



**First Discussion Level
March 6, 2013**

State of New Jersey

DEPARTMENT OF EDUCATION

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TO: Members, State Board of Education

FROM: Christopher D. Cerf
Commissioner

SUBJECT: N.J.A.C. 6A:3-5 and 6A:10

REASON FOR ACTION: Proposed Amendments to N.J.A.C. 6A:3-5; Repeal of N.J.A.C. 6A:32-4.6; Proposed Amendments to N.J.A.C. 6A:10 and Proposed New Rules at N.J.A.C. 6A:10 pursuant to Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act, P.L. 2012, c. 26

PROJECTED SUNSET DATE: October 2, 2019

Summary

In schools, teachers and leaders have the greatest influence on student learning. High-quality performance feedback and effective evaluation systems enhance teacher and leader development and practice, which leads to improved student achievement. Governor Chris Christie's education reform agenda aims to increase achievement for all New Jersey students. Therefore, the ultimate goal of State reform efforts must be to provide every New Jersey student with a highly effective teacher.

As part of New Jersey's comprehensive educator evaluation reform initiative, the Department of Education proposes to amend the rules for filing inefficiency charges and to reform the educator evaluation system currently in place as authorized by the passing of the TEACHNJ Act of 2012, which became effective August 6, 2012.

The composition of regulations reflects more than three years of research, pilot programs, and educator outreach. In 2010, Governor Christie appointed the New Jersey Educator Effectiveness Task Force (EETF) to provide recommendations on the design of an educator evaluation system that would use measures of student achievement and teacher practice to recognize effective teachers and leaders, as well as educators who need to improve.

During the 2011-12 school year, 11 school districts participated in a teacher evaluation pilot program during which they implemented a new framework for evaluating teachers based on

the EETF's initial recommendations. Lessons from the first pilot were incorporated into the Department's first round of rulemaking, which was adopted on February 6, 2013 and established New Jersey's new rules on educator evaluation. The first round of regulations provided school district requirements for implementing early stages of the evaluation system.

This second round of proposed regulations provides additional and improved guidelines for longer-term implementation based on lessons from the second year of teacher evaluation pilots and principal evaluation pilots and specifically, the Evaluation Pilot Advisory Committee (EPAC). Determining the best structure for an effective evaluation system is an ongoing process and the Department continues to incorporate lessons learned from new research in the field, such as the culminating findings from the Measures of Effective Teaching (MET) three-year project and from early implementations of evaluation systems in other states. Additional information came from direct feedback from stakeholders, school leaders and teachers, and the Rutgers University Graduate School of Education (RUGSE) Year 1 Report.

Proposed amendments to Chapter 3, Controversies and Disputes, reflect the changes in TEACHNJ meant to streamline and expedite the process for filing inefficiency charges, including the elimination of the 90-day improvement period, and for referring tenure charges to an arbitrator.

The proposed repeal of N.J.A.C. 6A:32-4.6 will allow the Department to move its provisions regarding the procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of notice of non-reemployment to Chapter 10 where the procedures for evaluation are described.

The amendments, repeals, and new rules proposed in Chapter 10, Educator Effectiveness, are intended to guide the establishment of fair, accurate, and robust evaluation systems in New Jersey public schools. Through years of State and national research and with the authority of the TEACHNJ Act, the Department is proposing rules for evaluation systems that foster continual improvement of instruction, with the ultimate goal of improving student achievement. When school districts implement the systems appropriately, educators will be regularly evaluated based on measures of teaching and leadership practice and will receive meaningful feedback focused on students. Research shows that educator effectiveness can be defined and measured – and a huge difference exists in student learning outcomes between teachers in the top and bottom 25 percent of effectiveness. The system also will provide school leadership more tools than ever before to more appropriately differentiate professional competencies and, therefore, better identify effective educators and support those who struggle.

The following summarizes, by subchapter, the proposed amendments, repeals, and new rules:

CHAPTER 3. CONTROVERSIES AND DISPUTES

Subchapter 5. Charges Under Tenure Employees' Hearing Act

N.J.A.C. 6A:3-5.1 Filing of written charges and certificate of determination

This section prescribes the requirements for the filing and certification of charges against tenured school employees.

The Department proposes an amendment to N.J.A.C. 6A:3-5.1(b) and (c) to reflect the statutory changes for the filing of inefficiency charges.

The Department proposes to replace N.J.A.C. 6A:3-5.1(c)1 through 9 with a new section 1 through 6 to reflect statutory charges for the processing of inefficiency charges. Among such changes, the Department proposes to amend N.J.A.C. 6A:3-5.1(c)3 and to repeal N.J.A.C. 6A:3-5.1(c)5 to reflect the statutory elimination of the 90-day improvement period, which was formerly required for a charge of inefficiency. The Department also proposes an amendment to N.J.A.C. 6A:3-5.1(c)6 to reflect the statutory requirement for referring tenure charges to an arbitrator. Finally, the Department proposes to recodify and N.J.A.C. 6A:3-5.1(c)10 as new (c)7.

The Department proposes other amendments for stylistic and grammatical improvements.

N.J.A.C. 6A:3-5.2 Format of certificate of determination

This section prescribes the requirements for the certificate of determination.

The Department proposes to repeal N.J.A.C. 6A:3-5.2(a)4 to reflect the statutory elimination of the 90-day improvement period.

The Department proposes other amendments for stylistic and grammatical improvements.

N.J.A.C. 6A:3-5.3 Filing and service of answer to written charges

This section prescribes the requirements for filing an answer to tenure charges, including the circumstances under which a request for extension may be made.

The Department proposes an amendment at N.J.A.C. 6A:3-5.3(a) and (b) to reflect statutory changes to the time period for filing an answer to inefficiency charges, which is 10 days.

The Department proposes an amendment to N.J.A.C. 6A:3-5.1(a)1 to reflect the statutory requirement for referring tenure charges to an arbitrator.

The Department proposes other amendments for stylistic and grammatical improvements.

N.J.A.C. 6A:3-5.4 Filing and certification of charges against tenured employees [in] within the Departments of Children and Families, Corrections and Education, and [in] within the Juvenile Justice Commission

This section prescribes the requirements for filing, certification and answer of tenure charges against employees of State agencies accorded tenure under the school laws.

The Department proposes an amendment at N.J.A.C. 6A:3-5.4(a) to delete “other than for reasons of inefficiency” because statutory changes alter the inefficiency process by removing the 90-day improvement period.

The Department proposes to repeal N.J.A.C. 6A:3-5.4(d) and (e)3 to reflect statutory elimination of the 90-day improvement period.

The Department proposes to recodify N.J.A.C. 6A:3-5.4(e), (f), (g), and (h) as new (d), (e), (f), and (g), respectively.

The Department proposes other amendments for stylistic and grammatical improvements.

N.J.A.C. 6A:3-5.5 Determination of sufficiency and transmittal for hearing

This section sets forth the duties of the Commissioner upon the filing of tenure charges.

The Department proposes an amendment at N.J.A.C. 6A:3-5.5(a) and (b) to reflect statutory changes to the timeline for sufficiency review and for transmittal to an arbitrator. Additional language is proposed to reflect that the timeline for sufficiency review of inefficiency charges is different.

The Department proposes an amendment at N.J.A.C. 6A:3-5.5(a) to remove reference to N.J.A.C. 6A:3-1.11 to reflect statutory elimination of the option for the Commissioner to retain and hear a tenure case himself.

The Department proposes other amendments for stylistic and grammatical improvements.

N.J.A.C. 6A:3-5.6 Withdrawal, settlement or mooted of tenure charges

This section sets forth the procedures and standards for withdrawal and settlement of tenure charges, and references a rule providing that if charges of crime, misdemeanor or unbecoming conduct against a teaching staff member cannot be pursued because the charged party has unilaterally resigned or retired, the Commissioner may refer the matter to the State Board of Examiners for possible suspension or revocation of certificate.

The Department proposes an amendment at N.J.A.C. 6A:3-5.6(a) and (c) to make the rules applicable to the arbitrators.

The Department proposes other amendments for stylistic and grammatical improvements.

CHAPTER 32. SCHOOL DISTRICT OPERATIONS

Subchapter 4. Employment and Supervision of Teaching Staff

6A:32-4.6 Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of non-reemployment

This section outlines the procedures for nontenured teaching staff members to appear before the district board of education upon receipt of a notice of non-reemployment.

The Department proposes to repeal this section and include its provisions in the proposed N.J.A.C. 6A:10-8, Procedure for Nontenured Notice of Non-reemployment.

CHAPTER 10. EDUCATOR EFFECTIVENESS

Amendments to Chapter 10 are intended to facilitate the continued establishment of fair, accurate and robust evaluation systems in New Jersey public schools. Requirements for initial implementation of evaluation systems under TEACHNJ were adopted on February 6, 2013, by the State Board of Education. Changes proposed here reflect lessons learned from pilot districts over the last six months as well as input from stakeholders across the State as school districts have been preparing for greater implementation procedures in the 2013-2014 school year.

Subchapter 1. General Provisions

This subchapter includes the chapter's scope and purpose, as well as the definitions for the entire chapter.

N.J.A.C. 6A:10-1.1 Scope and Purpose

This section explains the chapter's intent to set forth the framework for school districts to implement effective evaluation systems for teaching staff members, as defined in N.J.S.A. 18:1-1, in New Jersey public schools. The rules do not apply to charter schools, unless included at N.J.A.C. 6A:11.

The Department proposes to amend the section heading to "Purpose and Scope" since it is the order of the rules.

The Department proposes at N.J.A.C. 6A:10-1.1(a) to add "and to increase student achievement" at the end of the first sentence because the goal of creating effective evaluation systems is to strengthen teachers' and school leaders' impact on student learning.

The Department proposes other amendments to the section for grammatical and stylistic improvements.

N.J.A.C. 6A:10-1.2 Definitions

The section provides definitions for key words and terms used in the chapter.

The Department proposes to delete the definition for “accuracy,” because the term should maintain its plain meaning when used throughout the chapter.

The Department proposes to delete “expert judgment,” “master coder” and elements within the definition of “validity” as they describe a specific evaluator training method that the Department is not requiring.

The Department proposes to delete “individual professional development plan” as it is defined in Chapter 9, Professional Licensure and Standards; “regularly certified, inexperienced first-year principal” as it is not longer used in this chapter; "school improvement panel" because the rules surrounding the terms are captured in the body of the rules; and "skills assessment" because the plain meaning should apply.

The Department proposes minor grammatical and/or stylistic changes to the definitions of “calibration,” “model evaluation rubric,” “scoring guide,” and “supervisor.”

The Department proposes to amend the definition of "annual performance report" to include language used in the TEACHNJ Act. The Department will continue to use the term, "annual performance report" to signal to school districts that the customary procedure of recording the annual evaluation notes of all teaching staff members in the staff member's personnel files will continue, although the format of the document may be different to capture the additional evaluation rubric components.

The Department proposes to amend "annual summative evaluation rating" because the existing definition did not accurately describe what the rating measures and because the performance categories are in plain language and do not need to be paraphrased.

The Department proposes to change "appropriately certified personnel" to “appropriately certified supervisor.”

The Department proposes the new term "co-observation" to describe a double observation that is used to improve accuracy and consistency among evaluators using an educator practice instrument.

The Department proposes to amend the term "district educator evaluation rubrics" to "evaluation rubrics," and to amend various terms within the definition to mirror the terms used in TEACHNJ Act. The proposed amendments more accurately describe the terms and measures captured in the evaluation rubric.

The Department proposes to reword the definition of “District Evaluation Advisory Committee” so it is defined as a group rather than a committee and uses “created” rather than “whose purpose is.” The changes are more accurate and helpful descriptors.

The Department proposes to amend the term "educator practice evaluation instrument" to "educator practice instrument" for clarity, and to amend the definition by deleting the requirements for the practice instruments because the requirements for the instruments are

captured in N.J.A.C. 6A:10-6. Also, the Department proposes to delete references to “concurrent validity” and “construct validity” as the terms reference specific training methods that are no longer required throughout the regulations.

The Department proposes to replace the definition of “evaluation” with language that better reflects the term’s use throughout the chapter and to align it with statutory terms.

The Department proposes the definitions of "long observation" and "short observation" to describe the two types of observations that will be required under N.J.A.C. 6A:10-4.4.

The Department proposes to delete the term “objective” and proposes to add the definition “student growth objective” as the proposed term more precisely describes a goal discussed in this chapter.

The Department proposes to amend "observation" and "observation conference" for clarity, to eliminate elements that are rules, not definitions, and to broaden the available means of communication for the observation conference to include remote communication. The Department proposes to change the term “observation conference” to “post-observation conference” to more accurately reflect the observation conference that is required under statute.

The Department proposes to amend “proof of mastery” to simplify the definition, for instance, replace “achieved a sufficient level of performance on an assessment of” with “demonstrated competency.” Also, “evaluator” is replaced by an “observer” because an observer may demonstrate proof of mastery on an evaluation instrument even if he or she will not be observing teaching staff members for the purpose of evaluations.

The Department proposes to delete "teaching practice evaluation instrument" as the definition falls within the "educator practice evaluation instrument."

The Department proposes to amend "teaching staff member" to align it with the definition in N.J.S.A. 18:1-1. The Department proposes to delete the use of types of certification to define what positions are included in the term "teaching staff member" because the statutory authority defines "teaching staff member" in terms of a position held rather than a certification earned.

The Department proposes other amendments for stylistic and grammatical improvements.

N.J.A.C. 6A:10-1.3 Applicability of rules on collective bargaining agreements

Pursuant to TEACHNJ, collective bargaining agreements in effect on July 1, 2013, will not be overridden by the rules in this chapter. However, collective bargaining agreements made after the chapter’s effective date must not conflict with the rules of the chapter. The Department proposes to change the effect date to July 1, 2013, to be consistent with TEACHNJ.

The Department proposes minor amendments for grammatical improvements.

N.J.A.C. 6A:10-1.4 Educator evaluation data, information, and written reports

The section provides that individual educator performance evaluation data is not subject to public inspection pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. and that nothing in the rule prohibits the Department from distributing at its discretion aggregate statistics regarding evaluation data.

The Department proposes to add a provision reiterating TEACHNJ and allowing the Department to collect evaluation data so that the Department may research aggregate evaluations and audit districts to ensure the implementation of effective evaluations.

Subchapter 2. [Supervision] Evaluation of Teaching Staff Members

The Department proposes to amend the heading of Subchapter 2 from "Supervision of Teaching Staff Members" to "Evaluation of Teaching Staff Members" because this subchapter will set forth the required elements of implementing an effective evaluation for educators.

The Department proposes to reorganize the subchapter into five sections to make the rules easier to read and to highlight the guidelines around: 1) evaluation rubrics for all teaching staff members; 2) duties of the school district in implementing and maintaining the evaluation system and including training requirements; 3) DEAC; 4) evaluation procedures, including annual summary conference, written performance report, observations for teaching staff members other than teachers, principals, vice-principals, and assistant principals; and 5) corrective action plans for all teaching staff members.

[N.J.A.C. 6A:10-2.1 Evaluation of chief school administrators]

The section describes the required procedures for the evaluation of chief school administrators.

The Department proposes to move this section to Subchapter 7.

N.J.A.C. 6A:10-2.1 Evaluation of teaching staff members

This section establishes requirements for the evaluation rubrics for all teaching staff members.

Proposed N.J.A.C. 6A:10-2.1(a) and (b) describe the statutory requirements of N.J.S.A. 18:6-123 and 124, which include a minimum of four defined annual ratings. The requirements were formerly captured in N.J.A.C. 6A:10-2.2(a)2 and N.J.A.C. 6A:10-2.2(a)2i.

Under proposed N.J.A.C. 6A:10-2.1(c), school districts will be required by June 1 each year to submit to the Commissioner the evaluation rubric for approval by August 1. The deadline of December 31, 2012, in N.J.A.C. 6A:10-2.2(a)2 was deleted as the date will have passed by the adoption of this proposed chapter.

N.J.A.C. 6A:10-2.2 Duties of district boards of education

The Department amends the section heading to stress the responsibilities of district boards of education.

N.J.A.C. 6A:10-2.2(a)

The Department proposes at N.J.A.C. 10-2.2(a) to add “annual” and delete the effective date because the effective date of the chapter will have passed prior to the adoption of the proposed rulemaking.

The Department proposes to repeal N.J.A.C. 10-2.2(a)1i and ii to move the rules to a separate section related to the requirements of the District Evaluation Advisory Committee (DEAC), but maintains in N.J.A.C. 10-2.2(a)1 the requirement for the school district to establish a DEAC.

The Department proposes to repeal N.J.A.C. 6A:10-2.2(a)2 and 2i through xiv as it is unnecessarily duplicative of the statutory authority as all evaluation rubrics must fall under the standards in N.J.S.A. 18A:6-123.

The Department proposes to move to new N.J.A.C. 6A:10-2.2(a)2 all of N.J.A.C. 6A:10-2.3(a) and parts of N.J.A.C. 6A:10-2.3(c) as they describe the responsibility of the district school board to adopt evaluation policies and should be included in this section. The Department proposes at new N.J.A.C. 6A:10-2.2(a)2 to clarify the role of the chief school administrator, who develops the evaluation policies and the district board of education, which adopts the policies. The Department proposes at new N.J.A.C. 6A:10-2.2(a)2 to eliminate the statutory and regulatory reference to the definition of "teaching staff members" because the Department is proposing amendments to the definition in this chapter to align with N.J.S.A. 18A:1-1, making additional statutory references unnecessary.

The Department proposes to move N.J.A.C. 6A:10-2.3(d) to new N.J.A.C. 6A:10-2.2(a)3 because this section describes the responsibility of the district school board. This section requires the district board of education to annually notify by October 1 its teaching staff members of its evaluation policies and procedures.

