

Notice of Proposal N.J.A.C. 6A:10, Educator Effectiveness

Education

State Board of Education

Educator Effectiveness

Proposed Readoption with Amendments: N.J.A.C. 6A:10

Authorized By: New Jersey State Board of Education, Lamont O. Repollet, Commissioner,
Department of Education, Secretary, State Board of Education.

Authority: N.J.S.A. 18A:4-15, 18A:6-34 and 38, and 18A:26-2.7 and 10; and P.L. 2012, c. 11.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-025.

Submit written comments by May 15, 2020, to:

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The agency proposal follows:

Summary

The Department of Education (Department) proposes to readopt with amendments N.J.A.C. 6A:10, Educator Effectiveness. The chapter, which establishes the system of evaluation

for teachers, principals, assistant principals, vice principals, and other certificated staff, was scheduled to expire on March 4, 2020. As the Department filed this notice of readoption with the Office of Administrative Law before that date, the expiration date was extended 180 days to August 31, 2020, pursuant to N.J.S.A. 52:14B-5.1. The chapter provides the requirements for the evaluation of teaching staff members' effectiveness to further the development of a professional corps of State educators and to increase student achievement.

In schools, teachers and leaders have the greatest influence on student learning. For this reason, the Department remains committed to the goal of providing every New Jersey student with a great teacher. While no one factor in isolation will ensure that this goal is met, effective evaluation systems and high-quality performance feedback enhance teacher and leader development and practice, which then help to advance student achievement.

The chapter originally was adopted in March 2013, and amended in December 2016.

The Department proposes amendments to align the rules based on current practice and feedback from the education field.

The following is a brief summary of each section within the chapter and the proposed amendments. All proposed amendments are for clarity or grammatical improvement, unless otherwise stated.

Subchapter 1. General Provisions

This subchapter establishes the purpose and scope of the chapter, as well as the definitions of words and terms used in the chapter. The subchapter also establishes the effects of the chapter on collective bargaining provisions.

N.J.A.C. 6A:10-1.1, Purpose and scope, establishes the purpose of the chapter.

N.J.A.C. 6A:10-1.2, Definitions, establishes definitions relevant to the chapter.

N.J.A.C. 6A:10-1.3, Applicability of rules on collective bargaining agreements, establishes that the chapter's rules do not override any conflicting provision(s) of collective bargaining agreements or other employment contracts entered into by a school district in effect on July 1, 2013. The section also establishes that no collective bargaining agreements made after July 1, 2013, can conflict with the educator evaluation system established pursuant to the chapter or any other specific statute or rule.

N.J.A.C. 6A:10-1.4, Educator evaluation data, information, and annual performance reports, establishes that all information contained in written performance reports and all information collected, compiled, and/or maintained by school district employees for the purpose of evaluation are confidential and not subject to public inspection under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. The section also states that nothing in the section shall be construed as prohibiting the Department or a school district from collecting evaluation data or distributing aggregate statistics regarding evaluation data.

Subchapter 2. Evaluation of Teaching Staff Members

This subchapter establishes the rules for evaluating teaching staff members and for district board of education responsibility in ensuring all teaching staff members are properly evaluated. The subchapter also establishes the composition of the District Evaluation Advisory Committee (DEAC) and the rules for developing, implementing, and placing a teaching staff member on a corrective action plan (CAP).

N.J.A.C. 6A:10-2.1, Evaluation of teaching staff members, identifies the requirements for the annual adoption of evaluation instruments. The Department proposes amendments at N.J.A.C. 6A:10-2.1(c), which requires school districts to submit evaluation rubrics to the Commissioner by June 1 for approval by August 1 of each year, to change the submission date to

August 1 and the approval date to August 15. School districts submit evaluation rubrics to the Department each July through the Evaluation Information System (EIS). Changing the submission date will align the rule with the annual submission window, which is open from early July through August 1. In addition, changing the date will also align with the August 1 deadline for Commissioner approval of modifications to currently used evaluation instruments and new district-developed practice instruments.

N.J.A.C. 6A:10-2.2, Duties of district boards of education, establishes the duties of district boards of education in ensuring teaching staff members are properly evaluated each year. The section requires district boards of education to annually adopt policies and procedures regarding the evaluation of teaching staff and the evaluation practice instrument, ensure each school has established a School Improvement Panel, ensure related data is collected, and ensure specific training procedures are followed.

