



STATE OF NEW JERSEY DEPARTMENT OF EDUCATION

Summary of Legal Requirements for Teacher Evaluation and Tenure Cases

The [TEACHNJ Act](#) outlines the process for filing inefficiency charges under the state evaluation system (AchieveNJ). This guide outlines the actions required in law before bringing an inefficiency tenure charge based on the new tenure revocation process, including the following elements:

A. [Minimum Requirements to Ensure Compliance with Evaluation Procedures](#)

- I. [Observation Requirements for Tenured Teachers](#)
- II. [Student Achievement Requirements for Tenured Teachers](#)
- III. [Summative Evaluation Process](#)
- IV. [Corrective Action Plan \(CAP\) Requirements](#)
- V. [Additional Requirements](#)

B. [Requirements for Filing an Inefficiency Tenure Charge](#)

C. [Streamlined Tenure Revocation Process](#)

A. Minimum Requirements to Ensure Compliance with Evaluation Procedures

Districts must ensure the following evaluation procedures are followed (at minimum) prior to filing an inefficiency tenure charge. Failure to adhere to these requirements can result in the tenure charge being dismissed.

I. Observation Requirements for Tenured Teachers (*N.J.A.C. 6A:10-4.4*)

Minimum Observation Schedule:

- *Two per year for at least 20 minutes each**
 - One unannounced observation and one announced observation preceded by pre-conference, which must occur at least one but not more than seven work days prior to the observation
- District has discretion to decide if additional observations (beyond the two required) will occur and if they will be announced/unannounced, preceded by a pre-conference, and longer than 20 minutes

Post-conference:

- Follows every observation within 15 teacher work days
- *The post-observation conference must be held prior to further evaluative observations**
- Teacher and supervisor/observer discuss data and evidence collected from observation, as well as additional evidence brought to the conference related to the district's teacher practice instrument and the teacher's Professional Development Plan (PDP) or progress on a Corrective Action Plan (CAP), where applicable

Observation Report:

- One report required per observation, signed (electronically or on paper) by the supervisor who conducted the observation/post-observation and the observed teacher
- The teacher may attach a written objection within 10 work days

* Rules in italics are *changes to requirements* adopted in January 2017 for use in the 2016-17 school year.

□ **Observers:**

- Must be employed in the district
- Must serve in a supervisory role in the district
- Must possess an administrative certificate (supervisor, principal, or administrator endorsement)
- A co-observation *may* count as a teacher's observation. If used as an observation, *the final observation score is determined by the teacher's designated supervisor**

DEPARTMENT RECOMMENDATION

Where districts have discretion, they notify all teaching staff members of CAP observation policies and procedures and implement those policies and procedures as consistently as possible.

□ **Observations for Teachers on a CAP:**

- At least one extra observation for a minimum of 20 minutes with a post-conference (*N.J.A.C. 6A:10-2.5*)
- At least two observers throughout the year, *with the exception of districts that employ only one administrator**
- *Observations may not occur between receipt of summative score and implementation of a CAP**

II. Student Achievement Requirements for Tenured Teachers (*N.J.A.C. 6A:10-4.2*)

□ **Student Growth Percentiles (SGPs):**

- Teachers receiving a median SGP score (mSGP) must teach 4th-8th-grade Language Arts Literacy (LAL) and/or 4th-7th-grade Math
- Teachers who teach multiple SGP courses will receive a median of all SGP scores, which means if a teacher is assigned to one student for both LAL and Math, he or she will receive two SGP scores for that student (one for each subject)
- To receive the mSGP, teachers must have a course roster of at least 20 different students enrolled for at least 70% of the school year, and must instruct the course at least 60% of the year prior to the assessment

DEPARTMENT RECOMMENDATIONS

- Districts should engage in a course roster verification process with teachers at the beginning and end of each school year.
- If uncertain whether a teacher may receive an mSGP score, a district should require any teacher of 25 or fewer total students to set two SGOs. If a school's student population is particularly mobile, districts might consider two SGOs for teachers of fewer than 30 students (or other designated district number).
- District SGO/SGP policies, such as the number of required SGOs for teachers with an mSGP, should be applied across the district as consistently as possible.

