2013-2014 academic year, for selecting and piloting DDMs and for using them in determining the educator’s Impact on Student Learning. The commissioner is asking school districts to select and pilot DDMs in all subjects and grades in 2013-14, to collect data during 2014-15 and 2015-16, and to determine educators’ Impact on Student Learning at the end of 2015-16, based on two years of data from student performance measures.

The June 2011 teacher evaluation regulations (603 CMR 35.11 (4)(b)) mandated that the DESE supply guidance on the “development and use of student performance measures” by July 2012. This guidance would be useful to districts and local associations in carrying out the activities required by the recently issued commissioner’s timeline. The DESE published some guidance beginning in August 2012 regarding student performance measures and the development of the Impact on Student Learning.<sup>4</sup> Unfortunately, however, important additional guidance promised by the DESE is still not available. Specifically, although the DESE stated a year ago<sup>5</sup> that model contract language and exemplars of DDMs would be available in the summer of 2013, neither is available at this time.

In that same August 2012 publication, the DESE stated that *Technical Guide B: Measuring Student Growth & Piloting District-Determined Measures* would be released in the summer of 2013 in order to provide “substantive guidance on defining” the Impact on Student Learning. Again, while the DESE has produced an initial draft of this document, it does not include the substantive guidance; to date, there is no official publication of *Technical Guide B*.<sup>6</sup>

The commissioner’s timeline does not reference collective bargaining in its schedule with regard to identifying and implementing DDMs. Some superintendents may be of the belief that these topics do not need to be bargained. It is the MTA’s position that the selection of DDMs and the determination as to how they are used to result in a student learning impact rating are subject to bargaining. The fact that the

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<sup>3</sup> *District-Determined Measures: Supports, Timeline, and Pilot Expectations*, August 15, 2013 (Attachment A).

<sup>4</sup> *Rating Educator Impact on Student Learning*, August 2012; *Rating Educator Performance*, April 2013; and *Technical Guide A: Considerations Regarding District-Determined Measures*, May 2013.

<sup>5</sup> *Rating Educator Impact on Student Learning*, August 2012, p. 4.

<sup>6</sup> Results from the newly adopted ACCESS test – replacing MEPA for English Language Learners – will also be a consideration that has yet to be addressed in any way in any DESE document to date.



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key consideration in selecting DDMs is their suitability for teacher evaluation makes activities related to the selection and application of DDMs fall squarely within a district's bargaining responsibilities, as established in G.L. c. 71, § 38 (teacher performance standards must be negotiated with disputes resolved through binding arbitration) and G.L. c. 150E, § 6 (standards of performance are mandatory subjects of bargaining).

The MTA has prepared and submitted to the DESE a framework for draft model contract language that establishes a timeline and a collaborative process for selecting DDMs and for computing yearly student growth. This was followed by a meeting with DESE representatives and other stakeholders in which the model contract language and process were discussed. As of the writing of this memorandum, no model language has been agreed upon. However, we are committed to continuing to work with the DESE, AFT Massachusetts, the Massachusetts Association of School Superintendents and the Massachusetts Association of School Committees to develop model language and a process that we hope will assist you in developing excellent models. Our goal is to benefit your members and students while protecting your collective bargaining rights.

We expect to have further discussions with the DESE, AFT Massachusetts, the MASS and the MASC after Labor Day. Because the commissioner is asking school districts to begin reporting on DDM work, however, local associations not already bargaining about these student performance measures should promptly serve bargaining demands. (See Attachment B: Sample Letter to Bargain over Student Performance Measures.)

The MTA is in the process of creating a Web "toolkit" to provide additional material on this subject. The DESE's guidance materials will be posted there for your convenience, but you can also find them on the department's website.

As soon as we have further discussions with DESE, AFT Massachusetts, the MASS and the MASC, we will contact you with further information and advice as to how to proceed.

If you have any questions, please contact your MTA field representative.

Attachment A: *District-Determined Measures: Supports, Timeline, and Pilot Expectations*, Commissioner Mitchell Chester, August 15, 2013

Attachment B: Sample Letter to Bargain over Student Performance Measures