N.J.A.C. 6A:10-2.3, District Evaluation Advisory Committee, establishes the composition of the DEAC. Beginning in 2018-2019, district boards of education have discretion over whether to continue the DEAC.

N.J.A.C. 6A:10-2.4, Evaluation procedures for all teaching staff, establishes the minimum requirements for teaching staff member evaluations. The section also requires an annual summary conference between designated supervisors and teaching staff members and establishes the required elements of a teaching staff member's annual performance report.

N.J.A.C. 6A:10-2.5, Corrective action plans for all teaching staff, establishes the rules for developing, implementing, and placing a teaching staff member on a CAP. The section requires a CAP to be developed for each teaching staff member rated ineffective or partially effective on the annual summative evaluation. The section also sets the parameters for documenting a

teaching staff member's progress toward the goals outlined in the CAP. The section further requires all teachers with a CAP to receive a mid-year evaluation.

The Department proposes to delete the provision at N.J.A.C. 6A:10-2.5(a) that states the designated supervisor makes the final determination in disagreements between the teacher and designated supervisor regarding the teacher's CAP's content. Instead, the Department proposes to require school districts to create and implement policies establishing a process for appeals when a teacher and the designated supervisors disagree about the CAP's content. The proposed amendment also will state the policy shall not allow the final determination regarding a disagreement to be made solely by the designated supervisor. The proposed amendments will provide more support in creating CAPs with fidelity and will allow a school district to develop a policy that best suits its needs regardless of the school district's size or administrative makeup.

The Department proposes amendments at N.J.A.C. 6A:10-2.5(b), which requires CAPs to be developed and discussed by the teaching staff member and his or her designated supervisor by October 31, to replace "by October 31" with "within 25 teaching staff member working days following September 1." (For example, the deadline for the teacher and designated supervisor to review a CAP in the 2020-2021 school year would be October 8, 2020, if September 3, 2020, is the first working day for teachers and the school district is closed on September 7, 2020, for Labor Day, but no other weekday in September or early October.) The proposed amendment will create the same 25 working-day timeframe for all teachers, regardless of when they receive a partially effective or ineffective rating. The existing rules require a CAP to be developed within 25 working days for teachers who receive a partially effective or ineffective rating after October 1. The proposed amendment will also provide school districts and teachers who fall below "effective" more time to implement CAPs and, thereby, improve teacher practice.

Subchapter 3. School Improvement Panel

This subchapter establishes the composition and responsibilities of the School Improvement Panel (ScIP).

N.J.A.C. 6A:10-3.1, School Improvement Panel membership, establishes the ScIP's composition and requires all members of a ScIP to be chosen by August 31 annually. The Department proposes new N.J.A.C. 6A:10-3.1(e) to require a ScIP to meet at least three times during each school year. Setting a minimum standard for the number of meetings will help to ensure the ScIP fulfills its responsibilities. The Department also proposes to require a school district's administration to hold an annual meeting consisting of representatives from each building's ScIP. The proposed requirement will help ensure consistency in the implementation of evaluation policies and procedures throughout the school district.

N.J.A.C. 6A:10-3.2, School Improvement Panel responsibilities, establishes the ScIP's responsibilities, which include overseeing the mentoring of teachers, supporting the implementation of the school district mentoring plan, conducting teacher evaluations, as appropriate, ensuring CAPs are created according to the provisions of the chapter, and requiring mid-year evaluations to be conducted.

Subchapter 4. Components of Teacher Evaluation

This subchapter describes the various measurements of practice and student learning that are used within teacher evaluations, which are intended to provide specific feedback to educators and promote student achievement.

N.J.A.C. 6A:10-4.1, Components of teacher evaluation rubric, establishes the components of the teacher evaluation rubric and the weight attached to each component, relative to a teacher's summative evaluation. The section also states that standardized tests, used as a

measure of student progress, shall not be the predominant factor in determining a teacher's annual summative rating.

