

NJPSA EDUCATION LAW PRIMER

OBSERVATION/EVALUATION AND PROFESSIONAL GROWTH: WHAT YOU SHOULD KNOW



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OBSERVATION, EVALUATION AND PROFESSIONAL GROWTH

WHAT YOU SHOULD KNOW

March 2016

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Introduction

In 2012, the State of New Jersey adopted the Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act. *N.J.S.A. 18A:6-117 et seq.*

N.J.S.A. 18A:6-118 provides the following findings of the Legislature relative to TEACHNJ:

- a. The goal of this legislation is to raise student achievement by improving instruction through the adoption of evaluations that provide specific feedback to educators, inform the provision of aligned professional development, and inform personnel decisions;
- b. The New Jersey Supreme Court has found that a multitude of factors play a vital role in the quality of a child's education, including effectiveness in teaching methods and evaluations. Changing the current evaluation system to focus on improved student outcomes, including objective measures of student growth, is critical to improving teacher effectiveness, raising student achievement, and meeting the objectives of the federal "No Child Left Behind Act of 2001"; and
- c. Existing resources from federal, State, and local sources should be used in ways consistent with this law.

The field services and legal departments of the New Jersey Principals and Supervisors Association receive many requests for assistance from members regarding observation and evaluation under TEACHNJ. This primer has been prepared as an additional benefit to our members.

This reference material is a compilation of many sources dealing with the important process of "observation" and "evaluation." The content includes: New Jersey Statutes Annotated; New Jersey Administrative Code; arbitration decisions under TEACHNJ; and the experience of the New Jersey Principals and Supervisors' attorneys and field representatives.

We hope the material included in this primer will enable you to better understand the mandated process of observation and evaluation and provide guidance regarding the requirements for ongoing professional development of staff.

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General Authority - TEACHNJ

- Statute - N.J.S.A. 18A:6-117 et seq.
Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act
- Regulations - N.J.A.C. 6A:10-1.1 et seq.

For the purposes herein, “teaching staff member” is defined by law (*N.J.S.A. 18A:1-1*) as “a member of the professional staff of any district or regional board of education, or any board of education of a county vocational school, holding office, position or employment of such character that the qualifications for such office, position or employment, require him to hold a valid and effective standard, provisional or emergency certificate, appropriate to his office, position or employment, issued by the State Board of Examiners and includes a school nurse and a school athletic trainer.” (emphasis supplied)

Evaluation of Teaching Staff Members

N.J.A.C. 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.

N.J.A.C. 6A:10-2.4 Evaluation procedures for all 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, who may consult with the District Advisory Evaluation Committee or representatives from

School Improvement Panels, and shall include, but not be limited to, a description of:

1. Roles and responsibilities for implementation of evaluation policies and procedures;
2. Job descriptions, evaluation rubrics for all teaching staff members, the process for calculating the summative ratings and each component, 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, the process for student attribution to teachers, principals, assistant principals, and vice principals for calculating the median and schoolwide student growth percentile;
4. Processes for observations for the purpose of evaluation and post-observation conference(s) by a supervisor;
5. The process for preparation of individual professional development plans; and
6. The process for preparation of an annual written performance report by the teaching staff member’s designated supervisor and an annual summary conference between the teaching staff member and his or her designated supervisor.

Annual Summary Conference

N.J.A.C. 6A:10-2.4:

- c. The annual summary conference between designated supervisors and teaching staff members shall be held before the written performance report is filed. The conference shall occur on or before June 30 of each year and shall include, but not be limited to, a review of the following:
 1. The performance of the teaching staff member based upon the job description and the scores or evidence compiled using the teaching staff member’s evaluation rubric, including, when applicable, the educator’s practice instrument;
 2. The progress of the teaching staff member toward meeting the goals 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. The 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 rating shall be calculated once all component ratings are available.
- e. The annual written performance report shall be prepared by the designated supervisor. The annual written performance report shall include, but not be limited to:
 1. A summative rating based on the evaluation rubric, including, when applicable, a total score for each component;
 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; and
 3. An individual professional development plan developed by the supervisor and the teaching staff member, or, when applicable, a corrective action plan from the evaluation year being reviewed in the report.
- f. The teaching staff member and the supervisor shall sign the report within five working days of the review.
- g. Each board of education shall include all written performance reports and supporting data, including, but not limited to, written observation reports and additional components of the summative evaluation rating as part of his or her personnel file, or in an alternative, confidential location. If reports and data are stored in an alternative location, the personnel file shall clearly indicate the report's location and how it can be easily accessed. The records shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act.