The Department proposes to recodify the first part of N.J.A.C. 6A:10-2.2(a)3, which requires a district board of education to annually adopt Commissioner-approved teacher and principal instruments, as new N.J.A.C. 6A:10-2.2(a)4. The Department also proposes to reword this section to use language that is more consistent with the rest of the chapter and to add an annual June 1 deadline for adoption of the practice instruments. The school district-adopted, Commissioner-approved teacher and principal practice instruments are part of the evaluation rubrics for teachers and principals.

The Department proposes to move most of N.J.A.C. 6A:10-2.2(a)3i through (a)3ii(11), which describe requirements for teacher and principal practice instruments, to its own subchapter

(N.J.A.C. 6A:10-6) to simplify the outline and contents of this subchapter. See summary of changes in N.J.A.C. 6A:10-6 for more details.

The Department proposes to repeal N.J.A.C. 6A:10-2.2(a)4i through (a)4ii(4), which describe the district board of education's duties for implementing the teacher and principal practice evaluation instruments, and integrate the key requirements into proposed N.J.A.C. 6A:10-2.2(b), which sets forth school district requirements for training when implementing the evaluation rubrics, including the educator practice instruments.

The Department proposes to recodify N.J.A.C. 6A:10-2.2(a)4i through (a)4ii(4) as one combined district requirement in new N.J.A.C. 6A:10-2.2(a)6, which requires school districts to collect data elements from the implementation of the teaching and principal practice instruments.

The Department proposes to amend N.J.A.C. 6A:10-2.2(a)5, which describe the School Improvement Panel requirements. Here, the school district board of education must ensure a principal annually creates the School Improvement Panel prior to the school year (August 31), rather than October 1. While N.J.A.C. 6A:10-2.2(a)5 is remaining in place, the membership requirements and School Improvement Panel functions are proposed for repeal at N.J.A.C. 6A:10-2.2(a)5i through iv and are proposed for relocation to Subchapter 3.

N.J.A.C. 6A:10-2.2(b)

The Department proposes to reorganize in one section the school district training requirements, as new N.J.A.C. 6A:10-2.2(b). The Department has received input from pilot school districts and teachers throughout New Jersey who said they believe an effective evaluation system requires sufficient training.

Therefore, in this section, the Department has increased the minimum the requirements for training.

Proposed N.J.A.C. 6A:10-2.2(b)1 requires school boards of education to describe all components of the evaluation rubric to all teaching staff members who are being evaluated for the first time because training is critical to creating effective evaluation systems. Training for only teachers being evaluated using a teacher practice instrument was formerly required in N.J.A.C. 6A:10-2.2(a)6 and used only for 2013, but the Department proposes an annual training on the complete evaluation rubric for all teaching staff members being evaluated for the first time.

The Department proposes N.J.A.C. 6A:10-2.3(b)2 and 3 to require training on the teacher and principal practice instruments for any supervisor who conducts for the first time observations for the purpose of evaluating teachers, principals, vice-principals and assistant principals. Annual updates and refresher training must also be provided for supervisors. This section incorporates requirements previously set forth in N.J.A.C. 6A:10-2.2(a)4i(1), (3), (4), and (6) and N.J.A.C. 6A:10-2.2(a)4ii(1) and (2). Supervisors using the principal practice instrument for the first time in schoolyear 2013 must be provided training by October 31, 2013, as the provision in N.J.A.C. 6A:10-2.2(a)4ii(2) will still be effective at that time.

N.J.A.C. 6A:10-2.2(b)4 is proposed because educators in the field informed the Department that co-observation is one of the most effective means of accurately applying the teacher practice instruments and district boards of education should ensure training is provided. Therefore, the Department proposes requiring each supervisor conducting observations as part of teacher evaluation to participate in at least two co-observations with at least one other evaluator, instead of requiring district boards of education to annually conduct a "calibration of evaluators" as set forth formerly in N.J.A.C. 6A:10-2.2(a)4i(3). The more specific rules require that evaluators conduct at least one co-observation before December 1 of each year. If an evaluator also meets the observation requirements set forth in N.J.A.C. 6A:10-4.4, the same observation may be used both for training purposes as described in this section and observation requirements for the evaluation of teacher practice under N.J.A.C. 6A:10-4.4.

The Department proposes to recodify N.J.A.C. 6A:10-2.2(a)4ii(3) as new N.J.A.C. 6A:10-2.2(b)5 and to amend it to annually require chief school administrators to certify all supervisors of teaching staff members using educator practice instruments have completed the required training as described in this subsection.

[N.J.A.C. 6A:10-2.3 Evaluation of tenured teaching staff members]

The Department proposes to relocate the provisions of N.J.A.C. 6A:10-2.3 to new N.J.A.C. 6A:10-2.4. Please see the description for that section for further details.

N.J.A.C. 6A:10-2.3 District Evaluation Advisory Committee

The Department proposes to recodify N.J.A.C. 6A:10-2.2(a)1i and 1ii as new N.J.A.C. 6A:10-2.3(a) and (b) for organizational clarity. The Department also proposes to add N.J.A.C. 6A:10-2.2(c) allowing school districts discretion to continue the committee beginning in school year 2014-2015. This addition is based on input from school district officials who said they are concerned about the capacity to maintain the various committees required by the Department.

N.J.A.C. 6A:10-2.4 Evaluation procedures for all teaching staff

The Department proposes to recodify and amend N.J.A.C. 6A:10-2.3 and 2.4 describing the evaluation procedures for all tenured and nontenured teaching staff, respectively, because evaluation procedures for tenured and nontenured teaching staff are more closely aligned under TEACHNJ.

The Department proposes to recodify N.J.A.C. 6A:10-2.3(a) and (d) as described in N.J.A.C. 6A:10-2.2 above.

The Department proposes to repeal N.J.A.C. 6A:10-2.3(b) as the purpose of evaluation is captured in N.J.A.C. 6A:10-1.1.

The Department proposes to recodify existing N.J.A.C. 6A:10-2.3(c) as proposed N.J.A.C. 6A:10-2.4(b), and to amend it to require the chief school administrator to consult with

the members of the District Advisory Evaluation Committee or the School Improvement Panel rather than “tenured teaching staff.” Teachers are required members of both groups and the policies described in this section no longer apply only to tenured teaching staff members.

The Department proposes to recodify and condense existing N.J.A.C. 6A:10-2.3(c)1 through 7 as proposed N.J.A.C. 6A:10-2.4(b)1 through 6 for clarity and proposes changes for statutory alignment. The Department proposes to add new N.J.A.C. 6A:10-2.4(b)1 to include the evaluation rubrics pursuant to TEACHNJ. The Department proposes to combine current N.J.A.C. 6A:10-2.3(c)4 with N.J.A.C. 6A:10-2.3(c)3 to form new N.J.A.C. 6A:10-2.4(b)4 because an observation is a type of data collection process developed as part of the school district’s evaluation policies and procedures. The Department proposes to repeal N.J.A.C. 6A:10-2.3(c)5 because the requirement to include a provision for the use of additional appropriately certified personnel where it is deemed advisable is vague and is inherently included in evaluation policies and procedures.

The Department proposes to recodify and condense existing N.J.A.C. 6A:10-2.3(e)1 through 4 as proposed N.J.A.C. 6A:10-2.4(c)1 through 4 for clarity and to make changes for statutory alignment. The rules describe the minimum required contents for the annual summary conference, including performance measures as determined by the teaching staff member’s evaluation rubric and all available component scores, when such scores are required.

The Department proposes new N.J.A.C. 6A:10-2.4(d) to clarify the summative evaluation rating shall be calculated once all component ratings are available if a component score is not available at the time of the summary conference. If the summative evaluation rating, totaled after the summary conference is ineffective or partially effective, the teaching staff member and his or her supervisor must meet again to discuss the summative evaluation rating.

The Department proposes to recodify and condense existing N.J.A.C. 6A:10-2.3(f)1 through 5 as new N.J.A.C. 6A:10-2.4(e)1 through 4 for clarity and to make changes for statutory alignment. The section describes the contents of the annual written performance.

The Department proposes to recodify N.J.A.C. 6A:10-2.3(e)4 as N.J.A.C. 6A:10-2.4(f) requiring the signing of the performance report for organizational clarity.

The Department proposes to recodify current N.J.A.C. 6A:10-2.3(h) as new N.J.A.C. 6A:10-2.4(g), which provides that all written reports are not subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

The Department proposes to recodify N.J.A.C. 6A:10-2.4(d) as N.J.A.C. 6A:10-2.4(h) which describes the requirements for observations for the purpose of evaluations for all nontenured teaching staff members other than teachers, principals, vice-principals, and assistant principal. Observations for this group are required pursuant to N.J.S.A. 18A:27-3.1 and Subchapters 4 and 5 describe observation requirements for teachers, principals, vice-principals, and assistant principals pursuant to TEACHNJ. For this observation requirement, the Department proposes to include observations of meetings, student instruction, and parent conferences and a

case study as types of observations that are acceptable for nontenured teaching staff members covered in this section.

N.J.A.C. 6A:10-2.5 Corrective action plans for all teaching staff

The Department proposes new N.J.A.C. 6A:10-2.5, which sets forth requirements for procedures for implementing corrective action plans, which are newly required by the TEACHNJ Act. The provisions would apply to all teaching staff members, except where sections specify the application to teachers, principals, vice-principals or assistant principals.

Proposed N.J.A.C. 6A:10-2.5(a) provides that a corrective action plan will be developed for each teaching staff member rated ineffective or partially effective on the annual summative evaluation. Proposed N.J.A.C. 6A:10-2.5(b) provides that if a teaching staff member receives a summative rating of ineffective or partially effective at or near the time of the annual summary conference, the teaching staff member's corrective action plan shall be in place by September 15 of the next school year. If a summative rating is received after the start of the school year following the year of evaluation, then a corrective action plan must be developed within 15 teaching-staff-member working days following the school district's receipt of the summative rating of ineffective or partially effective.

The Department provides a deadline in terms of days in addition to the September 15 deadline because some teachers and administrators may not have all of their component measures calculated by the end of the academic year. For instance, the student growth percentile, as describe below, may not be calculated before the annual summary evaluation because it is based on student growth results of the NJ ASK, which are often published a few months after the close of the school year. School districts should use the corrective action plan process as a key mechanism of additional support for a struggling teaching staff member and also as official notice to teaching staff members that they are in danger of receiving two consecutive years of ineffective or partially effective ratings, which may trigger tenure charges to be brought pursuant to TEACHNJ and N.J.A.C. 6A:3.

Proposed N.J.A.C. 6A:10-2.5(c) describes what will happen if all component measures are not available at the time of the teacher's annual summary evaluation. In this situation, the corrective action plan will be developed 15 working days after the summative rating is complete, or at the end of the school year if a teacher receives a rating of ineffective or partially effective on his or her teacher practice instrument. As one purpose of the corrective action plan is to provide additional support for struggling teachers, it should be helpful for teachers who are earning ratings of ineffective and partially effective, even if just on the teacher practice instrument.

The Department proposes N.J.A.C. 6A:10-2.5(d) and (i) to require that the corrective action plan replaces the teaching staff member's individual professional development plan, pursuant to TEACHNJ, but under new N.J.A.C. 6A:10-2.5(i), this plan shall not be exclusionary of other plans for improvements that the teaching staff member's supervisor identifies as a necessary responsibility. Teachers should not forgo professional development meant for the

entire community of professionals under the premise that such professional development is outside the contexts of the corrective action plan.

Proposed N.J.A.C. 6A:10-2.5(e) describes the minimum required contents of the corrective action plan and new N.J.A.C. 6A:10-2.5(f) requires progress toward the goals set forth in the corrective action plan to be discussed in each post-observation conference, when observations are required. Observations are required for all nontenured teaching staff members and all tenured and nontenured teachers, principals, assistant principals and vice-principals as described in Subchapter 4 and 5 below. As a tool for professional development, the goals in the corrective action plan should be addressed in each conference as a means of specific feedback to the teaching staff member. Proposed N.J.A.C. 6A:10-2.5(g) requires that such progress be documented in the teaching staff member's personnel file. New N.J.A.C. 6A:10-2.5(g) provides that the progress may be used as evidence in the next annual summative evaluation, but progress toward the goals outlined in the corrective action plan does not guarantee an effective rating as the progress may not be sufficient for an effective rating and because there are various elements included in a summative rating.

Under TEACHNJ, School Improvement Panels conduct the mid-year evaluation of a teacher on a corrective action plan. Proposed N.J.A.C. 6A:10-2.5(j), therefore, describes the minimum requirements for a mid-year evaluation — one additional observation and post-observation conference — and explains if the corrective action plan was developed before the start of the academic year, the additional observation must occur prior to February 15 of that school year. Proposed N.J.A.C. 6A:10-2.5(k) requires tenured teachers with a corrective action plan to be observed by multiple observers; a requirement is already in place for nontenured teachers. Again, as the corrective action plan is meant to provide additional support, the Department has received feedback from teachers and school leaders that such support should occur through additional observations by additional supervisors. The additional observation should occur prior to February 15 so that the additional support is provided early enough for teachers and supervisors to address the teachers' areas of needed improvement.

Finally, TEACHNJ also requires the mid-year evaluation of any principal, assistant principal or vice-principal on a corrective action plan to be conducted by a chief school administrator or the principal as appropriate. Proposed N.J.A.C. 6A:10-2.5(l), therefore, describes the same minimum requirements for a mid-year evaluation as N.J.A.C. 6A:10-2.5(j) summarized above. The additional observation should occur prior to February 15 so the additional support is provided early enough for administrators and supervisors to address the administrator's areas of needed improvement.

Subchapter 3. School Improvement Panel

Under the TEACHNJ Act, each school must establish a School Improvement Panel to ensure the effectiveness of its teachers. This subchapter is meant to provide guidance on how a principal will select the members of the panel and the responsibilities of its members. The Department proposes to move the School Improvement Panel section from N.J.A.C. 6A:10-2.2(a)5 to its own subchapter with the appropriate title for organizational clarity. Also, the Department proposes to add guidance to the section rather than merely repeat the requirements in

N.J.S.A. 18A:6-120. The Department proposes to require schools to establish the panel before each academic school year rather than the deadline currently in N.J.A.C. 6A:10-2.2(a)5.

N.J.A.C. 6A:10-3.1 School Improvement Panel membership

This section includes the rules concerning the membership of the School Improvement Panel and the selection of its teacher members. The Department has received many inquiries from school districts and stakeholders about the implementation of the School Improvement Panel and proposes the regulations for clarification.

The rules in this section are based on areas of N.J.S.A. 18A:6-120 and N.J.A.C. 6A:10-2.2(a)5 that require clarification as a result of inquiries received from school districts regarding the implementation of School Improvement Panel as required by TEACHNJ.

Proposed N.J.A.C. 6A:10-3.1(a) provides that the School Improvement Panel will be made up of, at a minimum, a principal, a vice-principal and a teacher. The principal may appoint additional members as long as they meet the section's requirement and teacher(s) on the panel make up at least 1/3 of its total membership. This rule is meant to accommodate larger school districts where additional members are needed to fulfill the responsibilities of the School Improvement Panel. However, the Department proposes the 1/3 provision to protect the input and influence of the panel's teacher membership must not be diluted by adding only administrators.

The Department proposes N.J.A.C. 6A:10-3.1(b) and (c) to clarify the principal as the school leader has the final decision making authority in the selection of teacher(s) on the panel. The teacher(s) selected for the panel must demonstrate a record of success, which beginning in academic year 2015-2016 will mean the teacher is effective or highly effective in the most recent available annual summative evaluation. As TEACHNJ provides the principal will consult with the majority representative, the majority representative may submit teacher nominees by August 1 of each year. Also, the teacher member must serve on the panel for one year and may not be appointed for more than three consecutive annual terms.

The Department proposes N.J.A.C. 6A:10-3(d) to require School Improvement Panels to be formed by August 31 of each year rather than October 1 because the Department has received feedback from pilot school districts that extensive training for teacher observations and evaluations is necessary for excellent implementation of evaluation systems. Thus, the new deadline allows for more time for panels to convene and train prior to the start of the school year.

N.J.A.C. 6A:10-3.2 School Improvement Panel responsibilities

Proposed N.J.A.C. 6A:10-3.2(a) describes the responsibilities of the School Improvement Panel, which are to oversee the mentoring of teachers; conduct evaluations of teachers, including summative evaluations and observations for the purpose of evaluation; ensure teachers rated ineffective or partially effective on a summative rating or on the teacher practice component receive a corrective action plan; conduct mid-year evaluation for such teachers; and identify professional development opportunities for all instructional staff.

Proposed N.J.A.C. 6A:10-3.2(b) and (c) provides that to conduct observations for the purpose of evaluation, the teacher member must have the following: the agreement of the majority member, pursuant to N.J.S.A. 18A:6-120.b; a supervisory certificate, pursuant to N.J.S.A. 18A:6-119; and the approval of the principal supervisor of the teacher being observed. Teachers who participate in the evaluation process cannot be mentors.

Subchapter 4. Components of Teacher Evaluation

To implement evaluations that provide specific feedback to educators and promote student achievement, the TEACHNJ Act requires multiple measures of practice and student learning be used within teacher evaluations. This subchapter describes the various measurements.

N.J.A.C. 6A:10-4.1 Components of teacher evaluation rubric

This section describes the components, or areas of measurement, that combined will make up the teacher evaluation rubric. Thus, the combined scores from all measurements will be equal to each teacher's summative evaluation rating.

Proposed N.J.A.C. 6A:10-4.1(a) provides the component measures described in this section will apply to teaching staff members working under and holding a valid and effective instructional certificate.