The Department proposes an amendment at N.J.A.C. 6A:10-4.1(d)1, which currently requires the student achievement component of an evaluation rubric rating for teachers who receive median student growth percentile scores (mSGP) to be at least 30 percent, and no more than 50 percent, as determined by the Department, to replace "30 percent" with "20 percent." Reducing the student achievement component to "at least 20 percent" will create equity among teachers of both tested and non-tested subjects and grade levels. For teachers of tested subjects and grade levels, the proposed amendment will result in the mSGP score making up five percent of the student achievement component and student growth objectives (SGOs) making up the remaining 15 percent, for a total of 20 percent. For teachers of tested subjects and grade levels, the proposed amendments will not change the current level of 15 percent for SGOs.

N.J.A.C. 6A:10-4.2, Student achievement components, describes the two elements that can comprise the student achievement component of a teacher's evaluation rubric. The first element, student growth objectives (SGOs), comprises one part of every teacher's summative score. The second element, student growth percentiles (SGPs), comprises part of the evaluation scores for teachers assigned to an English language arts class in grades four through eight, or to a mathematics class in grades four through seven.

N.J.A.C. 6A:10-4.3, Teacher practice components, requires the teaching practice component rating to be based on a Commissioner-approved teacher practice instrument.

N.J.A.C. 6A:10-4.4, Teacher observations, establishes rules for observing tenured and nontenured teachers and for conducting pre- and post-observation conferences. Tenured teachers must have two observations with post-observation conferences and one face-to-face pre-

observation conference, while non-tenured teachers must have three observations with post-observation conferences and one face-to-face pre-observation conference.

Subchapter 5. Components of Principal Evaluation

This subchapter describes the various measurements of practice and student learning that are used within principal, vice principal, and assistant principal evaluations, which are intended to provide specific feedback to educators and promote student achievement.

N.J.A.C. 6A:10-5.1, Components of principal evaluation rubrics, establishes the components of the principal evaluation rubric, which apply to teaching staff members who hold the position of principal, vice principal, or assistant principal and have a valid and effective standard, provisional, or emergency administrative certificate. The section also establishes the weight attached to each component relative to a principal's summative evaluation. The section also states that standardized tests, used as a measure of student progress, shall not be the predominant factor in determining a principal's annual summative rating.

N.J.A.C. 6A:10-5.2, Student achievement components of principal evaluation rubrics, establishes the elements that comprise the student achievement component of a principal's evaluation rubric. The required components include the schoolwide student growth percentile of all students assigned to the principal, average student growth objective scores of each teacher assigned to the principal, and the specific and measurable administrator goals.

N.J.A.C. 6A:10-5.3, Principal practice component of evaluation rubric, establishes the required elements of the principal practice component of the principal evaluation rubric.

N.J.A.C. 6A:10-5.4, Principal, assistant principal, and vice principal observations, establishes rules for observing principals, assistant principals, and vice principals and for conducting post-observation conferences. The section also requires each tenured principal,

assistant principal, and vice principal to be observed at least twice each school year and requires three observations annually for each nontenured principal, assistant principal, and vice principal.

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

This subchapter describes the various measurements that are used within evaluations for teaching staff members other than teachers, principals, vice principals, and assistant principals.

N.J.A.C. 6A:10-6.1, Components of evaluation rubrics, establishes the teaching staff members to whom the rules of the subchapter apply, specifically teaching staff members other than teachers, principals, vice principals, and assistant principals (hereinafter “other teaching staff members”). The section also allows school districts to establish the components of the evaluation rubric for other teaching staff members.

N.J.A.C. 6A:10-6.2, Required observations for teaching staff members, contains the rules for observing other teaching staff members. The section requires observations of other teaching staff members to be at least 20 minutes in length, followed by a conference. The section also requires all tenured other teaching staff members to receive at least one observation per school year, while nontenured teaching staff members must receive at least three observations.

Subchapter 7. Commissioner Approval of Educator Practice Instruments

This subchapter sets forth the rules regarding the approval of teacher and principal practice instruments.

N.J.A.C. 6A:10-7.1, Educator practice instrument, establishes the rules for Commissioner approval of educator practice instruments. The section also requires the Department to maintain on its website a list of Commissioner-approved educator practice instruments.

N.J.A.C. 6A:10-7.2, Teacher practice instrument, establishes criteria for all Commissioner-approved teacher practice instruments.

