

Executive Order No. 103 Notices

Education

Commissioner of Education

Notice of Rule Waiver/Modification/Suspension Pursuant to Executive Order No. 103 (2020)

COVID-19 State of Emergency

Educator Effectiveness

N.J.A.C. 6A:10-2.2, 2.5, 4.1, 4.4, 5.1, 5.4, and 6.2

Authorized: April 3, 2020, Lamont O. Repollet, ED.D., Commissioner, Department of Education.

Authority: N.J.S.A. App.A:9-45 and App. A:9-47; and Executive Order No. 103 (2020), Executive Order No. 117 (2020), and Executive Order No. 119 (2020).

Effective Date: April 3, 2020.

Expiration Date: Upon the Termination of the Emergency Declaration Made Pursuant to Executive Order No. 103 (2020).

This is an emergency adoption of temporary modifications to rules governing the provision of educator evaluation pursuant to N.J.A.C. 6A:10-2.2(a)3, 6A:10-2.5(h) and (k), 6A:10-4.1(b), (c) and (d), 6A:10-4.4(c)4, 6A:10-5.1(b), (c) and (d), 6A:10-5.4(e), and 6A:10-6.2(c). Section 6 of EO 103 and Section 1 of EO 117, issued in response to the COVID-19 pandemic, authorize agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the

State Director of Emergency Management and the Commissioner of the Department of Health, the Commissioner of Education is modifying Department of Education rules as follows:

Current Department regulations specify rules that school districts must follow to formulate and issue an annual summative rating for educators. The rules identify who must be evaluated, specific components that must be included in evaluations (observations and measures of student growth), and dates by which educators must be notified of the components and the percentage weight associated with each component. The disruption caused by the extended public health-related school closures, and the subsequent cancelation of State assessments, make it impossible to develop some components and render others less reliable as measures of educator effectiveness. Therefore, it is necessary to redefine the components and associated weights, and to notify educators of the changes. In these unprecedented times, school districts also need to direct resources of time and talent toward the most pressing needs of their students. Reducing the regulatory burden related to the evaluation of educators will allow school districts to redirect their resources to locally established priorities.

Under the modified rules, educators will be differentiated into three categories: 1) Tenured educators in good standing; 2) Non-tenured educators and those working under a provisional certificate; and 3) Educators on a Corrective Action Plan (CAP) for the 2019-2020 school year.

The modifications relieve school districts of the obligation to formulate and issue a summative score for tenured educators in good standing. Good standing will be defined as a tenured educator whose most recent summative rating was either effective or highly effective. These educators will receive a “not evaluated” (NE) code for local and State reporting purposes.

Educators who are working under a provisional certification or who are non-tenured will receive a summative rating. For educators in these categories, the summative rating will be based solely on classroom observations conducted prior to the date of the school district's closing (not later than the State-mandated closure date of March 18, 2020).

Educators working under a CAP for the 2019-2020 school year will receive a NE code. These individuals should continue to receive support for the remainder of the 2019-2020 school year and the CAP shall remain in effect at the start of the 2020-2021 school year in accordance with N.J.A.C. 6A:10-2.5(l). However, a superintendent may decide, on a case-by-case basis, to issue a summative rating for an educator on a CAP for the 2019-2020 school year. This determination must be made based on evidence of good progress and the knowledge that issuing a summative rating will move the educator off of a CAP for the 2020-2021 school year. Good progress will be defined as observation scores formulated prior to March 18 that equal a rating of effective or better.

The Department will reissue observation weights for educators earning a summative rating for the 2019-2020 school year, as well as revised guidance for educator evaluation, in alignment with the regulatory modifications described herein. Chief school administrators, in turn, must notify staff of local evaluation policies and procedures within 10 days of the Department's official notice.

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

Subchapter 2. Evaluation of Teaching Staff Members

6A:10-2.2 Duties of district boards of education

- (a) Each district board of education shall meet the following requirements for the annual

evaluation of teaching staff members, unless otherwise specified:

1. – 2. (No change.)

3. Ensure the chief school administrator [annually] notifies 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. – 7. (No change.)

(b) (No change.)

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

(a) – (g) (No change.)

[(h) The School Improvement Panel shall ensure teachers with a corrective action plan receive one observation, including a post-observation conference, in addition to the observations required in N.J.A.C. 6A:10-4.4 for the purpose of evaluation as described in N.J.A.C. 6A:10-1.2 and 4.4(a).]

(i) – (j) (No change.)

[(k) The chief school administrator shall ensure principals, vice principals, and assistant principals with a corrective action plan receive one observation and a post-observation conference in addition to the observations required in N.J.A.C. 6A:10-5.4 for the purpose of evaluation, as described in N.J.A.C. 6A:10-1.2 and 5.4.]

(l) – (m) (No change.)