NOTES ON SGP

- The Department calculates mSGPs using each school district's course roster submitted through NJ SMART
- Subject areas coded 51, 52, or 73 in the course roster submission through NJ SMART meet the criteria for mSGP
- More information is located at <http://www.state.nj.us/education/njsmart/download/course/> and <http://www.nj.gov/education/AchieveNJ/teacher/percentile.shtml>
- More information about code verification is located at <http://www.state.nj.us/education/njsmart/download/course/Roster>

□ **Student Growth Objectives (SGOs):**

- All teachers must set one or two in consultation with their supervisor by October 31; if a teacher does not agree with the SGO, the principal makes the final decision
- Teachers who are not expected to receive a SGP score must set two SGOs
- Districts determine the required number of SGOs for all SGP teachers in the district (one or two)
- Modifications may be made prior to February 15 with the approval of the Superintendent/CSA
- All administrators conducting evaluations must receive annual training on *each component of the evaluation rubric including SGOs**

III. Summative Evaluation Process (*N.J.A.C. 6A:10-2.4*)

□ **Annual Summary Conference:**

* Rules in italics are *changes to requirements* adopted in January 2017 for use in the 2016-17 school year.

- Must occur by the end of the school year between the teacher and principal/designee and prior to filing the annual performance report to review:
 - The teacher’s performance in relation to the district’s teacher job descriptions and evaluation rubric, which includes the evaluation of observations and practice based on the teacher practice instrument, SGOs, and mSGP, when applicable
 - Progress toward meeting goals set in the teacher’s PDP, or when applicable, CAP
 - The teacher’s summative evaluation rating, if available
 - The teacher’s preliminary annual performance report

Annual Performance Report:

- Must be prepared by the teacher’s principal/designee and include summative rating or available data
- Required by the end of the school year and must be updated with summative evaluation rating when available if later than end of school year
- Should include the teacher’s score on the teacher practice instrument and final SGO score, even if the mSGP score is not yet available
- Should include performance areas of strength and those needing improving based on job description and evaluation rubric
- Should include the teacher’s PDP or CAP from the current evaluation year
- Must be signed by the teacher and principal or designee within five working days of review

Summative Evaluation Rating: A numerical score based on all measures of a teacher’s evaluation rubric (practice, SGOs, and mSGPs, where applicable) that correlates with one of four ratings: Ineffective, Partially Effective, Effective, and Highly Effective (*Note: progress on PDP or CAP is not a component of the rating*)

- District calculates the rating for all non-mSGP teachers
- For mSGP teachers, the district must submit through NJ SMART the teacher practice score and SGO score; using district-reported data, the Department will calculate the mSGP score and summative rating (upon receiving this data from the Department through the Evaluation Score Certification Tool, districts should update personnel files with summative ratings)

IV. Corrective Action Plan (CAP) Requirements (*N.J.A.C. 6A:10-2.5*)

Development:

- Required for all staff members rated Ineffective or Partially Effective on the last annual summative evaluation
- Replaces the teacher’s PDP
- Must be developed collaboratively by the teacher and principal (or designee)
- *CAPs may be updated to reflect changes in progress, position, or role**

DEPARTMENT GUIDANCE

Additional guidance and templates for the CAP can be found at <http://www.nj.gov/education/profdev/ipdp/>

Deadline for Development:

- The CAP must be developed and discussed by teacher and supervisor following the year of evaluation and by *October 31**
- If an Ineffective or Partially Effective summative evaluation rating is received after October 1 of the school year following the evaluation, the CAP must be developed *within 25 working days* of the district’s receipt of the rating*

Observations:

- Teachers must have a minimum of two observers throughout the year
- Teachers must have at least one extra observation for a minimum of 20 minutes with a post-conference (*N.J.A.C. 6A:10-2.5*)

Mid-year Evaluation:

- May be combined with a post-observation conference.