N.J.A.C. 6A:10-7.3, Principal practice instrument, establishes criteria for all Commissioner-approved principal practice instruments. The Department proposes an amendment at N.J.A.C. 6A:10-7.3(a)1, which currently requires instruments to incorporate domains of practice and/or performance criteria that align to the 2008 Interstate School Leaders Licensure Consortium (ISLLC) Professional Standards for Educational Leaders. The Department proposes to replace the 2008 ISLLC standards with the 2015 Professional Standards for Educational Leaders (PSEL). N.J.A.C. 6A:9-3.4 defines the professional standards for school leaders in New Jersey.

Subchapter 8. Evaluation of Chief School Administrators

This subchapter establishes the rules for evaluating chief school administrators.

N.J.A.C. 6A:10-8.1, Evaluation of chief school administrators, requires each district board of education to adopt a policy and implement procedures requiring the annual evaluation of the chief school administrator by the district board of education. The section also establishes the minimum requirements for the evaluation of a chief school administrator.

Subchapter 9. Procedure for Nontenured Notice of Non-Reemployment

This subchapter establishes the procedures for non-tenured notice of non-reemployment.

N.J.A.C. 6A:10-9.1, Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of non-reemployment, establishes the process by which a nontenured teacher who receives a written statement of reasons for non-reemployment, pursuant to N.J.S.A. 18A:27-3.2, can request, in writing, an informal appearance before the district board of education. The proposed amendment will clarify that the notification

deadline is three working days following the informal appearance, rather than “three days,” which could be calendar or working days.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

Under the existing evaluation system, school leaders have evaluated teachers through the use of multiple measures of practice and student achievement, and they have been able to differentiate teacher effectiveness across four domains. The differentiation has enabled school leaders to recognize excellent professional performance and to identify professionals needing additional support. Through this efficient system, school districts have had more resources available to support both struggling and effective teaching staff members. In turn, this has fostered more frequent professional conversations among teachers, as well as between teachers and their supervisors, leading to the enhancement of the quality of teaching in New Jersey’s classrooms and, most importantly, an increased benefit to students.

The proposed amendments will have little social impact as they are more technical in nature, designed to streamline already existing processes, and update outdated language to ensure evaluation instruments comply with New Jersey’s recognized standards to which all school leaders are currently held. Administrators will receive the greatest benefit from the proposed amendments, as they will ensure school districts are evaluating them based on the most current accepted standards of professional practice for their positions as school leaders.

Economic Impact

The Department does not anticipate that the rules proposed for readoption will create any additional economic impact on school districts, as the need to maintain the evaluation system has not created any additional costs since the system's initial implementation. The initial costs of implementation were offset by funds already provided for professional development, flexibility throughout the rules (for instance, the allowance of a school district to create its own educator practice instrument, rather than invest in an outside vendor), and structures that existed prior to the enactment of TEACHNJ, such as the annual summary conference and observations for non-tenured teachers.

In addition, the Department does not anticipate that the proposed amendments will create additional costs for school districts, school leaders, or individual educators. The proposed amendments do not change the responsibilities of district boards of education and school leaders in ensuring each educator receives a robust evaluation using multiple measures. Rather, the proposed amendments will align evaluation requirements to the most currently recognized standards of practice.

Federal Standards Statement

The rules proposed for readoption with amendments are in compliance with Federal requirements under the Every Student Succeeds Act (PL 114-95) and will continue to advance the mission to ensure the State's educator evaluation system is focused on the development of both struggling and effective teachers to enhance the education of every student in New Jersey's public school system. There are no other Federal requirements that impact the rules proposed for readoption with amendments.

Jobs Impact

The Department does not anticipate that rules proposed for re-adoption with amendments will result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for re-adoption with amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for re-adoption with amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for re-adoption with amendments solely impact individual educators and school districts.

Housing Affordability Impact Analysis

There is an extreme unlikelihood that the rules proposed for re-adoption with amendments will have any impact on the affordability of housing in New Jersey and there is an extreme unlikelihood the rules proposed for re-adoption with amendments would evoke a change in the average costs associated with housing because the rules proposed for re-adoption with amendments solely impact the evaluation and professional development of individual educators and school districts.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have an insignificant to no impact on smart growth and there is an extreme unlikelihood the rules proposed for readoption with amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments concern the evaluation and professional development of individual educators and school districts.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

There is an extreme unlikelihood that the rules proposed for readoption with amendments would have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the rules proposed for readoption with amendments concern the evaluation and professional development of individual educators and school districts.