Proposed N.J.A.C. 6A:10-4.1(b) requires evaluation rubrics for all teachers to meet the standards in N.J.S.A. 18A:6-123 and include: measures of student achievement and measures of teacher practice.

In N.J.A.C. 6A:10-4.1(c), the Department proposes to post on its website the required percentage weights of each component rating by April 15 prior to the school year the evaluation rubric applies. The percentage weights must make up 100 percent of the evaluation rubric and each percentage weights must fall within ranges set forth in this section. The Department will be continuously gathering feedback and data from the field, and the annual posting requirement allows the Department to be responsive to the needs of the school districts implementing evaluation systems.

Proposed N.J.A.C. 6A:10-4.1(d) repeats N.J.S.A. 18A:6-123.b(4) to remind the field that standardized assessments shall not be the predominant factor in the overall evaluation of a teacher.

N.J.A.C. 6A:10-4.2 Student achievement components

The median student growth percentile and student growth objectives are two measures of student achievement that are described in proposed N.J.A.C. 6A:10-4.2. First, all teachers will receive a student growth objective score. The objectives are specific, measureable goals developed using available data at the beginning of the year. The score will be based on how well

the teacher's students meet the objectives. Second, some teachers will receive a median growth percentile score. An individual student growth percentile will be calculated by comparing the change in a student's score on standardized tests in mathematics and English language arts over the course of a year relative to students in an academic peer group. The median of all students attributed to a teacher will be his or her median student growth objective score.

Proposed N.J.A.C. 6A:10-4.2(b) describes which teachers will receive a median student growth percentile, and proposed N.J.A.C. 6A:10-4.2(c) explains how the score will be calculated by the Department. The Department will provide a list of all courses that fall within a standardized-tested grade or subject for the purpose of student growth percentile. For instance, a third grade math class would not be used for student growth percentile because second graders do not take the standardized assessment under the current NJASK schedule and therefore growth from one year to the next cannot be measured. Additionally, teachers must teach a course for at least 60 percent of the time between the start of the year and the time the standardized test is administered and they must have at least 20 students attributed to his or her name through the school district's course roster data system. If a teacher does not have at least 20 individual student growth percentile scores in a given academic year, up to three years of student data must be used to reach the minimum requirement of 20 students.

Proposed N.J.A.C. 6A:10-4.2(c) explains that the Department will calculate the student growth percentile by finding the median of all students who were enrolled in a course or a group within a course.

Pursuant to proposed N.J.A.C. 6A:10-4.2(d), the Department will periodically collect data including all component scores for teachers. For teachers who will receive a median student growth percentile, school districts will annually submit all component scores other than the median student growth percentile and the Department will calculate and send back to the school district both the median student growth percentile and the summative evaluation rating.

Proposed N.J.A.C. 6A:10-4.2(e) describes the process for creating and scoring student growth objectives for all teachers. Within the range one to four student growth objectives, the Department will post on its website by April 15 both the minimum and maximum number of student growth objects that may be scored for each teacher. Again, this annual posting will allow the Department to learn best practices and realistic capacity for the process in schools throughout the State. Before November 15, 2013, and before October 15 of all subsequent years, student growth objectives will be developed with the teacher's principal or principal's designee. In the case of a disagreement, the principal will have final say over the student growth objectives. Adjustments to the student growth objectives may be made with chief school administrator approval by February 15. The student growth objective score, if available, will be discussed at the teacher's annual summary conference.

N.J.A.C. 6A:10-4.3 Teacher practice components

This section sets forth the Department's proposed requirements for teacher practice components.

Proposed N.J.A.C. 6A:10-4.3 requires teacher practice measures to be a score based on evaluations using the school district's Commissioner-approved teacher practice instrument, as described in Subchapter 6.

N.J.A.C. 6A:10-4.4 Teacher observations

This section sets forth the Department's proposed requirements for teacher observations for the purpose of evaluations.

Proposed N.J.A.C. 6A:10-4.4(a) requires observers for the purpose of evaluation to be trained by their school district prior to conducting evaluation, to be provided refresher training and updated instruction on the teacher practice instrument, and to conduct two co-observations a year.

The Department proposes at N.J.A.C. 6A:10-4.4(b) the requirements for post-observation conferences, including the supervisor must conduct the post-observation and the timeline of the conference, as formerly required in N.J.A.C. 6A:10-2.4(d).

The Department proposes N.J.A.C. 6A:10-4.4(b) to describe the procedures for a post-observation conference for all teachers rather than for just non-tenured teaching staff members, as formerly described in N.J.A.C. 6A:10-2.4. Thus, the Department proposes to recodify and reword for the purposes of this section N.J.A.C. 6A:10-2.4(d)2 as N.J.A.C. 6A:10-4.4(b)1, which requires observation conferences to occur within 15 working days of the observation and N.J.A.C. 6A:10-2.4(b) as N.J.A.C. 6A:10-4.4(b)2, which describes the purpose of such a conference. Proposed N.J.A.C. 6A:10-4.4(b)3 will allow a supervisor to conduct a post-observation conference via written communication, only for tenured teachers rated effective or highly effective on their most recent summative evaluation rating and only if the supervisor had the approval of the teacher being observed for purposes of evaluation. The Department recognizes the quality of the feedback provided in a post-observation conference depends most on the validity and accuracy of the content, rather than the form, the Department is allowing flexibility in the procedures surrounding post-observation conferences. Finally, the Department proposes N.J.A.C. 6A:10-4.4(b)4 and 5, which require pre-conferences to occur within seven days prior to the observation.

Proposed N.J.A.C. 6A:10-4.4(c) requires all teachers receive three observations pursuant to TEACHNJ and N.J.S.A. 18A:27-3.1, and requires all nontenured teachers to be observed throughout the school year by more than one observer for the purpose of evaluation.

Proposed N.J.A.C. 6A:10-4.4(d) sets forth the required number of observations and the required prior notice for three groups of teachers who are not on a corrective action plan: 1) nontenured teachers in their first two years of teaching; 2) nontenured teachers in their third or fourth years of teaching; and 3) tenured teachers.

Subchapter 5. Components of Principal Evaluation

To implement evaluations that provide specific feedback to educators and promote student achievement, the TEACHNJ Act requires multiple measures of practice and student learning to be used within principal, vice-principal, and assistant principal evaluations. This subchapter describes the various measurements.

N.J.A.C. 6A:10-5.1 Components of principal evaluation rubric

This proposed section describes the evaluation rubrics that apply to all principals, vice-principals, and assistant principals holding an administrative certificate. The rubric will include measures of student achievement and principal practice. The required percentage weights within the range of percentage weights provided in this section will be annually posted by April 15. Again, the Department must periodically collect component measures of administrators included here and standardized assessments will not be the predominant factor in determining the summative evaluation rating.

N.J.A.C. 6A:10-5.2 Student achievement components of principal evaluation rubrics

In this section, the Department proposes three measures of student achievement that will be used and describes how each measure will be determined. They are: 1) schoolwide student growth percentile (proposed N.J.A.C. 6A:10-5.2(b) and (c)); 2) average student growth objective scores of every teacher assigned to the principal (proposed N.J.A.C. 6A:10-5.2(e)); and 3) administrator goals (proposed N.J.A.C. 6A:10-5.2(f)).

N.J.A.C. 6A:10-5.3 Principal practice component of evaluation rubrics

The Department proposes to measure principal practice through the Commissioner-approved principal practice instrument described in Subchapter 6 and a leadership measure created by the Commissioner. This section describes how the measures will be determined based on the two instruments.

N.J.A.C. 6A:10-5.4 Principal, assistant principal, and vice-principal observations

The Department proposes N.J.A.C. 6A:10-5.4(a), which requires chief school administrators to conduct principal observations, and N.J.A.C. 6A:10-5.4(b), which requires a principal or a chief school administrator to observe assistant principals, vice-principals. The provisions align to both N.J.S.A. 18A:6-119 and new requirements in TEACHNJ.

The Department proposes N.J.A.C. 6A:10-5.4(c) to explain that an observation for the purpose of data collection for evaluations based on principal practice instruments includes, but is not limited to: a building walk-through, staff meeting observation, parent conference observation, or a case study analysis.

The Department proposes N.J.A.C. 6A:10-5.4(d) to describe the procedures for a post-observation conference for all principals, vice-principals and assistant principals, rather than for just non-tenured teaching staff members, as formerly described in N.J.A.C. 6A:10-2.4. Thus, the Department proposes to recodify and reword for the purposes of this section N.J.A.C. 6A:10-

2.4(d)2 as N.J.A.C. 6A:10-5.4(d)1, which requires observation conferences to occur within 15 working days of the observation, and N.J.A.C. 6A:10-2.4(b) as N.J.A.C. 6A:10-5.4(d)2, which describes the purpose of such a conference. Proposed N.J.A.C. 6A:10-5.4(d)3 provides a supervisor may conduct post-observation conference electronically, if the observed administrator who is not on a corrective action plan grants his or her consent. Proposed N.J.A.C. 6A:10-5.4(d)4 provides a final post-observation conference may be combined with a summary conference. The Department recognizes that the quality of the feedback provided in a post-observation conference depends most on the validity and accuracy of the content, rather than the form, the Department is allowing flexibility in the procedures surrounding post-observation conferences.

Proposed N.J.A.C. 6A:10-5.4(e) requires each tenured principal, assistant principal, and vice-principal to be observed by his or her supervisor at least two times during the school year and nontenured administrators described in the rules must be observed at least three times during the school year.

Subchapter 6. Commissioner Approval of Educator Practice Instruments

This subchapter establishes the criteria necessary for educator practice instruments to be approved by the Commissioner and adds a process for when the instrument no longer meets the requirements described in this subchapter.

The Department proposes Subchapter 6 to outline the required criteria for teacher and principal practice instruments, which previously described in N.J.A.C. 6A:10-1.2 and 6A:10-2.2(a)3i and ii. Except for the substantive changes summarized below, proposed amendments to this section of Code are predominantly stylistic and grammatical changes and minor changes for clarity and language consistency. For example, the Department proposes to replace the phrases "teacher and principal practice evaluation instrument" with "teacher and principal practice instruments" for efficiency and so the practice instruments are not confused with the evaluation rubrics, which include measures in addition to practice measures. The Department proposes organizational changes to N.J.A.C. 6A:10-6.3 so the descriptions of the criteria for principal practice instruments more closely align with the descriptions of the criteria for teacher practice instruments.

Few changes are proposed to the criteria for the Commissioner's approval of teacher and principal practice instruments, formerly in N.J.A.C. 6A:10-1.2 and 6A:10-2.2(a)3i through ii, and proposed as N.J.A.C. 6A:10-6.1 through 6.3. The Department will continue to require teacher and principal instruments to: a) be based on professional standards; b) include scoring guides that clearly differentiate among a minimum of four levels of performance; c) be applicable to all grades and subjects, use clear and precise language; d) rely on specific observable and/or measurable behaviors of students and teachers; and f) describe necessary training for the instrument's accurate implementation.

The Department proposes to repeal N.J.A.C. 6A:10-2.2(a)3ii(5) because the observation requirements fall under the responsibility of the chief school administrator. The Department also proposes to repeal N.J.A.C. 6A:10-2.2(a)3ii(6) and (7) because chief school administrators

should have the authority to decide whether to use the goals related to professional practice and the teacher feedback as measures of principal practice.

N.J.A.C. 6A:10-6.1 Educator practice instrument

Proposed N.J.A.C. 6A:10-6.1(a) clarifies that the Department shall maintain a list of approved instruments on its website.

The Department proposes to recodify part of the definition of “educator practice evaluation instrument” in N.J.A.C. 6A:10-1.2 as N.J.A.C. 6A:10-6.1(b) because the requirements that the instruments are evidence-based and research-based should be criteria rather than parts of the definition.

The Department proposes new N.J.A.C. 6A:10-6.1(c), which provides for the Department's periodic review of the approved list and the procedure for when an instrument no longer meets the subchapter’s criteria.

N.J.A.C. 6A:10-6.2 Teacher practice instrument

The Department proposed to recodify most of N.J.A.C. 6A:10-2.2(a)3i as N.J.A.C. 6A:10-6.2(a) with slight changes as described above.

The Department proposes new N.J.A.C. 6A:10-6.2(b) to require that teacher practice instruments include, as of the effective date of this chapter, assessments of competency in using the instrument to evaluate teachers.

N.J.A.C. 6A:10-6.3 Principal practice instrument

The Department proposed to recodify most of N.J.A.C. 6A:10-2.2(a)3ii as N.J.A.C. 6A:10-6.3(a) with slight changes as described above.

The Department proposes N.J.A.C. 6A:10-6.3(b) to require that principal practice instruments include, as of the effective date of this chapter, assessments of competency in using the instrument to evaluate principals, vice-principals, and/or assistant principals.

Subchapter 7. Evaluation of Chief School Administrators

N.J.A.C. 6A:10-7.1 Evaluation of chief school administrators

The Department proposes to move all of N.J.A.C. 6A:10-2.1 to this subchapter to improve the chapter’s organization. This section describes the policies and implementation procedures for evaluating chief school administrators.

Subchapter 8. Procedure for Nontenured Notice of Non-reemployment

N.J.A.C. 6A:10-7.1 Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of non-reemployment

The Department proposes to move N.J.A.C. 6A:32-4.6 to this section because it describes the procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of nonreemployment, which relates to the evaluation procedures for nontenured teaching staff members.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is exempt from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

Teacher quality is the most influential factor for student learning. Research shows the evaluation system outlined above, when implemented well, will lead to improved student learning through improved teacher quality.

The proposed amendments, repeals, and new rules in Chapter 10 set forth the implementation activities needed to assure district boards of education successfully implement a new and more robust evaluation system for teachers. In accordance with the TEACHNJ Act, amendments to Chapter 3 streamline lengthy court procedures currently associated with tenure charges.

Under the new evaluation system, school leaders will evaluate teachers through the use multiple measures of practice and student achievement and will be able to differentiate teacher effectiveness across four domains. Such differentiation enables school leaders to recognize excellent professional performance and identify professionals who need additional support. The evaluation system coupled with the streamlined tenure charge proceedings empowers school leaders to more efficiently exit ineffective teachers. Through this more efficient system, school districts will have more resources available to support both struggling and effective teaching staff members.

Economic Impact

The economic impact on the Department will involve the cost of payments to arbitrators, as required by TEACHNJ as well as the cost of the Department's support to the public schools in New Jersey through communication and guidance about best practices for the implementation of evaluation systems.

The economic impact on school districts will involve some upfront costs of implementation and then will require a reallocation of funds to maintain the evaluation system. The initial costs of implementation are offset by funds already provided for professional development, flexibility throughout the proposed regulations (for instance, the allowance of a school to create its own educator practice instrument rather than invest in an outside vendor) the application of the proposed rules to already existing structures such as the annual summary

conference ,and observations for non-tenured teachers, which existed prior to the enactment of TEACHNJ. Finally, the reformed procedures for tenure charges under TEACHNJ will significantly reduce costs for school districts bringing tenure charges and, therefore, will further offset any cost of implementation. Before TEACHNJ, tenure hearings extended past 120 days, requiring school districts to pay salary to the employee who was being charged. The new arbitration process requires a decision prior to the 120-day deadline, thus, substantially reducing the school district’s expense for such charges.

Jobs Impact

It is not anticipated that jobs will be either generated or lost as a result of the proposed amendments, repeals, and new rules.

Agricultural Impact

The proposed amendments, repeals, and new rules will have no impact on the agricultural industry.

Federal Standards Statement

The proposed amendments, repeals, and new rules will further align New Jersey’s regulations with Federal requirements under the No Child Left Behind Act (PL 107-110) and ensure New Jersey’s public school education prepares students for postsecondary education and the 21st century workplace. The Department assures the proposed amendments, repeals, and new rules are in compliance with both Federal regulations and State statutes.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments, repeals, and new rules do not impose recording, recordkeeping, or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments, repeals, and new rules impact solely on public school districts in New Jersey.

Housing Affordability Impact Analysis

There is no anticipated impact on the cost of housing as a result of the proposed amendments, repeals, and new rules. The proposed amendments, repeals, and new rules impact solely on public school districts in New Jersey.

Smart Growth Development Impact Analysis

The proposed amendments, repeals, and new rules will have no impact on the cost of housing, the number of housing units, or new construction within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments, repeals, and new rules impact solely on public school districts in New Jersey.

Full text of the proposed amendments follows (additions indicated in underline thus; deletions indicated in brackets [thus]):

CHAPTER 3. CONTROVERSIES AND DISPUTES

SUBCHAPTER 5. CHARGES UNDER TENURE EMPLOYEES' HEARING ACT

6A:3-5.1 Filing of written charges and certificate of determination

- (a) N.J.A.C. 6A:3-1.3, Filing and service of petition of appeal, shall not apply in a case of tenure charges [preferred before] filed with the Commissioner against an employee of a district board of education or of a school district under full State intervention [pursuant to the Tenure Employees' Hearing Act]. In place of the usual petition, the district board of education or the State district superintendent shall file [the] written charges and the required certificate of determination with the Commissioner, together with the name of the attorney who it is anticipated for administrative purposes will be representing the district board of education or State district superintendent and proof of service upon the employee and the employee's representative, if known. Such service shall be at the same time and in the same manner as charges are filed with the Commissioner.
1. In accordance with N.J.S.A. 34:13A-24, fines and suspensions imposed as minor discipline shall not constitute a reduction in compensation pursuant to the provisions of N.J.S.A. 18A:6-10 where the negotiated agreement between a district board of education and the majority representative of the employees in the appropriate collective bargaining unit provides for such discipline. In these cases,

tenure charges shall not be filed [in order] to impose minor discipline on a person serving under tenure.

