

Model Letter 2B – Revision 5 – 7/22/23 – Validity of Danielson Framework is being challenged. Fill in the blank lines. Delete the red material. Delete this heading. Replace the letterhead and inside address with the actual information.

Full Name of Teacher
Teacher's Home Address
Community or County, STATE Zip

Optional: Teacher's Personal Email Address

_____ (Date This Letter was Sent)

_____ (Mr./Mrs./Ms./Dr. **Full Name of Supervisor**)

_____ (Job Title of Supervisor)

Name and/or Number of School

School's Street Address

Community or County, NY Zip

Dear _____, (Mr./Mrs./Ms./Dr. **Last Name of Supervisor**)

(Note 1: If the supervisor didn't answer Model Letter 1, start this letter with the following sentence.)

I have **not** received any response from you to my email dated _____. (Date the Previous Email was Sent)

(Note 2: If the supervisor answered Model Letter 1, start this letter with either of the following, as appropriate.)

Concerning the observation report for a lesson that took place on _____ which you issued to me, you responded, on _____, to my email dated _____, but did not identify any sentences as consisting, in whole or in part, of statistical data, factual data, or instructions to staff that affect the public.

OR Concerning the observation report for a lesson that took place on _____ which you issued to me, you responded, on _____, to my email dated _____, and claimed: (Copy and paste the sentences where the supervisor identified statistical data, factual data, or instructions to staff that affect the public.)

_____.

Please be advised that observation reports do **not** contain any statistical data, factual data, or instructions to staff that affect the public.

In Elentuck v. Green (202 A.D.2d 425), the NYS Supreme Court, Second Appellate Division, stated, at page 426:

“The lesson observation reports consist solely of advice, criticisms, evaluations, and recommendations prepared by the school assistant principal regarding lesson preparation and classroom performance.”

www.leagle.com/decision/1994627202AD2d425_1270

In Mulgrew v. Board of Education of the City School District of the City of New York (31 Misc 3d 296), the NYS Supreme Court, New York County, stated, at page 301:

“The UFT's reliance on *Elentuck v. Green*, (202 A.D.2d 425 [2nd Dept 1994]), in which the court held that it was proper to withhold lesson observation reports, is misplaced. The court there held that lesson observation reports are not statistical or factual data as they consist solely of advice, criticisms, evaluations and recommendations prepared by the school's assistant principal. In the present case, unlike in *Elentuck*, the determination by the DOE that the TDRs are statistical data has a rational basis. Unlike lesson observation reports, which are individual opinions of a teacher's lesson, the unredacted TDRs are a compilation of data regarding students' performance.”

www.leagle.com/decision/In%20NYCO%2020110112262

Mulgrew was upheld by the NYS Supreme Court, First Appellate Division, at 87 A.D.3d 506:

www.leagle.com/decision/In%20NYCO%2020110825273

On June 1, 2012, Courtenaye Jackson-Chase, Esq., the General Counsel of the NYC Department of Education, at the time, issued a letter to Harvey M. Elentuck, the litigant in Elentuck v. Green (202 A.D.2d 425), in which she agreed with those decisions:

https://drive.google.com/file/d/0B1OPic_RPNPGQnpCSkJUdkiHd2c/view

Ms. Jackson-Chase's determination is in accord with the prior determination of the FOIL Appeal Panel of the (then) NYC Board of Education as reflected in a May 13, 1998 letter issued by Ron LeDonni to Irving Schachter:

https://drive.google.com/file/d/0B1OPic_RPNPGQTd3RFZUU3NRSWM/view

Accordingly, it may fairly be concluded that you failed to support your opinion that the lesson, or any portion thereof, was _____ (Ineffective, Developing, Ineffective or Developing, Unsatisfactory – Choose one of these four possible responses.) by reciting any statistics or facts.

Therefore, your opinion is arbitrary because you failed to cite the rational, factual basis or reasonable justification for it.

Please read the Federal judicial decision in Canty v. NYC Board of Education (312 F.Supp. 254).

www.leagle.com/decision/1970566312FSupp254_1513

At page 256, the United States District Court stated:

“The terms ‘arbitrary’ and ‘capricious’ embrace a concept which emerges from the due process clauses of the Fifth and Fourteenth Amendments of the United States Constitution and operates to guarantee that the acts of government will be grounded on established legal principles and have a rational factual basis. A decision is arbitrary or capricious when it is not supported by evidence or when there is no reasonable justification for the decision.”