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- If CAP was created on or prior to October 31, the mid-year evaluation or extra observation must be completed by February 15
- If CAP was created after October 31, the mid-year evaluation or extra observation must occur midway between the development of the CAP and the next annual summary conference

Content:

- Description of the teacher’s deficiencies
- Timelines for corrective action
- Responsibilities of the individual teaching staff member and the district, including actions and professional learning activities to improve the staff member’s performance

V. Additional Requirements

Confidentiality of Evaluations (N.J.S.A. 18A:6-120):

- Under the *TEACHNJ Act*, “information related to the evaluation of a particular employee shall be maintained by the school district, shall be confidential, and shall not be accessible to the public”

School Improvement Panel (SciP) (N.J.A.C. 6A:10-3):

- Must be established by August 31 of each year
- The precise way in which the SciP supports teacher mentoring, evaluation, and professional development may vary among schools, but the district must ensure the minimum membership requirements and procedures for forming the SciP as described in *N.J.A.C. 6A:10-3* are followed

B. Requirements for Filing an Inefficiency Tenure Charge

Requirements for a Superintendent **to file** an inefficiency tenure charge with the district board of education** are shown in the chart below:

Year A Rating	Year B (Consecutive) Rating	Action
Ineffective	Ineffective	The superintendent must file a charge of inefficiency
Partially Effective	Ineffective	
Ineffective	Partially Effective	The superintendent may file a charge of inefficiency or may defer by filing written evidence of exceptional circumstances. After the following summative evaluation (i.e., the third consecutive), the superintendent must file a charge of inefficiency if the rating is Ineffective or Partially Effective.
Partially Effective	Partially Effective	

C. Streamlined Tenure Revocation Process

Following two years of ratings that trigger a charge of inefficiency, the superintendent must file the charge with the district board of education. The charge will proceed in accordance with the procedures in the *TEACHNJ Act* and *N.J.A.C. 6A:3-5*, including the steps depicted and outlined below:

** In this and all subsequent references in this section to “district boards of education,” in districts run by the State, the entity could be the state district superintendent.

Tenure Revocation Process



- **Step 1:** The superintendent files the tenure charge with the secretary of the district board of education.
- **Step 2:** The tenured teacher charged with inefficiency is notified of the charge **within 3 working days** of the date filed.
- **Step 3:** The tenured teacher may refute the charge by submitting a written statement under oath demonstrating how the school district failed to comply with the evaluation procedures to the district board of education or State district superintendent within 10 calendar days of receipt of the tenure charges.
- **Step 4:** The district board of education forwards a written charge to the Commissioner within 30 calendar days of the filing, 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.
- **Step 5:** The Commissioner shall examine the charge and at the same time the charge is forwarded to the Commissioner, the district board of education again notifies the tenured employee of the charge.
- **Step 6:** The tenured teacher may file a response to the charge with the Commissioner within 10 calendar days.
- **Step 7:** The Commissioner will assign an arbitrator within five days of the employee's deadline to submit a written response.

Arbitrators may only consider the following circumstances in rendering a decision:

- Whether the evaluation **failed to adhere to the evaluation process including the Corrective Action Plan**
- If there is a **mistake of fact** in the evaluation
- If the charges **would not have** been brought but for considerations of **political affiliation, nepotism, union activity, discrimination, or other conduct**
- **Whether the charge is arbitrary or capricious**

If the employee is able to demonstrate that any of the above circumstances occurred, the arbitrator shall then determine if that fact materially affected the outcome of the evaluation. If the fact did not materially affect the outcome, the arbitrator shall render a decision in favor of the board and the employee shall be dismissed.

At all levels of review, the deciding entity must determine whether the district followed the proper procedural requirements as established by the district, the *TEACHNJ Act*, and subsequent regulations.

For More Information

- View the current regulations for educator evaluation at <http://www.state.nj.us/education/code/current/title6a/chap10.pdf>.
- View the *TEACHNJ Act* at <http://www.njleg.state.nj.us/2012/Bills/PL12/26 .PDF>.
- Visit the AchieveNJ website at www.nj.gov/education/AchieveNJ.
- Questions or feedback? E-mail educatorevaluation@doe.state.nj.us, or call the AchieveNJ Help Line at 609-777-3788.