(b) In all instances of the filing and certification of tenure charges, [other than] except charges filed against a teacher, principal, assistant principal or vice principal for reasons of inefficiency[,], pursuant to N.J.S.A. 18A:6-17.3, the following procedures and timelines shall be observed:

1. Charges shall be stated with specificity as to the action or behavior underlying the charges and shall be filed in writing with the secretary of the district board of education or with the State district superintendent, accompanied by a supporting statement of evidence, both of which shall be executed under oath by the [person or persons] person(s) instituting such charges.
2. [Charges along] Along with the required sworn statement of evidence, charges shall be transmitted to the affected tenured employee and the employee's representative, if known, within three working days of the date they were filed with the secretary of the district board of education or the State district superintendent. Proof of mailing or hand delivery shall constitute proof of transmittal.
3. The affected tenured employee shall have an opportunity to submit to the district board of education or the State district superintendent a written statement of position and a written statement of evidence both of which shall be executed under oath with respect thereto within 15 days of receipt of the tenure charges.
4. Upon receipt of the tenured employee's written statements of position and evidence under oath, or upon expiration of the allotted 15-day time period, the

district board of education shall determine by a majority vote of its full membership, or the State district superintendent shall determine, within 45 days whether there is probable cause to credit the evidence in support of the charges and whether such charges, if credited, are sufficient to warrant a dismissal or reduction of salary.

5. The district board of education or the State district superintendent shall provide, within three working days, [provide] written notification of the determination to the employee against whom the charge has been made, in person or by certified mail to the last known address of the employee and the employee's representative, if known.
6. [In the event] If the district board of education or the State district superintendent finds [that such] probable cause exists and [that] the charges, if credited, are sufficient to warrant a dismissal or reduction of salary, then the district board of education or the State district superintendent shall file, within 15 days, [file such] written charges with the Commissioner. The charges shall be stated with specificity as to the action or behavior underlying the charges and shall be accompanied by the required certificate of determination, together with the name of the attorney who it is anticipated for administrative purposes will be representing the district board of education or State district superintendent and proof of service upon the employee and the employee's representative, if known. Such service shall be at the same time and in the same manner as the filing of charges with the Commissioner.

7. Pursuant to N.J.S.A. 18A:6-11, all deliberations and actions of the district board of education with respect to such charges shall take place at a closed meeting.
- (c) [In the event that] If the tenure charges are charges of inefficiency pursuant to N.J.S.A. 18A:6-17.3, except in the case of building principals and vice principals in school districts under full State intervention, where procedures are governed by the provisions of N.J.S.A. 18A:7A-45 and such rules as may be promulgated to implement it, the following procedures and timelines shall be observed:
1. Initial charges of inefficiency shall be stated with specificity as to the nature of the inefficiency alleged and filed by the appropriate administrator with the secretary of the district board of education or the State district superintendent along with a statement of evidence in support thereof executed under oath. In the event the charges are against the chief school administrator of a district board of education, they shall be filed, along with the required statement of evidence, by a designated board member(s) upon the direction of the district board as ascertained by majority vote of the full board.
 2. The district board of education, through its board secretary, or the State district superintendent, upon receipt of the charges of inefficiency and the written statement of evidence in support thereof shall cause a copy of same to be transmitted to the affected employee and the employee's representative, if known, within three working days. Proof of mailing or hand delivery shall constitute proof of transmittal.
 3. The district board of education, through its board secretary, or the State district superintendent shall direct that the employee be informed in writing that, unless

such inefficiencies are corrected within the minimal 90-day period, or any longer period provided by the district board of education or State district superintendent, the district board of education or the State district superintendent intends to certify those charges of inefficiency to the Commissioner pursuant to N.J.S.A. 18A:6-11.

4. Concurrent with notifying the employee of such charges of inefficiency, the district board of education or the State district superintendent shall direct that there be a modification of the individual professional improvement plan mandated by N.J.A.C. 6A:32-4.3 or 4.4, to assure that such plan addresses the specific charges of inefficiency and comports with the timelines established for correction.
5. Upon completion of the minimal 90-day period for improvement, or such longer period as may be provided by the district board of education or the State district superintendent, the administrator(s) responsible for bringing such charges to the attention of the district board of education or the State district superintendent shall notify the district board of education or the State district superintendent in writing of what charges, if any, have not been corrected. In the event the charges are against a chief school administrator of a district board of education, the district board shall determine by majority vote of the full board what charges, if any, have not been corrected.
6. The district board of education or the State district superintendent, upon receipt of the written notification or upon the district board's determination in the case of a chief school administrator, shall notify the affected employee in writing that all of the inefficiencies have been corrected or, in the alternative, which of the inefficiencies have not been corrected. The time from the expiration of the

minimal 90-day period, or such longer period as may be provided by the district board of education or the State district superintendent, to the notification of the employee by the district board of education or the State district superintendent shall not exceed 30 calendar days.

7. In the event that certain charges of inefficiency have not been corrected, the affected employee shall have an opportunity to respond within 15 days of the receipt of said notification of inefficiency by filing a statement of evidence under oath in opposition to those charges.
8. Upon receipt of such written statement of evidence under oath or upon expiration of the allotted 15-day time period, the district board of education shall determine by a majority vote of its full membership, or the State district superintendent shall determine, within 45 days, whether there is probable cause to credit the evidence in support of the charges and that such charges, if credited, are sufficient to warrant a dismissal or reduction in salary.
9. In the event the district board of education or the State district superintendent finds that such probable cause exists and that the charges, if credited, are sufficient to warrant a dismissal or reduction of salary, then the district board of education or the State district superintendent shall, within 15 days, file such written charges with the Commissioner. The charge shall be stated with specificity as to the nature of the inefficiency alleged, and shall be accompanied by the required certificate of determination together with the name of the attorney who it is anticipated for administrative purposes will be representing the district board of education or State district superintendent and proof of service upon the

employee and the employee's representative, if known. Such service shall be at the same time and in the same manner as the filing of charges with the Commissioner.]

1. When the conditions described in N.J.S.A. 18A:6-17.3.a(1) or (2) have been satisfied, the superintendent shall promptly file with the secretary of the board of education a charge of inefficiency.
2. The charges of inefficiency shall be transmitted to the affected tenured employee and the employee's representative, if known, within three working days of the date they were filed with the secretary of the district board of education or the State district superintendent. Proof of mailing or hand delivery shall constitute proof of transmittal.
3. The affected tenured employee shall have an opportunity within 10 days of receipt to submit to the district board of education or the State district superintendent a written statement of position under oath demonstrating how the school district failed to comply with the evaluation procedures.
4. Within 30 days of the filing, the district board of education or State district superintendent shall forward a written charge to the Commissioner unless the district board of education or superintendent determines the evaluation process has not been followed. Such determination shall be made by a majority vote of the district board of education's full membership or by the State district superintendent.
5. Upon receipt of the charge, the Commissioner or his or her designee shall examine the charge. The charge shall again be served upon the employee at the

same time it is forwarded to the Commissioner and proof of service shall be included with the filed charges. The individual against whom the charge is filed shall have 10 days to submit to the commissioner a written response to the charge.

6. Within five days of the individual's deadline to submit a written response to the charge, the Commissioner shall appoint an arbitrator to hear the case and refer the case to the arbitrator, unless he or she determines the evaluation process has not be followed.

[10.] 7. Pursuant to N.J.S.A. 18A:6-11, all deliberations and actions of the district board of education with respect to such charges shall take place at a closed meeting.

- (d) The provisions of this section shall not apply to employees of charter schools, who are governed by the provisions of N.J.A.C. 6A:11-6.

6A:3-5.2 Format of certificate of determination

- (a) The certificate of determination [which] that accompanies the written charges shall contain a certification by the district board of education secretary or the State district superintendent:
1. [That the] The district board of education or the State district superintendent has determined [that] the charges and the evidence in support of the charges are sufficient, if true in fact, to warrant dismissal or a reduction in salary;
 2. Of the date, place and time of the meeting at which such determination was made and whether [or not] the employee was suspended and, if so, whether such suspension was with or without pay;

3. [That such] The determination was made by a majority vote of the whole number of members of the district board of education, or by the State district superintendent in accordance with N.J.S.A. 18A:7A-39[; and].
 - [4. In the case of a charge of inefficiency, that the employee was given at least 90 days' prior written notice of the nature and particulars of the alleged inefficiency.]
- (b) The provisions of this section shall not apply to employees of charter schools, who are governed by the provisions of N.J.A.C. 6A:11-6.

6A:3-5.3 Filing and service of answer to written charges

- (a) Except as specified in N.J.A.C. 6A:3-5.1(c)5, an individual against whom tenure charges are certified shall have 15 days from the date such charges are filed with the Commissioner to file a written response to the charges. Except as to time for filing, the answer shall conform to the requirements of N.J.A.C. 6A:3-1.5(a) through (d).
1. Consistent with N.J.A.C. 6A:3-1.5(g), nothing in this subsection precludes the filing of a motion to dismiss in lieu of an answer to the charges, provided [that such] the motion is filed within the time allotted for the filing of an answer. Briefing on the motions shall be in the manner and within the time fixed by the Commissioner, or by the [ALJ] arbitrator if the motion is to be briefed following transmittal to [the OAL] an arbitrator.
- (b) Upon written application by the person against whom charges are filed, the Commissioner may extend the time period for the filing of an answer upon a finding of good cause shown consistent with the provisions of N.J.S.A. 18A:6-16. Such application

shall be received prior to the expiration of the 15-day answer period, or the 10-day answer period specified in N.J.A.C. 6A:3-5.1(c), and a copy shall be served upon the charging district board of education or the State district superintendent. [Such] The district board of education or State district superintendent shall promptly notify the Commissioner of any opposition to the request.

1. A request for extension [which] that is [not filed within] received after the 15-day period allotted for answer to tenure charges, or after the 10-day period allotted in N.J.A.C. 6A:3-5.1(c), will be considered only in the event of demonstrated emergency or other unforeseeable circumstance such that the request could not have been made within the requisite filing period.
- (c) [Where] If no answer is filed within the requisite time period and no request for extension is made, or [such] if the request is denied by the Commissioner, or [where] the charged employee submits an answer or other responsive filing indicating that the employee does not contest the charges, the charges shall be deemed admitted by the charged employee.
- (d) The provisions of this section shall not apply to employees of charter schools, who are governed by the provisions of N.J.A.C. 6A:11-6.

6A:3-5.4 Filing and certification of charges against tenured employees [in] within the Departments of Human Services, Children and Families, Corrections and Education and [in] within the Juvenile Justice Commission

- (a) The process for the filing and service of tenure charges against persons serving under tenure pursuant to N.J.S.A. 18A:60-1 within the Departments of Human Services,

Children and Families, Corrections and Education, or within the Juvenile Justice Commission pursuant to N.J.S.A. 52:17B-170, [other than for reasons of inefficiency] shall comport with the process as described in N.J.A.C. 6A:3-5.1(b) except as set forth in this section. The charges shall be filed with the Director of the Office of Cooperative Labor Relations in the Department of Human Services or the Department of Children and Families, the Director of the Office of Educational Services in the Department of Corrections or the Juvenile Justice Commission, or with an individual within the Department of Education designated by the Commissioner, as appropriate. Any written statement of position submitted by the affected employee in response to said charges shall be filed with [those] the individuals in the respective departments in the manner and time frame prescribed by N.J.A.C. 6A:3-5.1(b).

1. In accordance with N.J.S.A. 34:13A-24, fines and suspensions imposed as minor discipline shall not constitute a reduction in compensation pursuant to the provisions of N.J.S.A. 18A:6-10 [where] if the negotiated agreement between an agency and the majority representative of the employees in the appropriate collective bargaining unit provides for such discipline. In these cases, tenure charges shall not be filed [in order] to impose minor discipline on a person serving under tenure pursuant to N.J.S.A. 18A:60-1.
- (b) The Director of the Office of Cooperative Labor Relations in the Department of Human Services or the Department of Children and Families, the Director of the Office of Educational Services in the Department of Corrections or the Juvenile Justice Commission, or the individual designated by the Commissioner of Education, as the case may be, shall, upon receipt of respondent's written statement of evidence under oath or

upon expiration of the allotted 15-day time period, determine within 45 days whether there is probable cause to credit the evidence in support of the charges and whether such charges, if credited, are sufficient to warrant dismissal or reduction of salary and shall notify the affected employee of the determination in writing in the manner prescribed by N.J.A.C. 6A:3-5.1(b).

- (c) [In the event that] If the Director of the Office of Cooperative Labor Relations in the Department of Human Services or the Department of Children and Families, the Director of the Office of Educational Services in the Department of Corrections or the Juvenile Justice Commission, or the individual designated by the Commissioner of Education finds [that] probable cause exists and [that] the charges, if credited, warrant dismissal or reduction in salary, then such person shall file [such] the charges and the required certification with the Commissioner of Education together with the name of the Deputy Attorney General who will be representing the agency and proof of service upon the employee and the employee's representative, if known. Such service shall be at the same time and in the same manner as charges are filed with the Commissioner.
- [(d) In the event that the tenure charges are charges of inefficiency, the procedures and timelines to be followed shall be as prescribed by N.J.A.C. 6A:3-5.1(c) except that receipt of all papers, required actions, transmissions, notifications, determinations and certifications prescribed by the aforesaid provision shall be the responsibility of the Director of the Office of Cooperative Labor Relations in the Department of Human Services or the Department of Children and Families, the Director of the Office of Educational Services for charges arising out of the Department of Corrections or the

Juvenile Justice Commission; or the individual designated by the Commissioner of Education for charges arising out of the Department of Education.]

[(e)] (d) The certificate of determination [which] that accompanies the written charges shall contain a certification by the Director of the Office of Cooperative Labor Relations in the Department of Human Services or the Department of Children and Families, the Director of the Office of Educational Services in the Department of Corrections or the Juvenile Justice Commission, or the individual designated by the Commissioner of Education:

1. [That the] The director or responsible person has determined [that] the charges and the evidence in support of the charges are sufficient, if true in fact, to warrant dismissal or a reduction in salary; and
2. Of the date on which such determination was made and whether [or not] the employee was suspended and, if so, whether such suspension was with or without pay[; and].
- [3. In the case of a charge of inefficiency, that the employee was given at least 90 days' prior written notice of the nature and particulars of the alleged inefficiency.]

[(f)] (e) An individual against whom tenure charges are certified shall have 15 days from the date such charges are filed with the Commissioner to file a written response to the charges with the Commissioner consistent with the provisions of N.J.A.C. 6A:3-5.3(a).

[(g)] (f) Upon written application by the person against whom charges are filed, the Commissioner may extend the time period for the filing of an answer upon a finding of good cause shown consistent with the provisions of N.J.S.A. 18A:6-16. Such application shall be received prior to the expiration of the 15-day answer period, and a copy shall be

served upon the charging department, which shall promptly notify the Commissioner of its opposition, if any, to the request.

1. A request for extension [which] that is not filed within the 15-day period allotted for answer to tenure charges shall be considered only in the event of demonstrated emergency or other unforeseeable circumstance such that the request could not have been made within the requisite filing period.

[(h)] (g) [Where] If no answer is filed within the requisite time period and no request for extension is made, or [such] if the request is denied by the Commissioner, or [where] if the charged employee submits an answer or other responsive filing indicating [that] the employee does not contest the charges, the charges shall be deemed admitted by the charged employee.

6A:3-5.5 Determination of sufficiency and transmittal for hearing

- (a) Except as specified in N.J.A.C. 6A:3-5.1(c), within [15] 10 days of receipt of the charged party's answer or expiration of the time for its filing, the Commissioner shall determine whether such charge(s) are sufficient, if true, to warrant dismissal or reduction in salary. [Where] If the charges are determined insufficient, they shall be dismissed and the parties shall be notified accordingly. [Where] If the charges are determined sufficient, the matter shall[, within 10 days of such determination,] be transmitted immediately to [the OAL] an arbitrator for further proceedings, unless the Commissioner retains the matter pursuant to N.J.A.C. 6A:3-[1.11 or]1.12.

1. A notice of transmittal shall be issued to the parties by the Department of Education on the same date as the matter is transmitted to [the OAL] an arbitrator.
- (b) Where a party to a tenure matter [so] requests, the Commissioner may agree to hold the matter in abeyance at any time prior to transmittal to [the OAL] an arbitrator. Thereafter, requests to hold the matter in abeyance shall be directed to the [OAL Clerk or the ALJ in accordance with the rules of the OAL] arbitrator. Any request for abeyance, whether directed to the Commissioner or the [OAL] arbitrator, shall be consistent with the intent of N.J.S.A. 18A:6-16 as amended by P.L. 1998, c.42.

6A:3-5.6 Withdrawal, settlement or mooted of tenure charges

- (a) Once tenure charges are certified to the Commissioner, [such charges] they may be withdrawn or settled only with [the Commissioner's] approval. Any proposed withdrawal or settlement, whether submitted to the Commissioner or to the [ALJ] arbitrator, shall address the following standards established by the State Board of Education in the matter entitled *In re Cardonick*, State Board decision of April 6, 1983 (1990 *School Law Decisions (S.L.D.)* 842, 846):
1. Accompaniment by documentation as to the nature of the charges;
 2. Explication of the circumstances justifying settlement or withdrawal;
 3. Consent of both the charged and charging parties;
 4. Indication [that] the charged party entered into the agreement with a full understanding of his or her rights;
 5. A showing [that] the agreement is in the public interest; and

6. [Where] If the charged party is a teaching staff member, a showing [that] the teaching staff member has been advised of the Commissioner's duty to refer tenure determinations resulting in loss of position to the State Board of Examiners for possible suspension or revocation of certificate.
- (b) A settlement agreement shall not propose terms that would restrict access to information or records deemed public by law or result in misrepresentation of the reason for an employee's separation from service. [Where] If tenure charges have been certified to the Commissioner by a district board of education, any proposed settlement shall indicate, by signature of the board attorney or inclusion of a district board of education resolution authorizing settlement, that the district board of education has consented to the terms of the settlement.
- (c) A proposed withdrawal or settlement of tenure charges shall be submitted to the Commissioner prior to transmittal of such charges to the [OAL] arbitrator; thereafter, it shall be submitted to the [ALJ in accordance with applicable rules of the OAL] arbitrator.
- (d) [Where] If tenure proceedings against a teaching staff member are concluded prior to adjudication because the charged party has unilaterally resigned or retired, the Commissioner may refer the matter to the State Board of Examiners for action against the charged party's certificate as it deems appropriate, when such referral is warranted under the provisions governing resignation or retirement prior to conclusion of tenure charges as set forth in N.J.A.C. 6A:9-17.4.
- (e) [Where] If a proposed settlement requires the tenured employee to relinquish a certificate issued by the State Board of Examiners, upon approval of the settlement agreement, the

Commissioner shall forward the matter to the State Board of Examiners for proceedings in accordance with N.J.A.C. 6A:9-17.11.