It is crystal clear that there is neither evidence nor a reasonable justification for the lesson, or any portion thereof, to have been rated _____ (Ineffective, Developing, Ineffective or Developing, Unsatisfactory – Choose one of these four possible responses.) since you didn't cite any statistics or facts in support of your opinions.

It is also important to note that Albert Shanker, the (then) President of the UFT, stated in his “Where We Stand” column in the *New York Times* on February 6, 1983:

“I frequently speak before school supervisors. When I ask any group of them how many once were teachers, they all raise their hands. I then ask how many of them, when they were teachers, were ‘observed’ . . . that is, had the supervisor sit in the back of the class, watch a lesson, write an evaluation and then meet with them to discuss his positive and negative criticisms. All of them usually had had the experience. My next question: ‘How many of you found that this observation and evaluation procedure helped you to become a better teacher?’ Almost no hands go up this time. Finally, ‘How many of you continue this same practice?’ Once more, all the hands usually shoot up. Why do principals and other supervisors stick to a management practice which almost all of them found ineffective when they were teachers? Because everybody else does it? Because their own supervisors expect it? It's hard to get a straight answer or a good one.”

https://solidarityuft.org/?page_id=7760

Likewise, it is important to note the following:

On January 25, 1989, (then) Commissioner of Education Thomas Sobol determined Appeal of Board of Education of the City School District of the City of New York (28 EDR 302).

Commissioner Sobol stated on page 303:

“After 16 days of hearing, the hearing panel unanimously recommended dismissal of all charges. The panel found that while respondent is not a ‘good’ teacher; is boring; does not consistently follow district policy; and maintains a narrow structured point of view in conducting his classroom; his performance did not fall below the minimal level expected of a ‘reasonable teacher.’ The panel found that respondent had a minimal level of competency to communicate facts; that he had knowledge of subject matter content; that he could motivate and interest students; that he maintained a classroom environment reasonably conducive to learning; and that he had an ability to assess and evaluate student performance. Based upon its assessment of these factors, the panel unanimously agreed that respondent had met the minimum level of competency which should be expected of a ‘reasonable teacher.’ The panel also unanimously rejected the charges of neglect of duty. The panel determined that there was no evidence that respondent did not fulfill his obligations, nor that he was unprepared to teach or that his lesson-plans or records were in any form of disarray.”

“The panel, in a commentary on respondent’s teaching and questioning techniques, stated that there were no absolutes in teaching, and that respondent had to be evaluated for effectiveness. The panel decision notes the fact that respondent’s students fared at least as well or better than the students of other teachers in the science department during the period covered by the charges.”

At page 305, (then) Commissioner Sobol stated:

“The issue of incompetency however is a more difficult one. In a classroom situation, incompetence in its simplest terms means that a teacher is unable to provide a valid educational experience for those students assigned to his classroom. The record before me supports the panel’s conclusion that petitioner also failed to prove this charge by a preponderance of the credible evidence. While I do not feel that it should be the determining factor in every case, the performance of respondent’s students on the regents examinations in both earth science and biology indicates that respondent’s students did as well as or better than the students in similar classrooms in the same school. There is no evidence in the record that respondent’s students were substantially different in academic ability than students assigned to other teachers in similar classes, or that any other factor outside of respondent’s classroom influenced their performance on the examinations. This tends to support the panel’s finding that respondent was able to educate his students. It is also my finding that respondent provided a plausible explanation for the decisions which he made concerning the conduct of his classes and his methods of instruction. Weighing all of these factors, it is my conclusion that petitioner has failed to prove by a preponderance of the credible evidence that respondent is an incompetent teacher.”

With respect to the administration's recommendations or suggestions within the observation reports and other documents, it is instructional to note that on March 6, 1986, (then) Commissioner of Education Gordon Ambach determined Appeal of Board of Education of the Orchard Park Central School District (25 EDR 331).

Commissioner Ambach stated on page 332:

“Absent a violation of an established school rule or a direct order from a supervisor, respondent's behavior would not constitute neglect of duty. Although petitioner identifies certain provisions of the school building manual as the source of a rule against leaving students to work unsupervised in the hallway, those provisions are expressed in terms of suggestions to teachers rather than directives. Upon careful review of the record, I find that petitioner failed to establish that respondent's conduct breached any mandatory school rule or directive by a supervisor.”