School Improvement Panel - N.J.A.C. 6A:10-3.1 and 6A:10-3.2

Membership:

- Includes principal, vice principal and a teacher who is selected by the principal in consultation with the majority representative.
- Principal may appoint additional members but the teacher(s) on the panel must represent at least one third of panel's total membership.
- The majority representative may submit to the principal teacher nominees for consideration.
- Principal shall have final decision-making authority and is not bound by majority representative's list of teacher nominees.
- The teacher member(s) must have a demonstrated record of success in the classroom. Beginning in the 2015-2016 school year, a demonstrated record of success in the classroom means the teacher has been rated effective or highly effective in the most recent available annual summative rating.
- 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.
- All members of the school improvement panel shall be chosen by August 31 of each year.

Responsibilities:

- Oversee the mentoring of teachers and support the implementation of the school district mentoring plan;
- Conduct evaluations of teachers pursuant to *N.J.A.C. 6A:10-2.4* and *4.4*;
- Ensure corrective action plans for teachers are created in accordance to *N.J.A.C. 6A:10-2.5(j)*;
- Conduct mid-year evaluations for teachers on a CAP;
- 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.

Note: To conduct observations for the purpose of evaluation, the teacher member must have: (1) agreement of the majority representative, (2) an appropriate supervisory certificate, and (3) approval of the principal who supervises the teacher being observed. The teacher member who participates in the evaluation process shall not serve concurrently as a mentor under N.J.A.C. 6A:9B-8.4.

Components of Teacher Evaluation

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

- Includes measures of student achievement and measures of teacher practice.
- Standardized tests, used as a measure of student progress, shall not be the predominant factor in determining a teacher's annual summative rating.

Teacher Observations:

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

- Observers must be trained on the educator practice instruments prior to conducting their first observation.

Observation conference procedures

- 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 teaching staff member working days following each observation.
- 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.
- **Note:** If agreed to by the teacher, post-observation conferences and pre-conferences for short observations of tenured teachers who are not on a corrective action plan may

be conducted via written communication, including electronic.

- A pre-conference, when required, shall occur at least one but not more than seven teaching staff member working days prior to the observation.

Observations of all teachers (tenured and non-tenured)

- Each teacher shall be observed at least three times during each school year, but not less than once each semester.
- For all teachers, at least one of the required observations shall be announced and preceded by a pre-conference.
- For all teachers, at least one of the required observations shall be unannounced.
- The chief school administrator shall decide whether the third required observation is announced or unannounced.

Observations of non-tenured teachers - additional requirements

- Non-tenured teachers shall receive a minimum of three observations within the timeframe set forth in N.J.S.A. 18A:27-3.1.
- Non-tenured teachers shall be observed during the course of the year by more than one appropriately certified supervisor, either simultaneously or separately, by multiple observers.

Observations of teachers on CAPs - additional requirements

- Teachers on a CAP must receive one additional observation (with a post-conference) beyond the number of observations required for all other teachers. The chief school administrator or principal shall determine the length of this additional observation.
- Teachers on a CAP shall receive observations within the timeline set forth in N.J.A.C. 6A:10-2.5.

Evaluation reports

- A written or electronic evaluation report shall be signed by the supervisor who conducted the observation and post-observation and the teacher who was observed.
- The teacher must submit his or her written objection(s) of the evaluation (i.e., rebuttal) within 10 teaching staff member work days following the conference.

- The objection(s) shall be attached to each party's copy of the annual written performance report.

