

throughout N.J.A.C. 3A:80-1 to update the name of the Department of Children and Families in accordance with P.L. 2006, c. 47, and to correct outdated language and references. The technical changes include: replacing “his or her” throughout the subchapter, updating the name of the Civil Service Commission at N.J.A.C. 3A:80-1.2(a)2, and correcting out-of-date cross-references at N.J.A.C. 3A:80-1.5(c), 1.8(a), and 1.9. The rules are necessary, reasonable, and proper for the purposes for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted with technical changes and shall continue in effect for a seven-year period.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. TENURE

3A:80-1.1 Purpose

This subchapter implements the provisions [of] **at** N.J.S.A. 18A:60-1 et seq., which grant tenure rights to instructional staff of the Department of [Human Services] **Children and Families**.

3A:80-1.2 Scope

(a) This subchapter applies to all individuals employed by the Department of [Human Services]

Children and Families who:

1. (No change.)
2. Are not otherwise included in the New Jersey [Department of Personnel] **Civil Service**

Commission career service.

3A:80-1.3 Definitions

When used in this subchapter, the following terms shall have the indicated meanings, unless the context clearly indicates otherwise.

...

"Instructional staff member" means a member of the professional staff of the Office of Education or any facility in the Department of [Human Services] **Children and Families**, holding position, employment, or function of such character that the qualifications require [him or her to possess] a valid and effective standard certificate issued by the State Board of Examiners, appropriate to [his or her assignment] the **assigned role**, as determined by the Director, Office of Education. Applications of time earned during possession of emergency or provisional certifications are described [in] **at** N.J.A.C. 3A:80-1.5.

"Office of Education" means the Office of Education within the Department of [Human Services] **Children and Families**.

"One year of service" means, for seniority purposes only, 12 months of employment in pay status in a tenure-applicable title in the Department of [Human Services] **Children and Families**. A service period commences on the date of appointment into a tenure-applicable title. Examples of tenure-applicable titles are Teacher I; Teacher II; Supervisor of Educational Programs I and II; Assistant Supervisor of Educational Programs I and II; Instructor, Commission for the Blind and Visually Impaired; School Psychologist; Learning Disabilities Specialist; School Social Worker; and other educational titles that require staff to hold valid and effective standard certificates, issued by the State Board of Examiners, appropriate to the assignment as determined by the Director, Office of Education.

3A:80-1.4 Scope of tenure

Once tenure is acquired by an employee, such standing shall apply throughout the Department of [Human Services] **Children and Families**. If, however, the employee experiences a break in service, [he or she] **the employee** will forfeit **their** tenure rights.

3A:80-1.5 Eligibility

(a) In addition to fulfillment of the requirements set forth [in] **at** N.J.A.C. 3A:80-1.2, and pursuant to N.J.S.A. 18A:60-1 et seq., those individuals who have been continuously employed for at least two academic years in an instructional capacity within the Department of [Human Services] **Children and Families** as of July 1, 1986 and have completed at least two years of educational services with satisfactory evaluations shall acquire tenure upon completion of one additional year of satisfactory service.

(b) (No change.)

(c) Employment experience obtained [under] **through** emergency or provisional certification, in accordance with N.J.A.C. 6A:9, may be applied towards tenure eligibility, provided [an] **each** instructional staff person, following [his or her] **their** employment [under] **pursuant to** an emergency certificate, is issued a permanent certificate in the same educational services endorsement area as the emergency certificate. However, tenure may be acquired only when standard certification is issued.

3A:80-1.6 Notice of reemployment; non-reemployment

(a) [All notices under] **Each reemployment and non-reemployment notice pursuant to this** section, including the recommendation for reemployment or the 60-day notice of non-

reemployment, shall be made by the appointing authority and the Director, Office of Education, or [his or her] **the Director's** qualified designee, for all instructional staff.

1. (No change.)

2. By the appointing authority, in conjunction with the Director, Office of Education, or [his or her] **the Director's** qualified designee, for all supervisory or administrative staff.

(b)-(d) (No change.)

3A:80-1.7 Performance assessment

(a) The supervision and evaluation of instructional staff shall be conducted by educationally certified supervisors employed in an educational capacity within the Department of [Human Services] **Children and Families** or by the Director, Office of Education, or [his or her] **the Director's** appropriately qualified designee, in conjunction with the appointing authority.

(b)-(c) (No change.)

(d) A non-tenured or tenured instructional staff member shall be observed through visitation to [his or her] **the instructional staff member's** classroom or work station by an educationally certified supervisor, an educationally certified administrator, or the Director, Office of Education, for the purpose of evaluating the staff member's performance of assigned duties and responsibilities.

(e) Each observation shall be followed within a reasonable period of time by a conference between the instructional staff member and the supervisory or administrative staff member who conducted the observation and prepared the written evaluation. Each party to the conference will sign the Performance Assessment instrument and retain a copy for [his or her] **their** records.

(f) The instructional staff member shall have the right to submit [his or her] **their** comments to such an evaluation within 10 days following the conference and such disclaimer shall be attached to each party's copy of the instrument.

3A:80-1.8 Disciplinary action – tenured staff

(a) In a case where disciplinary action is recommended or implemented, which does not involve dismissal or reduction in salary, as a result of charges made against a tenured employee of the Department of [Human Services] **Children and Families**, the appointing authority and the Director, Office of Education, or [his or her] **the Director's** qualified designee, shall act in accordance with [Department of Human Services Administrative Order 4:08] **the Department of Children and Families policy, OOE-I-A-1-28, Evaluation of SFEA Staff**, a copy of which may be [obtained from the employing facility] **accessed at <https://dcfpolicy.nj.gov/>**.

(b) – (f) (No change.)

(g) If the Director of Employee Relations determines that probable cause exists and that the charges, if credited, warrant dismissal or reduction in salary, [he or she] **the Director** shall file such charges and the required certification with the Commissioner of the Department of Education, together with proof of service upon the employee and the employee's representative, if known.

(h) (No change.)

3A:80-1.9 Reduction in force

Nothing [contained in] **at** N.J.S.A. 18A shall be held to limit the right of the Commissioner of [Human Services] **the Department of Children and Families** in the case of any educational

program conducted [under his or her] **within the Commissioner's** jurisdiction, supervision, or control, to reduce the number of instructional staff in any such educational program or programs when the reduction is due to natural diminution of the number of students participating in the educational program or programs, subject to N.J.A.C. [6:3-5.1] **6A:17-3.4.**