On page 8 of 86 of the NYC Department of Education's publication *Teaching for the 21st Century*, the following statement appears:

“The vast majority of teachers in the New York City public schools provide high quality educational experiences for their students. While all teachers benefit from opportunities to grow as professionals – including experimenting with new instructional strategies and sharing ideas with peers – teachers vary in terms of their level of experience and expertise. Therefore, professional development and teacher evaluation activities need to be appropriate for each teacher. For example: New teachers need support and assistance from supervisors, mentors, and other colleagues in order to develop a strong foundation for further professional growth. ...”

www.uft.org/files/attachments/teaching-for-the-21st-century.pdf

In your observation report last revised on _____ (Date), for a lesson which took place on _____, (Date) you offered the following opinions of a negative or critical nature: **(Note: Only list items which are being used to support evaluations of Ineffective, Developing, or Unsatisfactory service.)**

1) _____

2) _____

3) _____

etc.

In response to your opinions, I offer the following opinions:

1) _____

2) _____

3) _____

etc.

(Note: Avoid mentioning names of specific students. If necessary, identify them as Student A, Student B, Student C, etc.)

Even though you were not fair to me, and out of my desire to be absolutely fair to you, I am requesting that you disclose the heretofore undisclosed “facts” and “statistics,” if any, which you relied on to support your opinions.

In Gross v. New York Times Co. (82 N.Y.2d 146), the New York Court of Appeals stated at pages 153 and 154:

“Thus, in determining whether a particular communication is actionable, we continue to recognize and utilize the important distinction between a statement of opinion that implies a basis in facts which are not disclosed to the reader or listener (*see, Hotchner v Castillo-Puche*, 551 F.2d 910, 913, *cert denied sub nom. Hotchner v Doubleday & Co.*, 434 U.S. 834; Restatement [Second] of Torts § 566), and a statement of opinion that is accompanied by a recitation of the facts on which it is based or one that does not imply the existence of undisclosed underlying facts (*see, Ollman v Evans, supra*, at 976; *Buckley v Littell*, 539 F.2d 882, 893, *cert denied* 429 U.S. 1062; Restatement [Second] of Torts § 566, comment c). The former are actionable not because they convey ‘false opinions’ but rather because a reasonable listener or reader would infer that ‘the speaker [or writer] knows certain facts, unknown to [the] audience, which support [the] opinion and are detrimental to the person [toward] whom [the communication is directed]’ (*Steinhilber v Alphonse, supra*, at 290). In contrast, the latter are not actionable because, as was noted by the dissenting opinion in *Milkovich v Lorain Journal Co.* (*supra*, at 26-27, 28, n 5 [Brennan, J.]), a proffered hypothesis that is offered after a full recitation of the facts on which it is based is readily understood by the audience as conjecture (*see, e.g., Potomac Value & Fitting v Crawford Fitting Co.*, 829 F.2d 1280, 1290). Indeed, this class of statements provides a clear illustration of situations in which the full context of the communication ‘signal[s] * * * readers or listeners that what is being read or heard is likely to be opinion, not fact’” (*Steinhilber v Alphonse, supra*, at 292, quoting *Ollman v Evans, supra*, at 983).”

www.leagle.com/decision/199322882NY2d146_1215

There are significant concerns about Charlotte Danielson and the Framework that have been expressed online.

Alan Singer has a Ph.D. in American History. He is a Social Studies educator and historian. In his June 10, 2013 article in the *Huffington Post*, “Who Is Charlotte Danielson and Why Does She Decide How Teachers Are Evaluated?”, he stated:

“Unfortunately, nobody, not the *Times*, the New York State Education Department, the New York City Department of Education, nor the teachers’ union have demonstrated any positive correlation between teacher assessments based on the Danielson rubrics, good teaching, and the implementation of new higher academic standards for students under Common Core.” ...

“Charlotte Danielson is supposed to be ‘an internationally-recognized expert in the area of teacher effectiveness, specializing in the design of teacher evaluation systems that, while ensuring teacher quality, also promote professional learning’ who ‘advises State Education Departments and National Ministries and Departments of Education, both in the United States and overseas.’ Her online biography claims that she has ‘taught at all levels, from kindergarten through college, and has worked as an administrator, a curriculum director, and a staff developer’ and to have degrees from Cornell, Oxford and Rutgers, but I can find no formal academic resume online. Her undergraduate degree seems to have been in history with a specialization in Chinese history and she studied philosophy, politics and economics at Oxford and educational administration and supervision at Rutgers. While working as an economist in Washington, D.C., Danielson obtained her teaching credentials and began work in her neighborhood elementary school, but it is not clear in what capacity or for how long. She developed her ideas for teacher evaluation while working at the Educational Testing Service (ETS) and since 1996 has published a series of books and articles with ASCD (the Association for Supervision and Curriculum Development). I have seen photographs and video broadcasts online, but I am still not convinced she really exists as more than a front for the Danielson Group that is selling its teacher evaluation product.”