Duration of observations

- A non-tenured teacher who is in his or her first or second year of teaching in the school district shall receive at least 2 long observations and 1 short observation.
- A non-tenured teacher who is in his or her third or fourth year of teaching in the school district shall receive at least 1 long observation and 2 short observations.
- A tenured teacher shall receive at least 3 short observations.

Teacher practice scores

- To earn a teacher practice score, a teacher shall receive at least three observations.
- **Note:** If a teacher is present for less than 40 percent of the total student school days in an academic year, he or she shall receive at least two observations to earn a teacher practice score.

Components of Principal Evaluation

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

- Includes measures of student achievement and measures of principal practice.
- Applies 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.
- Standardized tests, used as a measure of student progress, shall not be the predominant factor in determining a principal's annual summative rating.
- To earn a summative rating, the principal, vice principal, or assistant principal shall have a student achievement score and a principal practice score.
- Each score shall be converted to a percentage weight so all components make up 100% of the evaluation rubric.

- By August 31 prior to the academic year in which the evaluation rubric applies, the NJDOE will post on its website the required percentage weight of each component and the required summative rating scale.
- All components shall be worth the following percentage weights or fall within the following ranges:
 1. If the principal, vice principal or assistant principal receives a schoolwide student growth percentile score, the score shall be at least 10% and no greater than 40% of evaluation rubric rating as determined by the NJDOE.
 2. Measure of average student growth objectives for all teachers shall be at least 10% and no greater than 20% of evaluation rubric rating as determined by the NJDOE.
 3. Measure of administrator goal, shall be at least 10% and no greater than 40% of evaluation rubric rating as determined by the NJDOE.
 4. Measure of principal practice shall be 30% of evaluation rubric rating.
 5. Measure of leadership practice shall be 20% of evaluation rubric rating.

Evaluation of Teaching Staff Members Other Than Teachers, Principals, Vice Principals, and Assistant Principals

Components of Evaluation Rubrics

For teaching staff members other than teachers, principals, vice principals and assistant principals, each school district shall determine the components of the evaluation rubric. See *N.J.A.C. 6A:10-6.1*.

Required observations

- The chief school administrator shall determine the duration of the three observations required pursuant to *N.J.S.A. 18A:27-3.1* for non-tenured teaching staff members, except teachers, principals, vice principals, and assistant principals.

- 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 be followed by a conference within 15 working days between the non-tenured teaching staff member and the administrative or supervisory staff member who made the observation and written or electronic evaluation.
- Both parties to the conference shall sign the written or electronic evaluation report and retain a copy for his or her records.
- The non-tenured teaching staff member shall be allowed to submit his or her written objection(s) of the evaluation (i.e., rebuttal) within 10 teaching staff member working days following the conference. The objection(s) shall be attached to each party's copy of the annual written performance report.
- All tenured teaching staff members, except teachers, principals, vice principals and assistant principals, shall receive at least one observation per school year. The chief school administrator or his or her designee may determine the length and structure of the observation.
- If the summative evaluation rating is calculated after the start of the school year following the year of evaluation, the corrective action plan must be developed and the teaching staff member and his/her designated supervisor must meet to discuss the CAP within 15 working days following the school district's receipt of the teaching staff member's summative rating.
- **The corrective action plan replaces the individual professional development plan until the next annual summary conference.**

Content of Corrective Action Plan

1. Listing of areas in need of improvement identified in the educator evaluation rubric;
2. Specific, demonstrable goals for improvement;
3. Responsibilities of the evaluated employee **and the school district** for the plan's implementation; and
4. Timelines for meeting the goal(s).

Progress Towards CAP Goals

- Teaching staff member's supervisor and teaching staff member on a CAP must discuss teaching staff member's progress towards CAP goals during each required post-observation conference.
- Progress towards CAP goals must be documented in teaching staff member's personnel file and reviewed at annual summary conference or mid-year evaluation.
- Teaching staff member and his/her supervisor may collect data and evidence to demonstrate teaching staff member's progress towards CAP goals.
- Progress towards the teaching staff member's CAP goals may be used as evidence in the next annual summative evaluation; however, such progress will not guarantee an effective rating on the next annual summative evaluation.
- A teaching staff member can make progress on his/her CAP goals but still receive a rating of ineffective or partially effective on his/her next annual summative evaluation if his/her job performance remains subpar.