CHAPTER 32. SCHOOL DISTRICT OPERATIONS

[6A:32-4.6 Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of nonreemployment

- (a) Whenever a nontenured teaching staff member has requested in writing and has received a written statement of reasons for nonreemployment pursuant to N.J.S.A. 18A:27-3.2, he or she may request in writing an informal appearance before the district board of education. Such written request shall be submitted to the board within 10 calendar days of receipt of the board's statement of reasons.
- (b) Such an informal appearance shall be scheduled within 30 calendar days from receipt of the district board of education's statement of reasons.
- (c) Under the circumstances described in this section, a nontenured teaching staff member's appearance before the district board of education shall not be an adversary proceeding. The purpose of such an appearance shall be to permit the staff member to convince the members of the board to offer reemployment.
- (d) Each district board of education shall exercise discretion in determining a reasonable length of time of the proceeding, depending upon the specific circumstances in each instance.
- (e) Each district board of education shall provide adequate written notice to the employee regarding the date and time of the informal appearance.

- (f) The nontenured teaching staff member may be represented by counsel or one individual of his or her own choosing.
- (g) The staff member may present witnesses on his or her behalf. Such witnesses do not need to present testimony under oath and shall not be cross-examined by the district board of education. Witnesses shall be called into the meeting to address the board one at a time and shall be excused from the meeting after making their statements.
- (h) The proceeding of an informal appearance before the district board of education as described herein may be conducted pursuant to N.J.S.A. 10:4-12.b(8).
- (i) Within three days following the informal appearance, the district board of education shall notify the affected teaching staff member, in writing, of its final determination. The board may delegate such notification to its chief school administrator or board secretary.]

CHAPTER 10. EDUCATOR EFFECTIVENESS

SUBCHAPTER 1. GENERAL PROVISIONS

6A:10-1.1 [Scope] Purpose and [purpose] scope

- (a) The rules in this chapter are intended to guide district boards of education in establishing [district educator] evaluation rubrics for the evaluation of teaching staff members' effectiveness to further the development of a professional corps of State educators and to increase student achievement. Thus, the purpose of the rules is to support a system that facilitates:
 - 1. [The continual] Continual improvement of instruction;

2. Meaningful differentiation of educator performance using four performance levels;
 3. [The use] Use of multiple valid measures in determining educator performance levels, including [multiple] objective measures of student performance and [multiple] measures of professional practice;
 4. [The evaluation] Evaluation of educators on a regular basis;
 5. [The delivery] Delivery of clear, timely, and useful feedback, including feedback that identifies [needs] areas for growth and guides professional development; and
 6. School district personnel decisions.
- (b) The rules in this chapter shall apply to all public schools, except insofar as they are defined for charter schools in N.J.A.C. 6A:11, Charter Schools. The evaluation system in charter schools is subject to the review and approval of the Office of Charter Schools.
- (c) District boards of education shall implement [district educator] evaluation rubrics as defined in N.J.A.C. 6A:10-2.2(a)2, 3, and 4, including measures of professional practice and desired outcomes for the purpose of evaluating teaching staff members.

6A:10-1.2 Definitions

The following words and terms shall have the following meanings when used in this chapter, unless the context clearly indicates otherwise:

[“Accuracy” in scoring teacher observations means that evaluators' scores are consistent with master coders and, therefore, evaluators assign the correct or accurate score to the teaching

practices being observed. Correct scores must be obtained through a judgment process, most preferably with experts or master coders who complete a master-coding process and reach consensus on the final score, evidence, connection with the scoring guide and score level, and rationale.]

"Annual performance report" means a written appraisal of the teaching staff member's performance prepared by an appropriately certified supervisor[that is used as part of the evaluation of the teaching staff member's effectiveness] based on the evaluation rubric for his or her position.

"Annual summative evaluation rating" means an annual evaluation rating that is based on appraisals of educator practice and student performance, and [that describes an educator's performance in relation to a scale, scoring guide, or standard] is the sum of all measures captured in a teaching staff member's evaluation rubric. The four summative performance categories [--] are highly effective, effective, partially effective, and ineffective[--from the most proficient to the least proficient, respectively].

"Appropriately certified[personnel] supervisor" means personnel qualified to perform duties of supervision, including, but not limited to, the superintendent, assistant superintendent, principal, assistant principal, vice principal, and supervisor, who hold the appropriate certificate and who are designated to serve in a supervisory role.

“Calibration” in the context of educator evaluation means a process to monitor the [scoring] competency of a trained evaluator to ensure the evaluator continues to apply an educator practice [evaluation] instrument accurately and consistently according to the standards and definitions of the specific instrument.

"Chief school administrator" means the superintendent of schools or the administrative principal if there is no superintendent.

“Co-observation” means two or more people who observe simultaneously, or at alternate times, the same lesson or portion of a lesson for the purpose of increasing accuracy and consistency among observers.

“[District educator evaluation] Evaluation rubrics” mean a set of criteria, measures, and processes used to evaluate [educators] all teaching staff members in a specific school district or local education agency. [District educator evaluation] Evaluation rubrics consist of measures of professional practice, based on educator practice instruments and [desired] student outcomes [together with criteria and processes for selection and development of the component measures and their implementation]. Each district board of education will have an evaluation rubric specifically for teachers [(called a district teaching evaluation rubric)], another specifically for principals, assistant principals, and vice principals [(called a district principal evaluation rubric)], and evaluation rubrics for other categories of teaching staff members. [District educator evaluation rubrics include educator practice evaluation instruments.]

“District Evaluation Advisory Committee” means a [committee whose purpose is] a group created to oversee and guide the planning and implementation of the district board of education's evaluation policies and procedures as set forth in N.J.A.C. 6A:10-2.3.

“Educator practice [evaluation] instrument” means an assessment tool that provides scales or dimensions that capture [multiple and varied aspects] competencies of professional performance[, which have been attested by knowledgeable practitioners or experts as useful and relevant in the content prior to use in assessing practice]; differentiation of a range of professional performance as described by the [score] scales, which must be shown in practice and/or research studies[; and objective validation on both concurrent and construct validity, meaning that there is explicit evidence that demonstrates a positive relationship between data from the instrument and desired results and outcomes as shown in practice or through a research process. Both the teaching] The scores from the teacher practice [evaluation] instrument [and] or the principal practice[evaluation] instrument, whenever applicable, are components of the [district educator] teaching staff member’s evaluation rubrics and the scores are included in the summative evaluation rating for the individual. [An educator practice evaluation instrument must be either evidence-supported or research-based:

1. “Evidence-supported educator practice evaluation instrument” as it applies to the evaluation of teachers and principals means:
 - i. The instrument must have evidence of its functionality through the collection of data from practice; and
 - ii. The degree of evidence required is that of a positive relationship between data from the instrument and academic performance or learning outcomes.

2. “Research-based educator practice evaluation instrument” as it applies to the evaluation of teachers and principals means the instrument has been found to be valid for measuring the extent to which professional practice correlates with [the] desired outcomes through a research process whereby:
 - i. Studies have been completed using the current form of the instrument and have demonstrated the application of rigorous, systematic and objective procedures to obtain reliable and valid results; and
 - ii. The results have been published after professional peer review (and preferably blind review).]

"Evaluation" means[a process based on the individual's job description, professional standards, and Statewide evaluation criteria that incorporates analysis of multiple measures of student progress and multiple data sources. Such evaluation shall include formal observations, as well as post conferences, conducted and prepared by an individual employed in the school district in a supervisory role and capacity and possessing a school administrator certificate, principal certificate, or supervisor certificate.] an appraisal of an individual's professional performance in relation to his or her job description, professional standards, and Statewide evaluation criteria that incorporates analysis of multiple measures of student achievement or growth and multiple data sources.

[“Expert judgment” means judgment based upon a specific set of criteria and/or expertise that has been acquired in a particular discipline or area of knowledge.]

"Indicators of student progress and growth" means the results of formal and informal assessment of students as defined in N.J.A.C. 6A:8, Standards and Assessment.

["Individual professional development plan" means a written statement of actions developed jointly by the teaching staff member and his or her supervisor to continue the teaching staff member's professional growth and/or correct deficiencies. The individual professional development plan includes timelines for implementation and responsibilities of the individual teaching staff member and the district board of education for implementing the plan.]

"Job description" means a written specification of the function of a position, duties and responsibilities, the extent and limits of authority, and work relationships within and outside the school and school district.

["Master coder" means an expert in evaluating all aspects of teaching practice as defined by a specific evaluation instrument whose scores, evidence, and rationales are treated as correct and form part of the operational definition of categories of practice on that instrument.]

"Long observation" means an observation for the purpose of evaluation that is conducted for a minimum duration of 40 minutes or one class period, whichever is shorter.

"Model evaluation rubric" means district educator evaluation rubrics that have been reviewed and accepted by the Commissioner. A model teaching or principal evaluation rubric includes a [teaching] teacher or principal practice [evaluation] instrument [or a principal practice evaluation

instrument] that appears on the Department's list of [Approved Educator Practice Evaluation Instruments] approved educator practice instruments.

["Objective" means a written statement of the intended outcome of a specific educational process.]

"Observation" means [an evaluation event for the purpose of formally] a method of collecting data on the performance of a teaching staff member's assigned duties and responsibilities and that will be included in the determination of the annual summative evaluation rating. [An observation is conducted by an individual employed in the school district in a supervisory role and capacity and possessing a school administrator certificate, principal certificate, or supervisor certificate.]

"Post-observation conference" means a [discussion] meeting, either in-person or remotely between [a supervisor and] The teaching staff member [to review a written report of the performance data collected in a formal observation and their implications on the teaching staff member's annual evaluation] and the person who conducted the observation for the purpose of evaluation to discuss the data collected in the observation.

"Proof of mastery" in observing [teaching] teaching staff member's practice means an evaluator has [achieved a sufficient level of performance on an assessment of] demonstrated competency in observation skills and scoring. The assessment used to determine if an evaluator has achieved proof of mastery is typically given at the end of training on [a teaching] an educator practice

[evaluation] instrument[,] and verifies [that] an [evaluator] observer of [teaching] practice has learned to apply the [teaching] educator practice [evaluation] instrument to the requisite level of accuracy and consistency.

["Regularly certified, inexperienced first-year principal" means an individual who, prior to September 1, 1989, acquired a regular New Jersey school principal endorsement pursuant to N.J.A.C. 6A:9-12.5; has not previously held full-time employment as a principal, assistant principal, vice principal, or in another position for which the principal endorsement is required in New Jersey or elsewhere; and has been offered employment as principal, assistant principal, or vice principal in a New Jersey public school district.

“School Improvement Panel” means a school-level panel whose purpose is to ensure the effectiveness of its teachers by overseeing the mentoring of teachers, conducting evaluations of teachers, and identifying professional development opportunities for all instructional staff members. The panel includes the principal, or his or her designee, an assistant or vice-principal, and a teacher.]

“Scoring guide” means a set of rules or criteria used to evaluate a performance, product, or project. The purpose of a scoring guide is to provide a transparent and reliable evaluation process. Educator practice [evaluation] instruments include a scoring guide that an evaluator uses to structure his or her assessments and ratings of professional practice.

“Short observation” means an observation for the purpose of evaluation that is conducted for at least 20 minutes.

[“Skills assessment” means a test designed to measure an individual’s proficiency at performing an activity.]

“Student growth objective” is an academic goal that teachers and evaluators set for groups of students.

“Student growth percentile” means a specific metric for measuring individual student progress on Statewide assessments by tracking how much a student’s test scores have changed relative to other students Statewide with similar scores in previous years.

"Supervisor" means [any] an appropriately certified individual assigned with the responsibility for the direction and guidance of the work of teaching staff members.

[“Teaching practice evaluation instrument” means an instrument used to assess the competencies of teaching practice, as defined by New Jersey’s professional teaching standards pursuant to N.J.A.C. 6A:9. The components of an evaluation instrument include the scoring guide and accompanying definitions and/or descriptions of the scales and score levels used in assessing teaching practice. An evaluation instrument may also include more detailed representations of teaching practice such as indicators, attributes, or examples for each level.]

"Teaching staff member" means a member of the professional staff of [a district board of education] any district or regional board of education, or any county vocational school district board of education, holding office, position, or employment of such character that the qualifications for such office, position, or employment require him or her to hold a valid, effective, and appropriate standard, provisional, or emergency certificate issued by the State Board of Examiners. Teaching staff members include the positions of school nurse and school athletic trainer. There are three different types of certificates that teaching staff members [hold] work under:

1. [An instructional] Instructional certificate ([these teaching staff members] holders of this certificate are referred to in this chapter as “teachers”);
2. [An administrative] Administrative certificate; and
3. [An educational] Educational services certificate.

“Validity” means the extent to which evidence and theory support an interpretation of scores from a measurement instrument for a particular use of the instrument. In the context of evaluating educator practice, this means [that] the evidence gathered using the instrument supports correct and useful inferences and decisions about the effectiveness of the practice observed. [The terms concurrent and construct validity capture more specific aspects of validity:

1. “Concurrent validity” means the degree to which one type of measure correlates well with another related measure that previously has been validated. When applied to a teaching practice evaluation instrument, concurrent validity means that higher instructional ratings as measured by the instrument are related to

higher student learning achievement or gains as shown by collected data sets or research study results.

2. “Construct validity” means the degree to which an instrument measures what it is intended to measure. When applied to an educator practice evaluation instrument, construct validity means that the dimensions and categories described by the instrument are appropriate for measuring whether or not the practice is successful and that the dimensions are associated with each other in the ways anticipated and possibly related to other generally-accepted measures of professional effectiveness. In addition, the instrument shall sample from a sufficient range of professional actions to fully represent the set of desirable behaviors. The establishment of such claim must be attested by knowledgeable practitioners or experts in the content.]

6A:10-1.3 Applicability of rules on collective bargaining agreements

The rules in this chapter shall not override any conflicting [provisions] provision(s) of collective bargaining agreements in effect [at the time of this chapter’s enactment] on July 1, 2013. The rules shall become operative only when such agreements expire.

6A:10-1.4 Educator evaluation data, information, and written reports

All information contained in written performance reports and all information collected, compiled, and/or maintained by employees of a district board of education for the purposes of

conducting the educator evaluation process pursuant to this chapter shall be confidential. Such information shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Nothing contained in this section shall be construed to prohibit the Department from, at its discretion, collecting evaluation data pursuant to N.J.S.A. 18A:6-123.e or distributing [at its discretion] aggregate statistics regarding evaluation data.

SUBCHAPTER 2. [SUPERVISION] EVALUATION OF TEACHING STAFF

MEMBERS

[6A:10-2.1 Evaluation of chief school administrators

- (a) Each district board of education shall adopt a policy and implementation procedures requiring the annual evaluation of the chief school administrator by the district board of education.
- (b) The purpose of the annual evaluation shall be to:
 - 1. Promote professional excellence and improve the skills of the chief school administrator;
 - 2. Improve the quality of the education received by the students served by the public schools; and
 - 3. Provide a basis for the review of the chief school administrator's performance.
- (c) Such policy and procedures shall be developed by each district board of education after consultation with the chief school administrator and shall include, but not be limited to:

1. A determination of roles and responsibilities for the implementation of the annual evaluation policy and procedures;
 2. Development of a job description and evaluation criteria based upon the district board of education's local goals, program objectives, policies, instructional priorities, State goals, statutory requirements, and the functions, duties, and responsibilities of the chief school administrator;
 3. Specification of data collection and reporting methods appropriate to the job description;
 4. Provision for the preparation of an individual professional growth and development plan based in part upon any needs identified in the evaluation. The plan shall be mutually developed by the district board of education and the chief school administrator; and
 5. Preparation of an annual written performance report by a majority of the full membership of the district board of education and an annual summary conference between a majority of the total membership of the district board of education and the chief school administrator.
- (d) The district board of education may hire a qualified consultant to assist or advise in the evaluation process; however, the evaluation itself is the responsibility of the district board of education.
- (e) The evaluation policy shall be distributed to the chief school administrator upon adoption by the district board of education. Amendments to the policy shall be distributed within 10 working days after adoption.

(f) The annual summary conference between the district board of education, with a majority of the total membership of the board present, and the chief school administrator present, shall be held before the written performance report is filed. The conference shall be held in private, unless the chief school administrator requests that it be held in public. The conference shall include, but not be limited to, review of the following:

1. Performance of the chief school administrator based upon the job description;
2. Progress of the chief school administrator in achieving and/or implementing the school district's goals, program objectives, policies, instructional priorities, State goals, and statutory requirements; and
3. Indicators of student progress and growth toward program objectives.