www.huffingtonpost.com/alan-singer/who-is-charlotte-danielson_b_3415034.html

In a January 27, 2014 (updated March 29, 2014) article in the *Huffington Post*, “Teachers Evaluate Their Evaluations and Evaluators,” Alan Singer stated:

“In my June Huffington Post, I urged teachers ‘to use Huffington Post to document what is going on with teacher evaluations in their schools.’ Teachers have consistently raised that the evaluation system, as it is implemented across schools, is not differentiated to reflect the student population of a school or classroom, which creates a built-in injustice. A relatively inexperienced teacher at a top academic high school will have a much easier time meeting the standards than a veteran teacher teaching less academically-oriented students in a school where many students have not mastered basic life skills such as coming to school on time, being prepared, paying attention, and concentrating, let alone the more academic skills required under the new standards. It is also not clear that administrators in different districts view the criteria for evaluating teachers in the same way.”

www.huffingtonpost.com/alan-singer/teachers-evaluate-their-e_b_4669443.html

Diane Ravitch is a Research Professor of Education at New York University and a historian of education. She is the Founder and President of the Network for Public Education. From 1991 to 1993, she was Assistant Secretary of Education and Counselor to Secretary of Education Lamar Alexander in the administration of President George H.W. Bush. She was responsible for the Office of Educational Research and Improvement in the U.S. Department of Education. As Assistant Secretary, she led the federal effort to promote the creation of voluntary state and national academic standards. In a June 15, 2013 article, "Alan Singer: Who is Charlotte Danielson?," on her *Diane Ravitch's Blog -- a site to discuss better education for all*, she stated:

"Charlotte Danielson is the leading guru of teacher evaluation. Alan Singer asks who she is, what is her background, and why will so many teachers be evaluated by her rubric."

As of today's date, fifty-seven comments were posted online in response to Diane Ravitch's having linked to Alan Singer's post. Many of the comments offer specifics about "the Danielson experience," and I invite you to read them.

<https://dianeravitch.net/2013/06/15/alan-singer-who-is-charlotte-danielson>

Charlotte Danielson herself in an April 18, 2016 *Education Week* article entitled "Charlotte Danielson on Rethinking Teacher Evaluation" stated:

"Even when personnel policies define good teaching as the teaching practices that promote student learning and are validated by independent research, few jurisdictions require their evaluators to actually demonstrate skill in making accurate judgments. But since evaluators must assign a score, teaching is distilled to numbers, ratings, and rankings, conveying a reductive nature to educators' professional worth and undermining their overall confidence in the system."

"I'm deeply troubled by the transformation of teaching from a complex profession requiring nuanced judgment to the performance of certain behaviors that can be ticked off on a checklist. In fact, I (and many others in the academic and policy communities) believe it's time for a major rethinking of how we structure teacher evaluation to ensure that teachers, as professionals, can benefit from numerous opportunities to continually refine their craft."

www.edweek.org/ew/articles/2016/04/20/charlotte-danielson-on-rethinking-teacher-evaluation.html

Ted Morrissey has a Ph.D. in English Studies. He is an author, teacher, lecturer, scholar, and publisher. In his April 13, 2017 article entitled "The paradox of uniformity" on his *12 Winters Blog*, he stated:

"A telltale sign of business's influence is the drive for uniformity. One of the selling points of the Danielson Framework was that it can be applied to all teachers, pre-K through 12th grade, and even professionals outside the classroom, like librarians and nurses. Its one-size-fits-all is efficient (sounding) and therefore appeals to

legislators. Danielson is just one example, however. We see it everywhere. Teaching consultants who offer a magic bullet that will guarantee all students will learn, no matter the subject, grade level, or ability. Because, of course, teaching kindergarteners shapes is the same as teaching high school students calculus. Special education and physical education ... practically the same thing (they sound alike, after all). Art and band ... peas in a pod (I mean, playing music is a fine art, isn't it? Duh.)."