See N.J.A.C. 6A:10-6.2.

Corrective Action Plans (CAPs) - N.J.A.C. 6A:10-2.5

- Required for each teaching staff member rated ineffective or partially effective on the annual summative evaluation.
- Must be developed by the teaching staff member's designated supervisor in collaboration with the teaching staff member.
- If the summative evaluation rating is calculated before the end of the school year, the corrective action plan must be developed and the teaching staff member and his/her designated supervisor must meet to discuss the CAP prior to September 15 of the following school year.
- Conference to develop and discuss CAP may be combined with the teaching staff member's annual summary conference that occurs at the end of the year of evaluation.

Mid-Year Evaluation

Teachers on CAPs

The School Improvement Panel shall ensure that teachers on a CAP receive a mid-year evaluation. If the CAP was created on or before September 15, the mid-year evaluation shall occur before February 15. If the CAP was created after September 15, the mid-year evaluation shall occur midway between the CAP development and the annual summary conference. The mid-year evaluation shall include, at a minimum, a conference to discuss progress towards the teacher's CAP goals. The mid-year evaluation may be combined with a post-observation conference.

Principals, Assistant Principals and Vice Principals on CAPs

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 on a CAP. If the CAP was created before the start of the academic year, the mid-year evaluation shall occur before February 15. If the CAP was created after the start of the academic year, the mid-year evaluation shall occur midway between the CAP development and the annual summary conference. The mid-year evaluation shall include, at a minimum, a conference to discuss progress towards the principal, assistant principal or vice principal's CAP goals. The mid-year evaluation may be combined with a post-observation conference.

Additional Observation Required

Teachers on CAPs

The School Improvement Panel shall ensure that teachers on a CAP receive one observation, including a post-observation conference, in addition to the observations required in N.J.A.C. 6A:10-4.4. The chief school administrator or principal shall determine the length of the additional observation.

Note: Tenured teachers on a CAP must be observed by multiple observers during the school year.

Principals, Assistant Principals and Vice Principals on CAPs

The chief school administrator shall ensure that principals, assistant principals and vice principals on a CAP receive one observation, including a post-observation conference, in addition to the observations required in N.J.A.C. 6A:10-5.4. The chief school administrator or principal shall determine the length of the additional observation.

Why Adherence to Process Matters

If a corrective action plan does not result in sufficiently improved job performance, the school district may be required to file tenure charges of inefficiency against the teaching staff member. Tenure charges are required for teaching staff members who have two consecutive years of ineffective annual summative ratings or one year of a partially effective rating followed by a year of an ineffective rating.

Under TEACHNJ, tenure charges are now decided by an arbitrator – no longer by a judge from the Office of Administrative Law. There are only four factors an arbitrator may consider in tenure charges of inefficiency. Those factors are as follows:

1. Whether the evaluation failed to adhere to the evaluation process.
2. If there is a mistake of fact in the evaluations.
3. Whether the charges would not have been brought absent considerations of political affiliation, nepotism, union activity, discrimination, or other conduct prohibited by State or federal law.
4. If the district's actions were arbitrary and capricious.

In light of the above, it is extremely important for school districts to precisely follow the evaluation process requirements so as to avoid an unfavorable decision by the arbitrator hearing the tenure dismissal case.

Offer of Continued Employment/ Non-Renewal of Non-Tenured Teaching Staff

N.J.S.A. 18A:27-3.1 Evaluation of performance of nontenure teacher:

Every board of education in this State shall cause each nontenured teaching staff member employed by it to be observed and evaluated in the performance of his or her duties at least three times during each school year but not less than once during each semester. Said evaluations are to take place before April 30 each year. The evaluations may cover that period between April 30 of one year and April 30 of the succeeding year excepting in the case of the first year of employment where the three evaluations must have been completed prior to April 30. The number of required observations and evaluations may be reduced proportionately when an individual teaching staff member's term of service is less than one academic year. Each evaluation shall be followed by a conference between that teaching staff member and his or her superior or superiors. The purpose of this procedure is to recommend as to reemployment, identify any deficiencies, extend assistance for their correction and improve professional competence.