(g) The annual written performance report shall be prepared by April 30 by a majority of the total membership of the district board of education and shall include, but not be limited to:

1. Performance areas of strength;
2. Performance areas needing improvement based upon the job description and evaluation criteria set forth in (c)2 above;
3. Recommendations for professional growth and development;
4. A summary of indicators of student progress and growth, and a statement of how the indicators relate to the effectiveness of the overall program and the performance of the chief school administrator; and
5. Provision for performance data not included in the report to be entered into the record by the chief school administrator within 10 working days after the completion of the report.

- (h) The provisions of this section are the minimum requirements for the evaluation of a chief school administrator.
- (i) The evaluation procedure for a nontenured chief school administrator shall be completed by April 30 each year.
- (j) Each newly appointed or elected district board of education member shall complete a New Jersey School Boards Association training program on the evaluation of the chief school administrator within six months of the commencement of his or her term of office pursuant to N.J.S.A. 18A:17-20.3.b.
- (k) Each district board of education shall add to a chief school administrator's personnel file all written performance reports and supporting data, including, but not limited to, indicators of student progress and growth. Such records shall be confidential and not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.]

6A:10-2.1 Evaluation of teaching staff members

- (a) A district board of education annually shall adopt evaluation rubrics for all teaching staff members. The evaluation rubrics shall have four defined annual ratings: ineffective, partially effective, effective, and highly effective.
- (b) The evaluation rubrics for teachers, principals, vice-principals and assistant principals shall include all other relevant minimum standards set forth in N.J.S.A. 18A:6-123 (P.L. 2012, c. 26, § 17c).

- (c) Evaluation rubrics shall be submitted to the Commissioner by June 1 for approval by August 1 of each year.

6A:10-2.2 [Evaluation of teaching staff members] Duties of district boards of education

- (a) Each district board of education shall meet the following [required procedures] requirements for the annual evaluation of teaching staff members [upon the effective date of this chapter], unless otherwise specified:
1. Establish a District Evaluation Advisory Committee to oversee and guide the planning and implementation of the school district board of education's evaluation policies and procedures as set forth in this subchapter.
 - [i. Members of the District Evaluation Advisory Committee must include representation from the following groups: teachers from each school level represented in the district; central office administrators overseeing the teacher evaluation process; supervisors, where available or appropriate, involved in teacher evaluation; and administrators conducting evaluations including a minimum of one administrator conducting evaluations who participates on a School Improvement Panel, as defined in N.J.A.C. 6A:10-1.2. Members must also include the superintendent, a special education administrator, a parent, and a member of the district board of education.
 - ii. The chief school administrator may extend membership on the District Evaluation Advisory Committee to representatives of other groups;

2. Adopt by December 31, 2012, as established by P.L. 2012, c. 26, § 17c, district educator evaluation rubrics that must include a district teaching practice evaluation rubric and a principal practice evaluation rubric. The teaching and principal practice evaluation rubrics must meet the following minimum standards:
 - i. Four defined annual ratings: ineffective, partially effective, effective, and highly effective;
 - ii. A provision requiring that the evaluation rubric be partially based on multiple objective measures of student learning that assess student growth over a period of time;
 - iii. A provision that allows the district board of education, in grades in which a State test is not required, to determine the methods for measuring student growth;
 - iv. A provision that multiple measures of practice and student learning be used in conjunction with professional standards of practice using a comprehensive evaluation process in rating effectiveness with specific measures and implementation processes;
 - v. A provision that standardized assessments shall be used as a measure of student progress but shall not be the predominant factor in the overall evaluation of a teacher;
 - vi. A provision that the rubric be based on the professional standards for that employee;
 - vii. A provision ensuring that performance measures used in the rubric are linked to student achievement;

- viii. A requirement that the employee receive multiple observations during the school year, which shall be used in evaluating the employee;
- ix. A provision that requires that at each observation of a teacher, either the principal, his or her designee who shall be an individual employed in the district in a supervisory role and capacity and who possesses a school administrator certificate, principal certificate, or supervisor certificate, the vice-principal, or the assistant principal shall be present;
- x. An opportunity for the employee to improve his or her effectiveness from evaluation feedback;
- xi. A process for training and demonstrating competence on using the educator practice evaluation instrument to support its implementation;
- xii. A process for ongoing monitoring and calibration of the evaluators to ensure that the observation protocols are being implemented correctly and consistently;
- xiii. A performance framework, associated evaluation tools, and observation protocols, including training and evaluator calibration resources; and
- xiv. A process for ensuring that the results of the evaluation help to inform instructional development;]

2. Annually adopt policies and procedures developed by the chief school administrator pursuant to N.J.A.C. 6A:10-2.4, including the evaluation rubrics approved by the Commissioner pursuant to N.J.A.C. 6A:10-2.1(c).

- [3. Adopt, as part of the district educator evaluation rubrics, both teacher and principal practice evaluation instruments that are approved by the district board of education and] that appear on an approved list provided by the Department.
- i. The teaching practice evaluation instrument that is approved by the Department shall meet the following criteria:
- (1) It is a research-based or evidence-supported teaching practice observation instrument as defined in N.J.A.C. 6A:10-1.2;
 - (2) It includes domains of professional practice that align to the New Jersey Professional Standards for Teachers pursuant to N.J.A.C. 6A:9-3;
 - (3) It includes scoring guides for assessing teaching practice that differentiate among a minimum of four levels of performance and the differentiation has been shown in practice and/or research studies. Each scoring guide must:
 - (A) Clearly define the expectations for each rating category;
 - (B) Provide a conversion to the four rating categories established pursuant to N.J.A.C. 6A:10-1.2: highly effective, effective, partially effective, and ineffective;
 - (C) Be applicable to all grades and subjects; or to specific grades and/or subjects if designed explicitly for the grades and/or subjects; and
 - (D) Use clear and precise language that facilitates common understanding among teachers and administrators;

- (4) The instrument shall rely to the extent possible on specific, discrete, observable, and/or measurable behaviors of students and teachers in the classroom with direct evidence of student engagement and learning; and
 - (5) The instrument must include descriptions of any specific training and implementation details required for the instrument to be effective.
- ii. The principal practice evaluation instrument that is approved by the Department shall meet the following criteria:
- (1) It is a research-based or evidence-supported principal practice observation instrument as defined in N.J.A.C. 6A:10-1.2;
 - (2) It incorporates domains of practice and/or performance criteria that align to the 2008 ISLLC Professional Standards for School Leaders developed by the Interstate School Leadership Licensure Consortium, incorporated herein by reference, available at http://www.ccsso.org/documents/2008/educational_leadership_policy_standards_2008.pdf;
 - (3) It includes rubrics that distinguish among a minimum of four levels of performance;
 - (4) It is based on multiple sources of evidence collected throughout the year;

- (5) It incorporates evidence from a minimum of two school site-based observations of principals' practice per year for tenured principals and a minimum of three per year for nontenured principals;
- (6) It includes an assessment of progress from at least one individual, school, and/or district performance goal related to professional practice;
- (7) It incorporates feedback from teachers and/or other stakeholder groups as deemed appropriate for individual, school, or district performance goals;
- (8) It incorporates an assessment of the principal's leadership for implementing a rigorous curriculum and assessments aligned to the Core Curriculum Content Standards;
- (9) It incorporates an assessment of the principal's leadership for high-quality instruction;
- (10) It includes an assessment of the principal's performance in evaluating teachers; and
- (11) It includes an assessment of the principal's support for teachers' professional growth;

4. Adopt procedures for applying the educator evaluation instruments.

- i. The procedures for applying the teaching practice evaluation instrument shall include the following:

- (1) Provision of training and resources that result in evaluators of teaching practice who are accurate and consistent in using the teaching practice evaluation instrument;
- (2) Provision of at least one skills assessment, as defined in N.J.A.C. 6A:10-1.2, that allows an evaluator of teaching practice to demonstrate proof of mastery on the instrument;
- (3) Calibration of evaluators of teaching practice at least once per year to ensure continued accuracy and consistency in ratings;
- (4) Provision of on-going support and resources about the evaluation instrument for all teaching staff members serving in job titles that require an instructional certificate issued pursuant to N.J.A.C. 6A:9-8 or 6A:9-11, including professional learning opportunities on the instrument and its implementation;
- (5) A component or process that provides opportunities for a teacher to reflect on his/her own practice;
- (6) Opportunities to build capacity at the school district level for evaluators of teaching practice, such as the implementation of train-the-trainer modules, refresher courses for school district trainers and/or access to video banks of teaching practice exemplars; and
- (7) The collection of data elements from the implementation of the teaching practice evaluation instrument and store such data in an accessible and usable format. Data elements shall include, but not

be limited to, observation scores or evidence, proof of mastery and success in calibration.

- ii. The procedures for applying the principal practice evaluation instrument shall include the following:
 - (1) Required training on the principal practice evaluation instrument for all district- and school-level administrators, including, but not limited to, superintendents, assistant superintendents, directors, mentors, and other administrative staff responsible for evaluating or supporting principals; and all principals, vice/assistant principals, and supervisors;
 - (2) Rigorous and comprehensive training on the principal practice evaluation instrument and its application must be provided prior to October 31, 2013;
 - (3) Administrators who will evaluate principals must earn certificates or statements of assurances that the evaluators have completed training on the instrument and its application and have demonstrated that they can apply the principal performance evaluation instrument accurately and consistently; and
 - (4) The collection of data elements from the implementation of the principal practice evaluation instrument and store such data in an accessible and usable format. Data elements shall include, but not be limited to, observation scores or evidence, proof of mastery, and success in calibration;

5. Establish by the effective date of this chapter, a School Improvement Panel that includes the principal, or his or her designee, an assistant or vice-principal, and a teacher. The panel should be convened by October 1 of each subsequent year. The membership of the panel may change from year to year but shall include the roles noted above. The purpose of the panel is to ensure the effectiveness of its teachers.

The panel shall:

- i. Oversee the mentoring of teachers;
 - ii. Conduct evaluations of teachers, including an annual summative evaluation, provided that the teacher on the school improvement panel shall not be included in the evaluation process, except in those instances in which the majority representative has agreed to the contrary;
 - iii. Conduct a mid-year evaluation of any employee in the position of teacher who is evaluated as ineffective or partially effective in his or her most recent annual summative evaluation, provided that the teacher on the school improvement panel shall not be included in the mid-year evaluation process, except in those instances in which the majority representative has agreed to the contrary; and
 - iv. Identify professional development opportunities for all instructional staff members that are tailored to meet the unique needs of the students and staff of the school;
6. Complete training on the adopted teaching practice observation instrument by July 1, 2013 for teaching staff members serving in job titles that require an instructional certificate issued pursuant to N.J.A.C. 6A:9-8 or 6A:9-11. Teaching

staff members hired after May 1, 2013 shall be trained prior to August 31, 2013. Training shall include detailed descriptions of all aspects of the teaching practice evaluation instrument, as well as detailed and concrete descriptions of applied instrument use. The chief school administrator may allow training for anyone considered a stakeholder by the chief school administrator or the district board of education;

7. Complete training by August 31, 2013 to all appropriately certified personnel pursuant to N.J.A.C. 6A:9 who will be observing teaching practice using the adopted teaching practice evaluation instrument. Evaluators hired after August 31, 2013 must complete training prior to observing teaching practice. A district board of education shall:
 - i. Provide training that is rigorous, comprehensive, and sufficient to result in evaluators of teaching practice who can demonstrate proof of mastery;
 - ii. Provide training to new employees who join the school after the beginning of the school year;
 - iii. Provide Department employees with access to evaluator training; and
 - iv. Create processes for both disqualification and subsequent opportunity for remediation for an evaluator of teaching practice who does not meet the accuracy and consistency requirements at either the proof of mastery or calibration steps; and
8. Report to the Department by the effective date of this chapter and August 31, 2013 on the progress of implementation of the requirements set forth in this section, on a Commissioner-prescribed form.]

3. Annually notify all teaching staff members of the adopted evaluation policies and procedures no later than October 1. If a staff member is hired after October 1, the district board of education shall notify the teaching staff member of the policies at the beginning of his or her employment. All teaching staff members shall be notified of amendments to the policy within 10 working days of adoption.
 4. Annually adopt by June 1, Commissioner-approved educator practice instruments and, as part of the process described at N.J.A.C. 6A:10-2.1(c), notify the Department which instruments will be used as part of the school district's evaluation rubrics.
 5. Ensure the principal of each school within the school district has established a School Improvement Panel pursuant to N.J.A.C. 6A:10-3.1. The panel shall be established annually by August 31 and shall carry out the duties and functions described in N.J.A.C. 6A:10-3.2.
 6. Collect data elements from the implementation of the teaching and principal practice instruments and store the data in an accessible and usable format. Data elements shall include, but not be limited to, scores or evidence from observations for the purpose of evaluation, and proof of mastery and success in calibration.
- (b) Each district board of education shall ensure the following training procedures are followed when implementing the evaluation rubric for all teaching staff members and, when applicable, applying the Commissioner-approved educator practice instruments:
1. Annually provide descriptions of each component of the evaluation rubric for all teaching staff members who are being evaluated for the first time in the school district. Training shall include detailed descriptions of all evaluation rubric

components, including, when applicable, detailed descriptions of student achievement measures and of all aspects of the educator practice instruments.

2. Provide training on the teacher and principal practice instruments for any supervisor who will conduct observations for the purpose of evaluation of teachers, principals, assistant principals, or vice-principals. Training shall be provided before the observer conducts his or her first observation for the purpose of evaluation; except that all supervisors using the principal practice instrument for the first time in 2013-2014 shall be provided training before October 31, 2013.
3. Annually provide updates and refresher training on the teacher and principal practice instruments for any supervisor who will observe teaching and/or principal practice for the purpose of increasing accuracy and consistency among observers.
4. Annually require each supervisor who will conduct observations for the purpose of evaluation of a teacher to complete two co-observations during the academic year.
 - i. At least one co-observation shall be completed by December 1.
 - ii. Co-observers shall use the double observation to calibrate teacher practice instruments, promote accuracy in scoring, and to continually train themselves on the instrument.
 - iii. A co-observation shall count as a required observation for the purpose of evaluation pursuant to N.J.A.C. 6A:10-4.4, as long as the observer meets the requirements set forth in N.J.A.C. 6A:10-4.3 and 4.4. A co-observation shall count as one required observation under N.J.A.C. 6A:10-4.4.

5. Chief school administrators shall annually certify to the Department that all supervisors of teaching staff members in the school district who are utilizing educator practice instruments have completed training on the instrument and its application and have demonstrated they can apply the educator practice instruments accurately and consistently.

[6A:10-2.3 Evaluation of tenured teaching staff members

- (a) Each district board of education shall adopt policies and procedures requiring the annual evaluation of all tenured teaching staff members by appropriately certified personnel (see N.J.A.C. 6A:9, Professional Licensure and Standards).
- (b) The purpose of the annual evaluation shall be to:
1. Promote professional excellence and improve the skills of teaching staff members;
 2. Improve student learning and growth; and
 3. Provide a basis for the review of performance of tenured teaching staff members.
- (c) Evaluation policies and procedures shall be developed under the direction of the school district board of education's chief school administrator in consultation with tenured teaching staff members and shall include, but not be limited to:
1. Roles and responsibilities for implementation of evaluation policies and procedures;

2. Development of job descriptions and evaluation criteria based upon school district goals, program objectives, instructional priorities, and the evaluation regulations set forth in this chapter;
 3. Methods of data collection and reporting appropriate to each job description including, but not limited to, observation of classroom instruction;
 4. Observation conference(s) between the supervisor and the teaching staff member;
 5. Provision for the use of additional appropriately certified personnel where it is deemed advisable;
 6. Preparation of individual professional development plans; and
 7. Preparation of an annual written performance report by the supervisor and an annual summary conference between the supervisor and the teaching staff member.
- (d) The evaluation policies shall be distributed to each tenured teaching staff members no later than October 1 annually. Amendments to the policy shall be distributed within 10 working days after adoption.
- (e) The annual summary conference between supervisors and teaching staff members shall be held before the written performance report is filed. The conference shall include, but not be limited to, a review of the following:
1. Performance of the teaching staff member based upon the job description;
 2. Progress of the teaching staff member toward the objectives of the individual professional development plan developed at the previous annual conference;
 3. Available indicators of student progress and growth toward the program objectives; and

4. Annual written performance report and the signing of said report within five working days of the review.
- (f) The annual written performance report shall be prepared by a certified supervisor who has participated in the evaluation of the teaching staff member and shall include, but not be limited to:
1. Performance areas of strength;
 2. Performance areas needing improvement based upon the job description;
 3. An individual professional development plan developed by the supervisor and the teaching staff member;
 4. A summary of available indicators of student progress and growth, and a statement of how these indicators relate to the effectiveness of the overall program and the performance of the individual teaching staff member; and
 5. Provisions for performance data not included in the report prepared by the supervisor to be entered into the record by the evaluatee within 10 working days after the supervisor's signing of the report.
- (g) The provisions of this section are the minimum requirements for the evaluation of tenured teaching staff members.
- (h) Each district board of education shall add all written performance reports and supporting data, including, but not limited to, indicators of student progress and growth, for a tenured teaching staff member as part of his or her personnel file. Such records shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.]

6A:10-2.3 District Evaluation Advisory Committee

- (a) Members of the District Evaluation Advisory Committee shall include representation from the following groups: teachers from each school level represented in the school district; central office administrators overseeing the teacher evaluation process; supervisors involved in teacher evaluation, when available or appropriate; and administrators conducting evaluations, including a minimum of one administrator conducting evaluations who participates on a School Improvement Panel. Members also shall include the chief school administrator, a special education administrator, a parent, and a member of the district board of education.
- (b) The chief school administrator may extend membership on the District Evaluation Advisory Committee to representatives of other groups.
- (c) Beginning in 2014-2015, the District Evaluation Advisory Committees shall no longer be required and district boards of education shall have the discretion to continue the Districts Evaluation Advisory Committee.