<https://tedmorrissey.wordpress.com/2017/04/13/the-paradox-of-uniformity>

In Ted Morrissey's April 27, 2016 article entitled "Danielson Framework criticized by Charlotte Danielson," he stated:

"My sense is that Ms. Danielson is reacting to widespread dissatisfaction among teachers and principals with the evaluation process that has been put in place which is based on her Danielson Framework. Her article appeared concurrently with a report from The Network for Public Education based on a survey of nearly 3,000 educators in 48 states which is highly critical of changes in teacher evaluation and cites said changes as a primary reason for teachers exiting the profession in droves and for young people choosing not to go into education in the first place. For example, the report states, 'Evaluations based on frameworks and rubrics, such as those created by Danielson and Marzano, have resulted in wasting far too much time. This is damaging the very work that evaluation is supposed to improve . . .'"

<https://tedmorrissey.wordpress.com/2016/04/27/danielson-framework-criticized-by-charlotte-danielson>

In Ted Morrissey's June 12, 2014 article entitled "Lowered teacher evaluations of Danielson Framework require special training," he stated:

"My belief is that the Danielson Framework and the way that it's being used are part of a calculated effort to cast teachers as expendable cogs in a broken wheel. Education reform is a billions-of-dollars-a-year industry — between textbook publishers, software and hardware developers, testing companies, and high-priced consultants (like Charlotte Danielson) — and how can cash-strapped states justify spending all those tax dollars on reform products if teachers are doing a damn fine job in the first place? It would make no sense."

<https://tedmorrissey.wordpress.com/2014/06/12/lowered-teacher-evaluations-of-danielson-framework-require-special-training>

In Ted Morrissey's March 23, 2014 article entitled "Fatal flaws of the Danielson Framework," he stated:

"Before beginning my dissection in earnest, I should say that, rubrics aside, the basic idea of teacher evaluation is ludicrous — that sporadic observations, very often by **superiors** who aren't themselves qualified to teach your subject, result in nothing especially accurate nor useful. As I've blogged before, other professionals —

physicians, attorneys, business professionals, and so on — would never allow themselves to be assessed as teachers are. For one thing, and this is a good lead-in to my analysis, there are as many styles of teaching as there are of learning. There is no ‘best way’ to teach, just as there is no ‘best way’ to learn. Teachers have individual styles, just as tennis players do, and effective ones know how to adjust their style depending on their students’ needs.”

“But let us not sell learners short: adjusting to a teacher’s method of delivery is a human attribute — the one that allowed us to do things like wander away from the Savanna, learn to catch and eat meat, and survive the advance of glaciers — and it is well worth fine tuning before graduating from high school. I didn’t attend any college classes nor hold any jobs where the professor or the employer adjusted to fit me, at least not in any significant ways. Being successful in life (no matter how one chooses to define success) depends almost always on one’s ability to adjust to changing circumstances.”

“In essence, forcing teachers to adopt a very particular method of teaching tends to inhibit their natural pedagogical talents, and it’s also biased toward students who do, in fact, like the Danielsonesque approach, which places much of the responsibility for learning in the students’ lap. Worse than that, however, a homogenous approach — of any sort — gives students a very skewed sense of the world in which they’re expected to excel beyond graduation.”

<https://tedmorrissey.wordpress.com/2014/03/23/fatal-flaws-of-the-danielson-framework>

According to page 5, column 1, of The Network for Public Education’s 2016 report *Teachers Talk Back: Educators on the Impact of Teacher Evaluation*:

“Although the Danielson Framework presents what appears to be a straightforward description of classroom teaching, teachers are finding it cumbersome and exhausting.”

<https://networkforpubliceducation.org/wp-content/uploads/2016/04/NPETeacherEvalReportCompress.pdf>

If you have any questions about Ms. Jackson-Chase’s letter, Mr. LeDonni’s letter, Mr. Shanker’s column, or the quoted judicial decisions, please contact the NYC Department of Education’s Executive Deputy Counsel, Employment & General Practice, Toni Lynn Gantz, Esq., at (212) 374-2494 or TGantz@schools.nyc.gov

You may also contact the NYC Department of Education’s General Counsel, Liz Vladeck, Esq., at (347) 920-7407 or EVladeck@schools.nyc.gov.

Sincerely,

(Full Name of Teacher)

Note: Please attach this response to all copies of the observation report including electronic copies, and send it to all recipients of such observation report including those individuals whom you “bcc”d or forwarded it to.

Cc: Hon. Mayor Eric Adams

Webform: www1.nyc.gov/office-of-the-mayor/mayor-contact.page

Fabien Levy

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(Note: You may also send the “cc” recipients a copy of the observation report to which you’re responding. If you do, then you should first delete the names of specific students, if any, which appear within the report.)