N.J.S.A. 18A:27-3.2 Request for statement of reasons for non-reemployment:

Any teaching staff member receiving notice that a teaching contract for the succeeding school year will not be offered may, within 15 days thereafter, request in writing a statement of the reasons for such nonemployment which shall be given to the teaching staff member in writing within 30 days after the receipt of such request.

N.J.S.A. 18A:27-10 Notice of continued employment to nontenure teaching staff:

On or before May 15 in each year, each nontenured teaching staff member continuously employed by a board of education since the preceding September 30 shall receive either:

- a. A written offer of a contract for employment for the next succeeding year providing for at least the same terms and conditions of employment but with such increases in salary as may be required by law or policies of the board of education, or

- b. A written notice from the chief school administrator that such employment will not be offered.

N.J.S.A. 18A:27-11 Failure to give notice of continued employment; effect:

Should any board of education fail to give any nontenure teaching staff member either an offer of contract for employment for the next succeeding year or a notice that such employment will not be offered, all within the time and in the manner provided by this act [18A:27-10 et seq.], then said board of education shall be deemed to have offered to that teaching staff member continued employment for the next succeeding school year upon the same terms and conditions but with such increases in salary as may be required by law or policies of the board of education.

N.J.S.A. 18A:27-12 Notice of acceptance, deadline:

If the teaching staff member desires to accept such employment he shall notify the board of education of such acceptance, in writing, on or before June 1 in which event such employment shall continue as provided for herein. In the absence of such notice of acceptance the provisions of this article shall no longer be applicable.

N.J.A.C. 6A:10-9.1 - Procedure for appearance of non-tenured 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 of the day 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 in this section, 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.

Post-Observation or Annual Summary Evaluation Conferences

In many districts, evaluation of management staff has been carried out for many years without major problems. The key to such a successful approach is a positive and constructive view of the subject of evaluation. Unfortunately, in some districts the attitude of top management is to use the evaluation process for punitive purposes. If such is the case in your district, the following suggestions might be helpful to you:

1. Make sure that the conference is scheduled at a time mutually convenient to you and the evaluator.
2. Normally only the evaluatee and the evaluator are present at the conference. However, if some form of disciplinary action is contemplated (dismissal, increment withholding) the evaluatee is entitled to have a representative present.
3. Comment freely on positive aspects of your performance, but let your supervisor identify any perceived deficiencies.
4. Take notes – openly or mentally – as appropriate.
5. Seek clarification and elaboration of the evaluation/observation material. Request specific examples.
6. Insist that commendations appear on the record. These may be valuable in the future, especially if your evaluator changes.
7. For reference, bring to the conference any material which corresponds to specific observations being discussed.
8. Indicate any constraints, i.e., lack of material, equipment, resources, learning environment, student problems, which have hindered job performance.
9. Correct known inaccuracies in the report at the conference and initial the corrections.
10. Let the supervisor offer suggestions for improvement.
11. Do not reject recommendations written by the evaluator for a post-observation or annual summative conference. These may be used as a focus for rebuttal statements or other action later.
12. Focus the conference on the purposes of observation/evaluation: to promote professional excellence, improve the skills of teaching staff members, improve student learning and growth and provide a basis for the review of performance.

Rebuttals

A staff member's reaction to an evaluation report may take the form of a written rebuttal.

Rebuttals are written so that the member's impressions, reactions, and additional information are added to the record. The rebuttal refutes the supervisor's perception of the staff member's job performance. Any item in the evaluation deemed as incomplete, misleading or disparate may be subject to rebuttal. The information included in a rebuttal statement may be useful in some future proceeding instituted against a member or it may simply provide additional information for the evaluator's further review. Written rebuttals should be attached to the evaluation and included in the member's personnel file.