[6A:10-2.4 Evaluation of nontenured teaching staff members

- (a) Each district board of education shall adopt a policy for the supervision of instruction, setting forth procedures for the observation and evaluation of all nontenured teaching staff members. Such policy shall be distributed to each teaching staff member at the beginning of his or her employment.

- (b) The purpose of this procedure for the observation and evaluation of nontenured teaching staff members shall be to improve professional competence, identify deficiencies, extend assistance for the correction of such deficiencies, provide a basis for recommendations regarding reemployment, and improve the quality of instruction received by the students served by the public schools.
- (c) Each policy for the supervision of instruction shall include, in addition to those observations and evaluations described in this chapter, an annual written evaluation of the nontenured teaching staff member's total performance as an employee of the district board of education, including, but not limited to:
1. Performance areas of strength;
 2. Performance areas needing improvement based upon the job description and the evaluation regulations set forth in this chapter;
 3. An individual professional development plan developed by the supervisor and the teaching staff member; and
 4. A summary of indicators of student progress and growth, and a statement of how the indicators relate to the overall program effectiveness and the performance of the individual teaching staff member.
- (d) Each of the three observations required pursuant to N.J.S.A. 18A:27-3.1 shall:
1. Be conducted for a minimum duration of one class period in a secondary school, and for one complete subject lesson in an elementary school;
 2. Be followed within 10 days by a conference between the administrative or supervisory staff member who has made the observation and written evaluation, and the nontenured teaching staff member;

3. Be followed by both parties to such a conference signing the annual written performance report and retaining a copy for his or her records; and
 4. Allow the nontenured teaching staff member to submit his or her written disclaimer of such evaluation within 10 days following the conference and such disclaimer shall be attached to each party's copy of the annual written performance report.
- (e) Each district board of education shall add all written performance reports and supporting data, including, but not limited to, indicators of student progress and growth, for a nontenured teaching staff member as part of his or her personnel file. Such records shall be confidential and not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.]

6A:10-2.4 Evaluation procedures for all teaching staff

- (a) This section's provisions shall be the minimum requirements for the evaluation of teaching staff members.
- (b) Evaluation policies and procedures requiring the annual evaluation of all teaching staff members shall be developed under the direction of the chief school administrator, in consultation with the District Advisory Evaluation Committee or representatives from School Improvement Panels, and shall include, but not be limited to, a description of:
1. Evaluation rubrics for all teaching staff members;
 2. Roles and responsibilities for implementation of evaluation policies and procedures;

3. Development of job descriptions and evaluation criteria based upon school district goals, student achievement, instructional priorities, and the evaluation regulations set forth in this chapter;
 4. Methods of data collection and reporting appropriate to each job description, including, but not limited to, the processes for observations for the purpose of evaluation and post-observation conference(s) by the teaching staff member's supervisor, or his or her designee;
 5. Process for preparation of individual professional development plans; and
 6. Process for preparation of an annual written performance report by the teaching staff member's supervisor, or his or her designee, and an annual summary conference between the teaching staff member and his or her supervisor, or the supervisor's designee.
- (c) The annual summary conference between supervisors and teaching staff members shall be held before the written performance report is filed. The conference shall include, but not be limited to, a review of the following:
1. Performance of the teaching staff member based upon the job description and, when applicable, the scores or evidence compiled using the teaching staff member's evaluation rubric;
 2. Progress of the teaching staff member toward meeting the objectives of the individual professional development plan or, when applicable, the corrective action plan;
 3. Available indicators or scores of student achievement or growth, when applicable, such as student growth objective scores and student growth percentile scores; and

4. Preliminary annual written performance report.
- (d) If any scores for the teaching staff member's evaluation rubric are not available at the time of the annual summary conference due to pending assessment results, the annual summative evaluation rating shall be calculated once all component ratings are available. If the annual summary evaluation rating is ineffective or partially effective, the teaching staff member's supervisor, in consultation with the teaching staff member, shall develop a corrective action plan pursuant to N.J.A.C. 6A:10-2.5.
- (e) The annual written performance report shall be prepared by the teaching staff member's supervisor, or the supervisor's designee, who participated in the evaluation of the teaching staff member. In the case of a teacher, the annual written performance report shall be prepared by the teacher's principal, or his or her designee, and shall include, but not be limited to:
1. Summative rating based on the evaluation rubric, including, when applicable, a total score for each component as described in N.J.A.C. 6A:10-4 and 5;
 2. Performance area(s) of strength and area(s) needing improvement based upon the job description, observations for the purpose of evaluation and, when applicable, the educator practice instrument;
 3. Individual professional development plan developed by the supervisor and the teaching staff member or, when applicable, a corrective action plan; and
 4. Summary of student achievement or growth indicators, when applicable.
- (f) The teaching staff member and the preparer of the annual written performance report shall sign the report within five working days of the review.

- (g) Each district board of education shall add all written performance reports and supporting data, including, but not limited to, indicators of student progress and growth for a teaching staff member as part of his or her personnel file. The records shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.
- (h) The chief school administrator shall determine the duration of the observations required pursuant to N.J.S.A. 18A:27-3.1 for nontenured teaching staff members, except teachers, principals, vice-principals, and assistant principals. For the purpose of this subsection, observations include, but are not limited to: observations of meetings, student instruction, parent conferences, and case-study analysis of a significant student issue. The observation shall:
1. Be followed within 15 working days by a conference between the administrative or supervisory staff member who has made the observation and written evaluation, and the nontenured teaching staff member;
 2. Be followed by both parties to such a conference signing the written evaluation report and each retaining a copy for his or her records; and
 3. Allow the nontenured teaching staff member to submit his or her written objection(s) of the evaluation within 10 working days following the conference. The objection(s) shall be attached to each party's copy of the annual written performance report.

6A:10-2.5 Corrective action plans for all teaching staff

- (a) For each teaching staff member rated ineffective or partially effective on the annual summative evaluation, as measured by the evaluation rubrics, a corrective action plan shall be developed by the teaching staff member and the chief school administrator or teaching staff member serving in a supervisory role and capacity.
- (b) If the summative evaluation rating is calculated before the end of the school year, then the corrective action plan shall be developed and the teaching staff member and his or her supervisor shall meet to discuss the corrective action plan prior to September 15 of the following school year. The conference to develop and discuss the corrective action plan may be combined with the teaching staff member's annual summary conference that occurs at the end of the year of evaluation.
- (c) If the summative evaluation rating is received after the start of the school year following the year of evaluation, then a corrective action plan must be developed, and the teaching staff member and his or her supervisor shall meet to discuss the corrective action plan within 15 teaching staff member working days following the school district's receipt of the teaching staff member's summative rating of ineffective or partially effective.
- (d) The content of the corrective action plan shall replace the content of the individual professional development plan required in N.J.A.C. 6A:9-15.4(c) and 15.7(c) until the next annual summary conference.
- (e) The content of the corrective action plan shall:
1. Address areas in need of improvement identified in the educator evaluation rubric,
 2. Include specific, demonstrable goals for improvement;
 3. Include responsibilities of the evaluated employee and the school district for the plan's implementation; and

4. Include timelines for meeting the goal(s).
- (f) The teaching staff member's supervisor, or his or her designee, and the teaching staff member on a corrective action plan shall discuss the teaching staff member's progress toward the goals outlined in the corrective action plan during each post-observation conference, when required by N.J.S.A. 18A:27-3.1 or N.J.A.C. 6A:10-4.4.
- (g) Progress toward the teaching staff member's goals outlined in the corrective action plan, and data and evidence collected by the supervisor and/or the teaching staff member to determine progress between the time the corrective action plan began and the next annual summary conference, shall be documented in the teaching staff member's personnel file and reviewed at the annual summary conference or the mid-year evaluation, when applicable.
- (h) Progress toward the teaching staff member's goals outlined in the corrective action plan may be used as evidence in the teaching staff member's next annual summative evaluation; however, such progress shall not guarantee an effective rating on the next summative evaluation.
- (i) Responsibilities of the evaluated employee on a corrective action plan shall not be exclusionary of other plans for improvement determined to be necessary by the teaching staff member's supervisor.
- (j) The School Improvement Panel shall ensure teachers with a corrective action plan receive a mid-year evaluation as required by N.J.S.A. 18A:6-120.c. If the corrective action plan was created before the start of the academic year, the mid-year evaluation shall occur before February 15; if the corrective action plan was created after the start of the

academic year, the mid-year evaluation shall occur before the annual summary conference. The mid-year evaluation shall include, at a minimum:

1. One additional observation for the purpose of evaluation as defined in N.J.A.C. 6A:10-1.2 and described in N.J.A.C. 6A:10-4.4(a), the length of which shall be determined by the chief school administrator or the principal; and
2. One additional post-observation conference as defined in N.J.A.C. 6A:10-1.2 and described in N.J.A.C. 6A:10-4.4(b), during which progress toward the teacher's goals outlined in the corrective action plan shall be reviewed.

(k) Tenured teachers with a corrective action plan shall be observed by multiple observers for the purpose of evaluation as described in N.J.A.C. 6A:10-4.4(c)2.

(l) A chief school administrator, or his or her designee, and the principal, as appropriate, shall conduct a mid-year evaluation of any principal, assistant principal or vice-principal pursuant to N.J.S.A. 18A:6-121.c. If the corrective action plan was created before the start of the year, the mid-year evaluation shall occur before February 15; if the corrective action plan was created after the start of the academic year, the mid-year evaluation shall occur before the annual summary conference. The mid-year evaluation shall include, at a minimum:

1. One additional observation for the purpose of evaluation as defined in N.J.A.C. 6A:10-1.2 and described in N.J.A.C. 6A:10-5.4, and
2. One additional post-observation conference as defined in N.J.A.C. 6A:10-1.2, during which progress toward the principal, assistant principal or vice-principal's goals outlined in the corrective action plan shall be reviewed.

SUBCHAPTER 3 SCHOOL IMPROVEMENT PANEL

6A:10-3.1 School Improvement Panel membership

- (a) The School Improvement Panel shall include the principal, a vice-principal, and a teacher who is chosen in accordance with (b) below by the principal in consultation with the majority representative. The principal may appoint additional members to the School Improvement Panel as long as all members meet the criteria outlined in this section and N.J.S.A. 18A:6-120.a and the teacher(s) on the panel represent at least 1/3 of its total membership.
- (b) The principal annually shall choose the teacher(s) on the School Improvement Panel through the following process:
1. The teacher member shall be a person with a demonstrated record of success in the classroom. Beginning in academic year 2015-2016, a demonstrated record of success in the classroom means the teacher member shall have been rated effective or highly effective in the most recent available annual summative rating.
 2. The majority representative, in accordance with (a) above, may submit to the principal teacher member nominees for consideration.
 3. The principal shall have final decision making authority and is not bound by the majority representative's list of nominees.
- (c) The teacher member shall serve a full academic year, except in case of illness or authorized leave, but may not be appointed more than three consecutive years.

- (d) All members of the School Improvement Panel shall be chosen by August 31 of each year.

6A:10-3.2 School Improvement Panel responsibilities

- (a) The School Improvement Panel shall:

1. Oversee the mentoring of teachers according to N.J.A.C. 6A:9-8 and support the implementation of the school district mentoring plan;
2. Conduct evaluations of teachers pursuant to N.J.A.C. 6A:10-2.4 and 4.4;
3. Ensure corrective action plans for teachers are created in accordance to N.J.A.C. 6A:10-2.5(j); and conduct mid-year evaluations for teachers who are on a corrective action plan.
4. Identify professional development opportunities for all teaching staff members based on the review of aggregate school-level data, including, but not limited to, educator evaluation and student performance data to support school-level professional development plans described in N.J.A.C. 6A:9-15.5.

- (b) To conduct observations for the purpose of evaluation, the teacher member shall have:

1. Agreement of the majority representative;
2. Appropriate supervisory certificate; and
3. Approval of the principal who supervises the teacher being observed.

- (c) The teacher member who participates in the evaluation process shall not serve concurrently as a mentor under N.J.A.C 6A:9-8.4.

SUBCHAPTER 4 COMPONENTS OF TEACHER EVALUATION

6A:10-4.1 Components of teacher evaluation rubric

- (a) The components of the teacher evaluation rubric described in this section shall apply to teaching staff members holding the position of teacher and holding a valid and effective standard, provisional, or emergency instructional certificate.
- (b) Evaluation rubrics for all teachers shall include the requirements described in N.J.S.A. 18A:6-123, including, but not limited to:
1. Measures of student achievement pursuant to N.J.A.C. 6A:10-4.2; and
 2. Measures of teacher practice determined through a teacher practice instrument and other measures described in N.J.A.C. 6A:10-4.3 and 4.4.
- (c) Each measure shall be converted to a percentage weight so all measures make up 100 percent of the evaluation rubric. By April 15 prior to the school year the evaluation rubric applies, the Department shall provide on its website the required percentage weight of each measure. All components shall be worth the following percentage weights or fall within the following ranges:
1. If, according to N.J.A.C. 6A:10-4.2(b), a teacher receives a median student growth percentile, the student achievement component shall be 50 percent of a teacher's evaluation rubric rating.
 2. If, according to N.J.A.C. 6A:10-4.2(b), a teacher does not receive a median student growth percentile, the student achievement component shall be at least 15 percent and no more than 50 percent of a teacher's evaluation rubric rating.

3. Measures of teacher practice described in N.J.A.C. 6A:10-4.3 and 4.4 shall be at least 50 percent and no more than 85 percent of a teacher's evaluation rubric rating.
- (d) Standardized tests, used as a measure of student progress, shall not be the predominant factor in determining a teacher's annual summative rating.

6A:10-4.2 Student achievement components

- (a) Measures of student achievement shall be used to determine impact on student learning. The measures shall include the following components pursuant to (b) below and, when required by the Department, as described at N.J.A.C. 6A:10-4.1(c):
 1. Median student growth percentile of all students assigned to a teacher, which shall be calculated as set forth in (c) below; and
 2. Student growth objective(s), which shall be specific and measurable, based on available student learning data, aligned to Core Curriculum Content Standards, and based on growth and/or achievement.
- (b) The median student growth percentile shall be included in the annual summative rating of a teacher who:
 1. Teaches at least one course or group within a course that falls within a standardized-tested grade or subject. The Department shall maintain on its website a course listing of all standardized-tested grades and subjects for which student growth percentile can be calculated pursuant to (d) below;

2. Teaches the course or group within the course for at least 60 percent of the time from the beginning of the course to the day of the standardized assessment; and
 3. Has at least 20 individual student growth percentile scores attributed to his or her name during the academic year of the evaluation. If a teacher does not have at least 20 individual student growth percentile scores in a given academic year, a maximum of three years of student growth percentiles may be used, including the academic year of the latest summative evaluation rating.
- (c) To calculate the median student growth percentile, the Department shall use student growth percentiles of all students assigned to the teacher.
- (d) The Department shall periodically collect data that include, but are not limited to, component-level scores. For teachers who have a student growth percentile score:
1. District boards of education shall submit to the Department final ratings for all components, other than the student growth percentile, for the annual summative rating; and
 2. The Department then shall report to the employing district board of education the annual summative rating, including the median student growth percentile for each teacher who receives a median student growth percentile.
- (e) Student growth objectives for teachers shall be developed and measured according to the following procedures:
1. The chief school administrator shall determine the number of required student growth objectives for teachers, including teachers with a student growth percentile. A teacher with a student growth percentile shall have at least one and not more than four student growth objectives. A teacher without a student growth

percentile shall have at least two and a maximum of four student growth objectives. By April 15, prior to the school year the evaluation rubric applies, the Department shall provide on its website the minimum and maximum number of required student growth objectives within this range.

2. All teachers shall develop, in consultation with their principal or a teaching staff member appointed by the principal, each student growth objective. If the teacher does not agree with the student growth objectives, the principal shall make the final determination.
3. Student growth objectives and the criteria for assessing teacher performance based on the objectives shall be determined and recorded in the teacher's personnel file by November 15, 2013, and by October 15 of subsequent school years.
4. Adjustments to student growth objectives may be made by the teacher or his or her supervisor only when approved by the chief school administrator or designee and shall be recorded in the teacher's personnel file on or before February 15.
5. The teacher's supervisor and/or a member of the School Improvement Panel shall calculate each teacher's student growth objective score. The teacher's student growth objective score, if available, shall be discussed at the teacher's annual summary conference.

6A:10-4.3 Teacher practice components

The teacher practice component rating shall be based on the measurement of the teacher's performance according to the school district's Commissioner-approved teacher practice instrument. Observations pursuant to N.J.A.C. 6A:10-4.4 shall be used as one form of evidence for the measurement.

6A:10-4.4 Teacher observations

- (a) For purpose of teacher evaluation, observers shall conduct the observations pursuant to N.J.S.A. 18A:6-123.b(8) and N.J.A.C. 6A:10-2.5 and 3.2, and they shall be trained pursuant to N.J.A.C. 6A:10-2.2(b).
- (b) Observation conferences shall include the following procedures:
 - 1. A supervisor who is present at the observation shall conduct a post-observation conference with the teacher being observed. A post-observation conference shall occur no more than 15 working days following each observation. A pre-conference shall be required pursuant to (d) below.
 - 2. The post-observation conference shall be for the purpose of reviewing the data collected at the observation, connecting the data to the teacher practice instrument and the teacher's individual professional development plan, collecting additional information needed for the evaluation of the teacher, and offering areas to improve effectiveness.
 - 3. If agreed to by the teacher, post-observation conferences for short observations of tenured teachers who are not on a corrective action plan may be conducted via written communication, including electronic.

