

## Notice of Rule Modification

**Pursuant to Executive Order No. 103 (Murphy)(March 9, 2020), Executive Orders No. 117 and 119 (Murphy) (April 7, 2020)**

**COVID-19 State of Emergency**

Temporary Rule: **Modification of N.J.A.C. 6A:30, Evaluation of The Performance of School Districts**

Date: May 5, 2020

Authority: N.J.S.A. App.A:9-45 & App. A:9-47; Executive Order No. 103 (Murphy)(“EO 103”); Executive Order No. 117 (“EO 117”); and Executive Order No. 119 (Murphy) (“EO 119”)

Effective Date: May 5, 2020

Expiration Date: Concurrent with the end of EO 103

This is an emergency adoption of temporary suspensions and one modification to rules governing the evaluation of the performance of school districts pursuant to Appendices A and B of N.J.A.C. 6A:30, Evaluation of the Performance of School Districts. The temporary suspensions apply to the following quality performance indicators (Indicators) in Appendices A and B: Fiscal Indicator 9B, Fiscal Indicator 9C, Fiscal Indicator 15, Operations Indicator 12, Personnel Indicator 2A, Personnel Indicator 4B and Personnel Indicator 6. Although the Department is temporarily suspending these Indicators, the temporary suspension does not impact the responsibility of school districts to provide a thorough and efficient education to students or the Department’s obligation to ensure that school districts are providing a thorough and efficient education. The temporary modification is to Governance Indicator 14.

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 implement a monitoring and evaluation system for school districts and county special services school districts entitled the New Jersey Quality Single Accountability Continuum (NJQSAC). The NJQSAC monitoring and evaluation system for school districts establishes a comprehensive single accountability system. Under NJQSAC, school districts are evaluated in five key component areas of school district effectiveness: instruction and program, fiscal management, governance, personnel, and operations.

The five key component areas contain Indicators, which are the specific, objective criteria used to determine the extent to which a thorough and efficient education is being provided to students within the school district.

The disruption caused by the extended public health-related school closures make it detrimental to the public welfare if the Department were to monitor the Indicators in Appendices A and B, which require the Department to engage in on-site inspection of documents and/or facilities to confirm a school district's compliance with the Indicators. Further, if school were to reopen at any time for the remainder of the school year, the Department would be unable to complete these indicators due to the compressed timeframe. The affected Indicators in Appendices A and B are explained below.

Fiscal Indicators 9B and 9C are related to school districts' responsibility to conduct an annual health and safety review of each building using the "Annual Facilities Checklist – Health and Safety Evaluation of School Buildings" (Checklist). Specifically, Fiscal Indicator 9B requires school districts to have all items on the Checklist in compliance in all buildings. Fiscal Indicator 9C requires school districts to have 80% of the items on the Checklist in compliance in all buildings. To monitor Fiscal Indicators 9B and 9C, the Department has to review the signed Checklist and walk through school buildings for verification of compliance. Since Department employees and school district employees are subject to work-from-home orders unless deemed essential, it is not feasible for Department employees and school district employees to participate in walk-throughs on-site and, accordingly, Fiscal Indicators 9B and 9C must be suspended.

Fiscal Indicator 15 requires school district boards of education to procure goods and services in accordance with purchasing guidelines. Part of the Department's monitoring process requires an on-site visit to randomly review a sample of purchase orders to ensure that the purchasing agent signed them and that there are no confirming orders. Since Department employees and school district employees are subject to work-from-home orders unless deemed essential, it is not feasible for Department employees and school district employees to participate in an on-site review and, accordingly, Fiscal Indicator 15 must be suspended.

Operations Indicator 12 requires school districts to maintain student health records and to store these records in a location separate from other student records. The Department's monitoring process for this Indicator requires an on-site visit to review a sample of the health records and to confirm that the records are maintained separately from other student records. Since Department employees and school district employees are subject to work-from-home orders unless deemed essential, it is not feasible for Department employees and school district employees to participate in an on-site review and, accordingly, Operations Indicator 12 must be suspended.

Personnel Indicator 2a requires school districts' professional development plans (PDPs) and/or corrective action plans (CAPs) to be in place, aligned to the professional standards of the individual's role and to include the applicable goals. The Department's monitoring process requires an on-site review of personnel files to confirm the existence of PDPs and/or CAPs and the components of same. Since Department employees and school district employees are subject to work-from-home orders unless deemed essential, it is not feasible for Department employees and school district employees to participate in an on-site review and, accordingly, Personnel Indicator 2a must be suspended.

Personnel Indicator 4b requires candidates for employment and employees, when applicable, to receive a physical examination and that school districts maintain the resulting

medical records in a secure location separate from personnel files. The Department’s monitoring process requires an on-site review to confirm that physical exams are present and maintained separate from personnel files. Since Department employees and school district employees are subject to work-from-home orders unless deemed essential, it is not feasible for Department employees and school district employees to participate in an on-site review and, accordingly, Personnel Indicator 4b must be suspended.

Personnel Indicator 6 requires school districts to implement administrative practices, such as supervision processes. The Department’s monitoring process requires an on-site review of personnel files to confirm that Student Growth Objectives, administrator goals and observation reports contain the necessary components. Since Department employees and school district employees are subject to work-from-home orders unless deemed essential, it is not feasible for Department employees and school district employees to participate in an on-site review and, accordingly, Personnel Indicator 6 must be suspended.

The disruption caused by the extended public-health related school closures also makes it impossible for school districts to implement the components of Governance Indicator 14 because this indicator requires school districts to provide students with access to library media services in each school building. Accordingly, the Department is modifying Governance Indicator 14 to eliminate the requirement for school districts to provide students with access to school buildings; however, the Department’s modification will require the provision of access to the school district’s certified library media specialist, who will be able to assist students with gathering information and conducting research remotely, in furtherance of the purpose of this indicator.

Full text of the proposed suspensions and modification follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]) in the attached Appendices A and B to N.J.A.C. 6A:30:

The Commissioner of Education finds that the modification of the rules above are necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.

5/5/2020  
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**Date**

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**Lamont O. Repollet, Ed.D.**  
**Commissioner**  
**Department of Education**