General Guidelines Suggested Below for Effective Rebuttal Writing.

1. Seek advice from your local association and/or NJPSA representative, if you are having difficulty in drafting a rebuttal statement.
2. Before writing any rebuttal, review the contract provisions and/or board policies governing teaching staff member evaluation. In some cases, it may not be advantageous to write a rebuttal. Other avenues may be followed.
3. Utilize the facts as they occurred to develop a statement which is in your best interest. Rebuttal should not be sarcastic, accusative or a personal attack upon the evaluator.
4. Require specifics rather than generalities from administrators in evaluation reports.
5. View negative comments as related to:
 - An improper administrative act
 - Failure of the district to provide the proper assistance and/or materials
 - Circumstances beyond the control of the evaluatee
6. Always indicate when administrative assistance was requested but not provided.
7. The rebuttal should emphasize any contractual and/or legal violations in the procedures followed by the evaluator.

Writing the Rebuttal

Consider the Following Steps in Writing a Rebuttal:

1. Analyze the observation/evaluation.
 - Obtain an overview of the document as to its being negative, positive, slanted, self-serving for the evaluator, etc.
 - Document areas of negativism in observation/evaluation.
 - Attempt to gain sight of a pattern, form or context of items checked on the evaluation form and written in the narrative.
 - Select those items which need correction by rebuttal.
2. Neutralize all items which appear negative.
 - Give reasons for performance in the items evaluated negatively.
 - Give rationale for the member's activity performance, lesson plan, lesson content and other items which have been criticized. Refer to overcrowding, referrals, available materials and/or district resources.
 - Answer in rebuttal any item mentioning the words or phrases: "failure to do," "lack of," "in need of," "should/could have," "suggest," "noticed," or "appeared."
 - Mention any omissions on the part of the evaluator to appropriately and accurately relate performance details.
3. Equalize the results. The rebuttal should be structured so as to strengthen performance and weaken the negative items on the observation/evaluation report. Some of the following might be considered:
 - Emphasize preparation and motivation.
 - Focus on objectives, procedures and attainment.
 - Be clear in directions and assignments.
 - Connect all performance with board policy, contract and job description.
 - Review recommendations for practicality.

- Review prior observations and evaluations and use the content of those reports to your advantage.
- Confirm that the rebuttal is attached to the evaluation.

Professional Development for Teachers

These rules apply to “all active teachers, defined as staff whose positions require possession of the instructional or education services certificates in accordance with *N.J.A.C. 6A-9A-3* and *6A:9B-8, 10* and *12.*” (See, *N.J.A.C. 6A:9C-3.1*)

Requirements

***N.J.A.C. 6A:9C-3.4* Requirements for individual teacher professional development planning and implementation:**

- Each teacher must have an individualized professional development plan (PDP) which must include at least 20 hours per year of qualifying activities. The 20 hour requirement shall be reduced by a pro rata share reflecting the use of family or medical leave.
- Content of the PDP must be developed by teacher’s supervisor in consultation with the teacher.
- PDP must align with the Professional Standards for Teachers in *N.J.A.C. 6A:9-3* and the Standards for Professional Learning in *N.J.A.C. 6A:9C-3.3*.
- PDP is effective for one year.
- PDP must specify at a minimum:
 1. One area for development of professional practice derived from the results of observations and evidence accumulated through the teacher’s annual performance evaluation;
 2. As appropriate, an additional area for development of professional practice aligned to the teacher’s role as a member of his or her collaborative professional learning team;
 3. As appropriate, an additional area for development of professional practice

aligned with school and/or district improvement goals; and

4. Any requirements for professional development stipulated elsewhere in statute or regulation.

- The progress of each teacher in meeting the goals of the PDP must be determined annually and aligned to the district process for teacher evaluation.
- Progress on the PDP must be discussed during a minimum of one annual conference between the teacher and his or her supervisor.
- Each teacher shall provide evidence of progress toward meeting the requirements of his or her PDP, and this evidence must be reviewed as part of each conference.
- The PDP shall be revised at a minimum annually but may be adjusted as necessary to support the teacher’s progress.
- All teachers governed by the professional development requirements shall have an individual PDP within 30 instructional days of the beginning of their respective teaching assignments.
- Each district board of education shall ensure that all teachers receive the necessary opportunities, support, and resources to engage in ongoing professional learning and to complete the requirements of their respective PDPs.
- Additional hours of qualifying activities may be required for teachers in low-performing schools, as determined by the Commissioner.