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 **non-tenured teaching staff members holding a standard certificate**, teaching staff members holding [the position of teacher and holding] a [valid and effective standard,] provisional [or emergency instructional] certificate, **and teaching staff members pursuant to N.J.A.C. 6A:10-4.4(c)4.**
- (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.] **1.** (No change in text.)
- (c) To earn a summative rating, a teacher shall have a [student achievement score, including median student growth percentile and/or student growth objective(s) scores, and a] teacher practice score, pursuant to N.J.A.C. 6A:10-4.4, **comprised of at least two observations completed by March 18, 2020.**
- [(d) Each score shall be converted to a percentage weight so all components make up 100 percent of the evaluation rubric. By August 31 prior to the school year in which the evaluation rubric applies, the Department shall provide 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, 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 at least 30 percent and no more than 50 percent of a teacher's evaluation rubric rating as determined by the Department.
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 as determined by the Department.
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 as determined by the Department.]

(d) The educator practice score shall make up 100 percent of the summative score for all educators receiving a summative score for the 2019-2020 school year.

(e) (No change.)

6A:10-4.4 Teacher observations

(a) – (b) (No change.)

(c) Each teacher shall be observed as described in this section. For all teachers, at least one of the required observations shall be announced and preceded by a pre-conference, and at least one of the required observations shall be unannounced. The chief school administrator shall decide whether additional required observations are announced or unannounced, if applicable. The following additional requirements shall apply:

1. (No change.)
2. Nontenured teachers shall be observed at least [three times each school year but not less than once each semester. The observations shall be conducted in

accordance with the timeframe set forth in N.J.S.A. 18A:27-3.1] **twice before March 18, 2020.**

3. (No change.)
4. [Teachers] **Chief school administrators shall have discretion to allow teachers on a corrective action plan [shall receive, in accordance with N.J.A.C.6A:10-2.5(h), one additional observation, including a post-observation conference] to receive a summative score that results in a teacher summary rating of effective or highly effective. To receive this rating, a teacher shall have at least two observations that demonstrate progress toward an effective or highly effective rating before March 18, 2020.**

5. – 7. (No change.)

- (d) To earn a teacher practice score, a nontenured teacher shall receive at least [three] **two observations by March 18, 2020.**

1. (No change.)

Subchapter 5. Components of Principal Evaluation

6A:10-5.1 Components of principal evaluation rubrics

- (a) [Unless otherwise noted, the] **The** components of the principal evaluation rubrics **described in this section** shall apply to teaching staff members holding the position of principal, vice principal, or assistant principal [and holding a valid and effective standard,] **who are non-tenured, hold a provisional[, or emergency administrative] certificate, or are on a corrective action plan pursuant to N.J.A.C. 6A:10-5.4(e).**
- (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.] 1. Measures of principal practice pursuant to N.J.A.C. 6A:10-5.3 and 5.4.
- (c) To earn a summative rating, the principal, vice principal, or assistant principal shall have [a student achievement score, pursuant to N.J.A.C. 6A:10-5.2 and] a principal practice score, pursuant to N.J.A.C. 6A:10-5.3 and 5.4, **comprised of at least two observations completed by March 18, 2020.**
- [(d) Each score shall be converted to a percentage weight so all components make up 100 percent of the evaluation rubric. By August 31 prior to the school year in which the evaluation rubric applies, the Department shall provide 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, according to N.J.A.C. 6A:10-5.2(b), the principal, vice principal, or assistant principal receives a schoolwide student growth percentile score as described in N.J.A.C. 6A:10-5.2(c), the score shall be at least 10 percent and no greater than 40 percent of evaluation rubric rating as determined by the Department.
 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 as determined by the Department.
 3. Measure of administrator goal, as described in N.J.A.C. 6A:10-5.2(e), shall be no less than 10 percent and no greater than 40 percent of evaluation rubric rating as determined by the Department.
 4. Measure of principal practice, as described in N.J.A.C. 6A:10-5.3(b), shall be no less than 50 percent of evaluation rubric rating.]

(d) **The principal practice score shall make up 100 percent of the summative score for all principals, vice principals, or assistant principals receiving a summative score for the 2019-2020 school year.**

(e) - (f) (No change.)

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

(a) – (d) (No change.)

(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 three times during each school year, as required by N.J.S.A. 18A:27-3.1. An additional observation shall be conducted pursuant to N.J.A.C. 6A:10-2.5(h) for] **Chief school administrators shall have discretion to allow principals, assistant principals, and vice principals who are on a corrective action plan to receive a summative score that results in the principal, assistant principal, or vice principal receiving an effective or highly effective summary rating. To receive this rating, a principal, assistant principal, or vice principal shall have received at least two observations that demonstrate progress toward an effective or highly effective rating before March 18, 2020.**

Subchapter 6. Evaluation of Teaching Staff Members Other Than Teachers, Principals, Vice Principals, and Assistant Principals

6A:10-6.2 Required observations for teaching staff members other than teachers, principals, vice principals, and assistant principals

(a) – (b) (No change.)

(c) [All nontenured teaching] **Other certificated** staff members [as described in N.J.A.C. 6A:10-6.1(a)] **requiring a summative score** shall receive at least [three] **two** observations, as required pursuant to N.J.S.A. 18A:27-3.1.