4. A pre-conference, when required, shall occur seven working days prior to the observation, not including the day of the observation.
 5. When a pre-conference is required, the teacher shall be notified of the day of the observation.
- (c) Each teacher shall be observed as described in this section, at least three times during each school year, including at least once during each semester, with the following additional requirements:
1. Nontenured teachers shall receive a minimum of three observations within the timeframe set forth in N.J.S.A. 18A:27-3.1, and observations for all other teachers shall occur prior to the annual summary conference, which shall occur prior to the end of the academic school year.
 2. Teachers on a corrective action plan shall receive observations within the timeline set forth in N.J.A.C. 6A:10-2.5.
 3. Nontenured teachers shall be observed during the course of the year by more than one appropriately certified supervisor, either simultaneously or separately, by multiple observers, with the following provisions:
 - i. A co-observation shall fulfill the requirement in this subsection for multiple observers.
 - ii. One co-observation shall count as one observation required in (d) below.
 4. One post-observation conference may be combined with a teacher's annual summary conference as long as it occurs within the required 15 working days following the observation for the purpose of evaluation.

- (d) Each observation required for the purpose of evaluations shall be conducted for the minimum duration based on the following groups:
1. A nontenured teacher who is in his or her first or second year of teaching in the school district shall receive at least:
 - i. Two long observations occurring with a pre-conference and prior notice;
and
 - ii. One short observation, without prior notice.
 2. A nontenured teacher who is in his or her third or fourth year of teaching in the school district shall receive at least:
 - i. One long observation occurring with a pre-conference and prior notice;
and
 - ii. Two short observations, without prior notice.
 3. A tenured teacher shall receive at least:
 - i. Three short observations, with at least one observation occurring with a pre-conference and prior notice; and
 - ii. At least one observation without prior notice.

SUBCHAPTER 5 COMPONENTS OF PRINCIPAL EVALUATION

6A:10-5.1 Components of principal evaluation rubrics

- (a) Unless otherwise noted, the components of the principal evaluation rubrics shall apply to teaching staff members holding the position of principal, vice-principal, or assistant

principal and holding a valid and effective standard, provisional, or emergency administrative certificate.

(b) The principal evaluation rubric shall meet the standards provided in N.J.S.A. 18A:6-123, including but not limited to:

1. Measures of student achievement pursuant to N.J.A.C. 6A:10-5.2; and
2. Measures of principal practice pursuant to N.J.A.C. 6A:10-5.3.

(c) Each measure shall be converted to a percentage weight so all measures make up 100 percent of the evaluation rubric. By April 15 prior to each school year the evaluation rubric applies, the Department shall provide on its website the required percentage weight of each measure. All components shall be worth the following percentage weights or fall within the following ranges:

1. If, according to N.J.A.C. 6A:10-5.2(b), the principal, vice-principal, or assistant principal receives a median student growth percentile measure as described in N.J.A.C. 6A:10-5.2(c) below, the measure shall be at least 20 percent and no greater than 40 percent of evaluation rubric rating.
2. Measure of average student growth objective for all teachers, as described in N.J.A.C. 6A:10-5.2(d), shall be at least 10 percent and no greater than 20 percent of evaluation rubric rating.
3. Measure of administrator goal, as described in N.J.A.C. 6A:10-5.2(f), shall be no less than 10 percent and no greater than 40 percent of evaluation rubric rating.
4. Measure of principal practice, as described in N.J.A.C. 6A:10-5.3(b), shall be 30 percent of evaluation rubric rating.

5. Measure of leadership practice, as described in N.J.A.C. 6A:10-5.3(c), shall be 20 percent of evaluation rubric rating.
- (d) Standardized assessments, used as a measure of student progress, shall not be the predominant factor in determining a principal's annual summative rating.
- (e) The Department shall periodically collect principal evaluation rubric data that shall include, but are not limited to, component-level scores and annual summative ratings.

10-5.2 Student achievement components of principal evaluation rubrics

- (a) Measures of student achievement shall be used to determine impact on student learning and shall include the following components:
1. Schoolwide student growth percentile of all students assigned to the principal.
 2. Average student growth objective scores of every teacher, as described in N.J.A.C. 6A:10-4.2(e), assigned to the principal.
 3. Administrator goals set by principals, vice-principals, and assistant principals in consultation with their supervisor pursuant to (f) below, which shall be specific and measurable, based on student growth and/or achievement data.
- (b) The schoolwide student growth percentile score shall be included in the annual summative rating of principals, assistant principals, and vice-principals who are assigned to a school as of October 15 and who are employed in schools where student growth percentiles are available for students in one or more grades. School districts may assign assistant principals and vice-principals who are employed in more than one school to the school or schools as appropriate for the percentage of time spent in each school.

- (c) The Department shall calculate the schoolwide student growth percentile for principals, assistant principals, and vice-principals, which includes schoolwide math and schoolwide ELA scores.
- (d) The average student growth objective scores of all teachers, as described in N.J.A.C. 6A:10-4.2(e), shall be a component of the principal’s annual summative rating. The average student growth objective scores for assistant principals or vice-principals shall be determined according to the following procedures:
1. The principal, in consultation with the assistant principal, or vice-principal, shall determine prior to the start of the year, which teachers, if not all teachers in the school, shall be linked to the assistant principal and vice-principal's average student growth objective score.
 2. If the assistant principal or vice-principal does not agree with the list of teachers linked to his or her name for the purposes of this measurement, the principal shall make the final determination.
- (f) Administrator goals for principals, assistant principals, or vice-principals shall be developed and measured according to the following procedures:
1. The superintendent shall determine for all principals, assistant principals, or vice-principals, the number of required administrator goals which shall reflect the achievement of a significant number of students within the school. By April 15 prior to the school year the evaluation rubric applies, the Department shall provide on the Department’s website the minimum and maximum number of required goals, which will be at least one goal and no more than four goals.

2. Principals, assistant principals, or vice-principals shall develop in consultation with their supervisor, each administrator goal. Vice-principals and assistant principals shall set goals specific to his or her job description or adopt the same goals as his or her principal. If the principal, assistant principal, or vice-principal and his or her supervisor do not agree upon the student growth objectives, the supervisor shall make the final determination.
3. Administrator goals and the criteria for assessing performance based on those objectives shall be determined and recorded in the principal, vice-principal, or assistant principal's personnel file by November 15, 2013, and by October 15 for all subsequent school years.
4. The administrator goal score shall be calculated by the supervisor of the principal, vice-principal, or assistant principal. The principal, vice-principal, or assistant principal's administrator goal score, if available, shall be discussed at his or her annual summary conference.

6A:10-5.3 Principal practice component of evaluation rubric

- (a) Measures of principal practice shall include the following components:
 1. Measure determined through a Commissioner-approved principal practice instrument.
 2. Leadership measure determined through the Department-created leadership rubric.

- (b) Principal practice component rating shall be based on the measurement of the principal, assistant principal, or vice-principal's performance according to the school district's Commissioner-approved principal practice instrument. Observations pursuant to N.J.A.C. 6A:10-5.4 shall be used as one form of evidence for this measurement.
- (c) Leadership practice shall be determined by a score on a leadership rubric, which will assess the principal, vice principal, or assistant principal's ability to improve student achievement and teaching staff member effectiveness through identified leader behaviors. The rubric will be posted on the Department's website and annually maintained.

6A:10-5.4 Principal, assistant principal, and vice-principal observations

- (a) A chief school administrators, or his or her designee, shall conduct observations for the evaluation of principals pursuant to N.J.S.A. 18A:6-121 and he or she shall be trained pursuant to N.J.A.C. 6A:10-2.2(b).
- (b) A principal, or a chief school administrator or his or her designee, shall conduct observations for the evaluation of assistant principals and vice-principals pursuant to N.J.S.A. 18A:6-121.
- (c) For the purpose of collecting data for the evaluation of a principal, assistant principal, or vice-principal, an observation, as described in N.J.S.A. 18A:6-119 and N.J.A.C. 6A:10:1-2, may include, but is not limited to: building walk-through, staff meeting observation, parent conference observation, or case study analysis of a significant student issue.
- (d) Post-observation conferences shall include the following procedures:

1. A supervisor who is present at the observation shall conduct a post-observation conference with the principal, assistant principal, or vice-principal being observed. A post-observation conference shall occur no more than 15 working days following each observation.
 2. The post-observation conference shall be for the purpose of reviewing the data collected at the observation, connecting the data to the principal practice instrument and the principal, assistant principal, or vice-principal's individual professional development plan, collecting additional information needed for the evaluation, and offering areas to improve effectiveness.
 3. With the consent of the observed principal, assistant principal, or vice-principal, post-observation conferences for individuals who are not on a corrective action plan may be conducted via written communication, including electronic communication.
 4. One post-observation conference may be combined with the principal, assistant principal or vice-principal's annual summary conference as long as it occurs within the required 15 working days following the observation.
- (e) Each tenured principal, assistant principal, and vice-principal shall be observed as described in this section, at least two times during each school year. Each nontenured principal, assistant principal, and vice-principal shall be observed as described in this section, at least two times during each school year. An additional observation shall be conducted pursuant to N.J.A.C. 6A:10-2.5(l) for principals, assistant principals, and vice-principals who are on a corrective action plan.

SUBCHAPTER 6. COMMISSIONER APPROVAL OF EDUCATOR PRACTICE INSTRUMENTS

6A:10-6.1 Educator practice instrument

- (a) The Department shall provide and maintain on its website a list of Commissioner-approved educator practice instruments as determined by the criteria in this subchapter.
- (b) For Commissioner approval, an educator practice instrument shall be either evidence- or research-based as it applies to the evaluation of teachers and principals.
 - 1. To be evidence-based, data collected when using the instrument shall be positively correlated with student outcomes.
 - 2. To be research-based, studies shall show the degree to which data collected by the instrument is positively correlated with student outcomes. To obtain the correlation, the current form of the instrument shall be applied through rigorous, systematic and objective observation and evaluation procedures.
- (c) The Department shall periodically review the approved instruments to ensure the instruments continue to meet the criteria set forth in N.J.A.C. 6A:10-6.2 and 6.3.
 - 1. If the Department determines the instrument(s) no longer meets the criteria set forth in N.J.A.C. 6A:10-6.2 and 6.3, the Department shall notify the instrument's sponsors or creators and they shall have 30 calendar days to correct the deficiencies outlined by the Department.

2. If the deficiencies are not corrected, the Department shall notify the schools using the instrument that it is no longer approved by the Department. The school shall have 90 calendar days to choose a new educator practice instrument.

6A:10-6.2 Teacher practice instrument

(a) The teacher practice instrument approved by the Department shall meet the following criteria:

1. Include domains of professional practice that align to the New Jersey Professional Standards for Teachers pursuant to N.J.A.C. 6A:9-3;
2. Include scoring guides for assessing teacher practice that differentiate among a minimum of four levels of performance, and the differentiation has been shown in practice and/or research studies. Each scoring guide shall:
 - i. Clearly define the expectations for each rating category;
 - ii. Provide a conversion to the four rating categories: highly effective, effective, partially effective, and ineffective;
 - iii. Be applicable to all grades and subjects; or to specific grades and/or subjects if designed explicitly for the grades and/or subjects; and
 - iv. Use clear and precise language that facilitates common understanding among teachers and administrators;
3. Rely, to the extent possible, on specific, discrete, observable, and/or measurable behaviors of students and teachers in the classroom with direct evidence of student engagement and learning; and

4. Include descriptions of specific training and implementation details required for the instrument to be effective.
- (b) For Commissioner-approval of a teacher practice instrument in 2015 or any year thereafter, the instrument shall include an assessment to demonstrate proof of mastery on the evaluation instrument and/or a certification that the evaluators using the instrument have been thoroughly trained.

10-6.3 Principal practice instrument

- (a) The principal practice instrument approved by the Department shall meet the following criteria:
1. Incorporate domains of practice and/or performance criteria that align to the 2008 ISLLC Professional Standards for School Leaders developed by the Interstate School Leadership Licensure Consortium incorporated herein by reference, available at http://www.ccsso.org/documents/2008/educational_leadership_policy_standards_2008.pdf;
 2. Include scoring guides for assessing teacher practice that differentiate among a minimum of four levels of performance, and the differentiation has been shown in practice and/or research studies. Each scoring guide shall clearly define the expectations for each category and provide a conversion for the four categories: highly effective, effective, partially effective, and ineffective;
 3. Be based on multiple sources of evidence collected throughout the year;

4. Incorporate an assessment of the principal's leadership for implementing a rigorous curriculum and assessments aligned to the Core Curriculum Content Standards;
 5. Incorporate an assessment of the principal's leadership for high-quality instruction;
 6. Include an assessment of the principal's performance in evaluating teachers; and
 7. Include an assessment of the principal's support for teachers' professional growth.
- (b) For Commissioner-approval of a principal practice instrument in 2015 or any year thereafter, the instrument shall include an assessment to demonstrate proof of mastery on the evaluation instrument and/or a certification that the evaluators using the instrument have been thoroughly trained.

SUBCHAPTER 7 Evaluation of Chief School Administrators

6A:10-7.1 Evaluation of chief school administrators

- (a) Each district board of education shall adopt a policy and implementation procedures requiring the annual evaluation of the chief school administrator by the district board of education.
- (b) The purpose of the annual evaluation shall be to:
 1. Promote professional excellence and improve the skills of the chief school administrator;

2. Improve the quality of the education received by the students served by the public schools; and

3. Provide a basis for the review of the chief school administrator's performance.

(c) The policy and procedures shall be developed by the district board of education after consultation with the chief school administrator and shall include, but not be limited to:

1. Determination of roles and responsibilities for the implementation of the annual evaluation policy and procedures;

2. Development of a job description and evaluation criteria based upon the district board of education's local goals, program objectives, policies, instructional priorities, State goals, statutory requirements, and the functions, duties, and responsibilities of the chief school administrator;

3. Specification of data collection and reporting methods appropriate to the job description;

4. Provision for the preparation of an individual professional growth and development plan based in part upon any need(s) identified in the evaluation. The plan shall be mutually developed by the district board of education and the chief school administrator; and

5. Preparation of an annual written performance report by a majority of the full membership of the district board of education and an annual summary conference between a majority of the total membership of the district board of education and the chief school administrator.

- (d) The district board of education may hire a qualified consultant to assist or advise in the evaluation process; however, the evaluation itself shall be the responsibility of the district board of education.
- (e) The evaluation policy shall be distributed to the chief school administrator upon adoption by the district board of education. Amendments to the policy shall be distributed within 10 working days after adoption.
- (f) The annual summary conference between the district board of education, with a majority of its total membership present, and the chief school administrator shall be held before the written performance report is filed. The conference shall be held in private, unless the chief school administrator requests that it be held in public. The conference shall include, but not be limited to, review of the following:
1. Performance of the chief school administrator based upon the job description;
 2. Progress of the chief school administrator in achieving and/or implementing the school district's goals, program objectives, policies, instructional priorities, State goals, and statutory requirements; and
 3. Indicators of student progress and growth toward program objectives.
- (g) The annual written performance report shall be prepared by April 30 by a majority of the district board of education's total membership and shall include, but not be limited to:
1. Performance area(s) of strength;
 2. Performance area(s) needing improvement based upon the job description and evaluation criteria set forth in (c)2 above;
 3. Recommendations for professional growth and development;

4. Summary of indicators of student progress and growth, and a statement of how the indicators relate to the effectiveness of the overall program and the chief school administrator's performance; and
 5. Provision for performance data not included in the report to be entered into the record by the chief school administrator within 10 working days after the report's completion.
- (h) The provisions of this section are the minimum requirements for the evaluation of a chief school administrator.
 - (i) The evaluation procedure for a nontenured chief school administrator shall be completed by April 30 each year.
 - (j) Each newly appointed or elected district board of education member shall complete a New Jersey School Boards Association training program on the evaluation of the chief school administrator within six months of the commencement of his or her term of office pursuant to N.J.S.A. 18A:17-20.3.b.
 - (k) Each district board of education shall add to a chief school administrator's personnel file all written performance reports and supporting data, including, but not limited to, indicators of student progress and growth. The records shall be confidential and not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

SUBCHAPTER 8 PROCEDURE FOR NONTENURED NOTICE OF NON-REEMPLOYMENT

6A:10-8.1 Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of non-reemployment

- (a) Whenever a nontenured teaching staff member has requested in writing and has received a written statement of reasons for non-reemployment pursuant to N.J.S.A. 18A:27-3.2, he or she may request in writing an informal appearance before the district board of education. The written request shall be submitted to the district board of education within 10 calendar days of teaching staff member's receipt of the district board of education's statement of reasons.
- (b) The informal appearance shall be scheduled within 30 calendar days from the teaching staff member's receipt of the district board of education's statement of reasons.
- (c) Under the circumstances described in this section, a nontenured teaching staff member's appearance before the district board of education shall not be an adversary proceeding. The purpose of the appearance shall be to provide the staff member the opportunity to convince board of education members to offer reemployment.
- (d) Each district board of education shall exercise discretion in determining a reasonable length of time for the proceeding, depending upon each instance's specific circumstances.
- (e) Each district board of education shall provide to the employee adequate written notice regarding the date and time of the informal appearance.
- (f) The nontenured teaching staff member may be represented by counsel or one individual of his or her choosing.
- (g) The staff member may present on his or her behalf witnesses who do not need to present testimony under oath and shall not be cross-examined by the district board of education.

Witnesses shall be called one at a time into the meeting to address the board and shall be excused from the meeting after making their statements.

- (h) The proceeding of an informal appearance before the district board of education, as described herein, may be conducted pursuant to N.J.S.A. 10:4-12.b(8).
- (i) Within three days following the informal appearance, the district board of education shall notify the affected teaching staff member, in writing, of its final determination. The district board of education may delegate notification to the chief school administrator or board secretary.