Full text of the rules proposed for readoption may be found at N.J.A.C. 6A:10.

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

Subchapter 2. Evaluation of Teaching Staff Members

6A:10-2.1 Evaluation of teaching staff members

(a) – (b) (No change.)

(c) Evaluation rubrics shall be submitted to the Commissioner by [June] **August 1** for approval by August [1] **15** of each year.

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

(a) For each teaching staff member rated ineffective or partially effective on the annual summative evaluation, as measured by the evaluation rubrics, a corrective action plan shall be developed by the teaching staff member and the teaching staff member's designated supervisor.

[If the teaching staff member does not agree with the corrective action plan's content, the designated supervisor shall make the final determination.] **In accordance with N.J.A.C. 6A:10-2.4(b), school districts shall create and implement a policy establishing a process for appeals when a teacher and the designated supervisor disagree about the corrective action plan's content. The policy shall not allow the final determination regarding a disputed CAP to be made solely by the designated supervisor.**

(b) The corrective action plan shall be developed and the teaching staff member and his or her designated supervisor shall meet to discuss the corrective action plan [by October 31] **within 25 teaching staff member working days following September 1** of the school year following the year of evaluation, except:

1. (No change.)

(c)-(m) (No change.)

Subchapter 3. School Improvement Panel

6A:10-3.1 School Improvement Panel membership

(a)-(d) (No change.)

(e) **The School Improvement Panel shall meet at least three times during each school year. The school district's administration shall also hold an annual meeting consisting of**

representatives from each building’s School Improvement Panel to engage building-level input on school district policies and practices.

Subchapter 4. Components of Teacher Evaluation

6A:10-4.1 Components of teacher evaluation rubric

(a)-(c) (No change.)

(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] **20** percent and no more than 50 percent of a teacher’s evaluation rubric rating as determined by the Department.

2. – 3. (No change.)

(e) (No change.)

6A:10-4.4 Teacher observations

(a) For **the** purpose of teacher evaluation, observers shall conduct the observations pursuant to N.J.S.A. 18A:6-123.b(8) and N.J.A.C. 6A:10-2.5 and 3.2, and they shall be trained pursuant to N.J.A.C. 6A:10-2.2(b).

(b) Observation conferences shall include the following procedures:

1. – 2. (No change.)

3. If agreed to by the teacher, one required post-observation conference and any [pre-

conference(s)] **pre-observation conference(s)** for observations of tenured teachers who are not on a corrective action plan may be conducted [via] **by** written communication, including electronic.

4. – 5. (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] **pre-observation 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.-7. (No change.)

(d) (No change.)

Subchapter 7. Commissioner Approval of Educator Practice Instruments

6A:10-7.3 Principal practice instrument

(a) The principal practice instrument approved by the Department shall meet the following criteria:

1. Incorporate domains of practice and/or performance criteria that align to the [2008 ISLLC Professional Standards for School] **2015 Professional Standards for Educational Leaders** developed by the [Interstate School Leadership Licensure Consortium] **National Policy Board for Educational Administration (NPBEA)**, incorporated herein by reference, available at [http://www.ccsso.org/documents/2008/educational_leadership_policy_standards_2008.pdf] **http://npbea.org/wp-content/uploads/2017/06/Professional-Standards-for-Educational-Leaders_2015.pdf**;

2. (No change.)

3. Rely on, to the extent possible, multiple sources of evidence collected throughout the school year, including, but not limited to, evaluation of a principal's leadership related to:

i. Implementing high-quality and standards-aligned [curriculum] **curricula**, assessments, and instruction; and

ii. (No change.)

4. (No change.)

Subchapter 8. Evaluation of Chief School Administrators

6A:10-8.1 Evaluation of chief school administrators

(a) Each district board of education shall adopt a policy and [implementation] **implement** procedures requiring the annual evaluation of the chief school administrator by the district board of education.

(b) – (k) (No change.)

Subchapter 9. Procedure for Nontenured Notice of Non-Reemployment

6A:10-9.1 Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of non-reemployment

(a) – (b) (No change.)

(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] **adversarial** 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) – (h) (No change.)

(i) Within three **working** 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.