Monitoring and Assistance

***N.J.A.C. 6A:9C-3.9* provides in relevant part as follows:**

- (a) Each district board of education shall monitor and enforce the professional development requirements for teachers and school leaders set forth in this chapter.
- (b) Each district board of education shall actively assist and support the provision of opportunities and resources, and the efforts by teachers and school leaders to meet the requirements.
- (c) To ensure that the professional development requirements set forth in this chapter reflect a policy of continuous improvement, constructive

support, and timely intervention, the Department shall establish accountability procedures pursuant to N.J.A.C. 6A:30.

(d) It is the responsibility of the local supervisor and school district administrator through the teacher performance evaluation process and the professional development planning process to monitor each teacher's progress in meeting the professional development requirements and to take appropriate steps to assure such progress. In any instance where a teacher's progress is found to be inadequate, the school district administration shall take appropriate remedial action by applying sound and accepted principles of progressive supervision and other appropriate means.

Additionally, pursuant to *N.J.A.C. 6A:9C-3.9(f)*, each school district administration shall be responsible for maintaining accurate records of each educator's progress in meeting the professional development requirements outlined in this chapter. Such records shall include a copy of each educator's current professional development plan and timeline, as well as any documentation and evidence showing the educator's progress toward meeting the plan's requirements.

What Happens When the Teacher Changes Districts?

***N.J.A.C. 6A:9C-3.9(g)* provides that:**

If a teacher leaves the employ of one New Jersey school district and is hired by another, the previous employing school district must share with the new employing school district the teacher's individual professional development plan and all supporting documentation. If the current professional development plan is found to be unsuitable to the teacher's new assignment, the new employing school district must ensure that a revised professional development plan and timeline is created within 30 days of hire by the employee's new supervisor in collaboration with the new teacher.

Professional Development for School Leaders

These rules apply to "all active school leaders serving on a permanent or interim basis whose positions require possession of the chief school administrator, principal, or supervisor endorsement in accordance with N.J.A.C. 6A:9B-11." (See, N.J.A.C. 6A:9C-3.1)

Requirements:

***N.J.A.C. 6A:9C-3.7* Implementation of the professional development requirement for school leaders:**

- Each district board of education shall oversee and review for each chief school administrator professional development that links to individual, school and district professional development goals and to the school district's professional development plan.
- Each chief school administrator shall oversee and review for each principal and supervisor professional development that links to individual, school, and district professional development goals.
- Each chief school administrator, principal and supervisor shall fulfill the professional development requirement through the creation, implementation and completion of a professional development plan ("PDP").
- The PDP must align with the Professional Standards for School Leaders set forth in *N.J.A.C. 6A:9-3.4* and the Standards for Professional Learning set forth in *N.J.A.C. 6A:9C-3.3*.
- The PDP must be derived from the results of observations, evidence and recommendations included in the annual performance evaluation of the chief school administrator, principal or supervisor.
- The PDP must identify professional goals that address specific individual, school or district goals.
- The PDP must ground professional development activities in objectives related to improving teaching, learning, and student achievement, and in support of the school and/or school district professional development plan.

- Each active school leader shall be required to provide evidence of progress toward fulfillment of his or her plan. Evidence shall include a narrative account detailing plan goals and their achievement and documentation of professional growth activities.
- The chief school administrator, or designee holding a chief school administrator endorsement, shall meet with the principal, supervisor or other school administrator at mid-year to assess progress toward completion or modification of the plan.
- The chief school administrator, or designee holding a chief school administrator endorsement, shall review the status of the professional development plan as part of the principal, supervisor or other district administrator's annual performance evaluation.

N.J.A.C. 6A:9C-3.8 Requirements for school leader professional development in ethics, law and governance:

All professional development plans for active school leaders serving on a permanent or interim basis whose positions require possession of the chief school administrator, principal, or supervisor endorsement in accordance with *N.J.A.C. 6A:9B-11.3* shall ensure the appropriate training on: school law, ethics, and governance pursuant to *N.J.S.A. 18A:26-8.2*; and other statutory requirements related to school safety and well-being. To meet this ongoing requirement, the specific training needs of each school leader will be reviewed annually as part of the professional development planning process.

Monitoring

***N.J.A.C. 6A:9C-3.9(e)* provides that:**

It is the responsibility of the school leader's immediate supervisor, or the district board of education in the case of the chief school administrator, to monitor each school leader's progress in meeting the professional development requirements. Monitoring shall be accomplished through the performance evaluation and professional development planning processes. In any instance where a school leader's progress is found to be inadequate, the school leader or district board of education shall take appropriate remedial action.

What Happens When the School Leader Changes Districts?

***N.J.A.C. 6A:9C-3.9(h)* provides that:**

If a school leader leaves the employ of one New Jersey school district and is hired by another, the new employing school district or district board of education shall ensure that a revised professional development plan appropriate to the new assignment is developed in collaboration with the school leader.

TEACHNJ Arbitration Decisions - Inefficiency

Inefficiency Charges Against Teachers

In a series of arbitration decisions involving inefficiency cases brought on behalf of the State-Operated School District of the City of Newark, arbitrators have held that inefficiency charges brought under TEACHNJ must stem from annual summative evaluations beginning no earlier than the 2013-2014 school year. In the Newark cases, the school district sought to terminate the employment of tenured teaching staff members on the basis of two consecutive years of ineffective or partially effective summative ratings over the 2012-2013 and 2013-2014 school years. The teachers in these cases were returned to work with full back pay for the periods of their unpaid suspensions. See, Tenure Hearings of Brady, Kelly-Gamble, Ahmed, Lenz, Johnson, Whitehurst, Williams, Brienza, Yarborough, Thomas, and Cheatham.

In the Matter of Tenure Hearing of Emil Neil, School District of City of Beverly (11/22/13 - Arbitrator Timothy Brown, Esq.)

Board filed 14 charges of inefficiency, incompetence, insubordination, and conduct unbecoming against longtime music teacher. Teacher was alleged to employ poor classroom management and to have no determinable lesson plans. Teacher was also alleged to have used inappropriate language with students. The arbitrator found in favor of the district and dismissed the teacher from his tenured position.

In the Matter of Tenure Hearing of Gerald Carter, School District of the City of Camden (7/18/13 - Arbitrator Simmelkjaer, Esq.)

Tenured special education teacher was brought up on inefficiency, conduct unbecoming, and insubordination charges for several years of conduct (not turning in lesson plans, absenteeism, 20 times late, playing video games in class, leaving his class without notice or coverage, playing explicit rap music for his students). The teacher contested the tenure charges on the basis that he never received a formal evaluation which is required under TEACHNJ. Arbitrator found in favor of the district on inefficiency and insubordination charges and dismissed teacher, holding that the district met its burden through 7 years of “write-ups” and constant reassignments to schools in the district.

Inefficiency Charges Against Administrators

In the Matter of Tenure Charges Against Lawrence E. Hawkins, State-Operated School District of the City of Newark (3/10/14 - Arbitrator Carol Laskin, Esq.)

A tenured vice principal was brought up on charges of (1) inefficiency for failing to satisfy his duties as a vice principal (failure to timely complete reports and properly evaluate teachers); (2) unbecoming conduct for insubordination and using corporal punishment on a student (grabbing a student by the front of his shirt and dragging him across the playground to the principal’s office); and (3) other just cause for dismissal - excessive tardiness. The arbitrator found in favor of the district and dismissed the vice principal from his tenured position.