

**STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION**

In the Matter of Tenure Charges Against Daniel Ojomoh:

CAMDEN CITY SCHOOL DISTRICT

Agency Dkt. No.
283-9/15

Petitioner,

**OPINION
AND
AWARD**

- and -

DANIEL OJOMOH

Respondent.

Before: Joyce M. Klein, Arbitrator

Appearances:

For the Petitioner:

Joseph G. Antinori, Esq.
Brown & Connery, LLP

For the Respondent:

Barbara E. Riefberg, Esq.
Shimberg & Friel, P.C.

Pursuant to N.J.S.A. 18A:6-16, as amended by *P.L. 2012, c. 26* ("TEACHNJ"), the tenure charges brought by the Camden City School District (the "District" or "Petitioner") against Daniel Ojomoh ("Ojomoh" or "Respondent") were referred to me by the Bureau of Controversies and Disputes for a hearing and decision on October 6, 2015. I conducted hearings at the Board's offices in Camden, New Jersey on December 17, 18, and 21, 2015.

At the hearing, the parties argued orally, examined and cross-examined witnesses, and introduced documentary evidence into the record. Testimony was received from David Corvi, Principal of Forest Hill School, Dr. Jennifer Foley-

Hindman, currently Chief School Administrator, Greenwich Township School District, Charles Dawson, Vice President of Forest Hill School, Jerry L. Brown, Vice Principal of Camden High School, Nick Pillsbury, Implementation Manager for the Office of Evaluation, Robert Atwell, Vice Principal of Yorkshire Elementary School, Sonja Cuspid-Roane, former Special Needs Teacher at Forest Hill School, and Daniel Ojomoh. Post-hearing briefs were received on February 8, 2016, whereupon the record was closed.

THE CHARGES

The Sworn Tenure Charges brought against Daniel Ojomoh on August 21, 2015, are in pertinent part as follows:

1. The Camden City Board of Education entered into a Consent Order with the Commissioner of Education in March of 2013 to allow for full State intervention to begin on the last day of the school year in June 2013. The State of New Jersey began operating the Camden City School District ("the District") on June 26, 2013. In accordance with the newly enacted "Teacher Effectiveness and Accountability for the Children of New Jersey Act" ("TEACHNJ"), one of the crucial initiatives upon state intervention was a thorough assessment of all teachers within the District.
2. Daniel Ojomoh has been found to be an inefficient teacher pursuant to the process outlined in the TEACHNJ legislation. He lacks the ability to effectively perform his daily responsibilities. This is simply not acceptable in a State-operated school district which is trying to effectuate important reforms, including the elimination of school teachers who fail or refuse to grasp the concept of being an efficient and effective teacher. Daniel Ojomoh must be dismissed from his employment.

Year 1: The 2013-2014 Evaluation Process and Requirements

Practical Portion

10. N.J.A.C. 6A:10-4.4(c) requires that teachers are observed at least three (3) times in the first year with each observation lasting at least twenty (20) minutes.
11. Daniel Ojomoh was observed three (3) times in the 2013-2014 academic year on the following dates by the following evaluators:

- a. Short Observation #1: December 12, 2014 – Robert Atwell
 - b. Short Observation #2: February 19, 2014 – Jen Foley
 - c. Short Observation #3: February , 2014 – Jerry Brown
12. Upon information and belief, each observation lasted for the required twenty minutes.
 13. N.J.A.C. 6A:10-4.4(b) requires that each evaluator conduct a post-observation conference not more than fifteen (15) working days after the observation.
 14. It is the practice of District evaluators to conduct post-observation conferences within the timeframe required and, upon information and belief, each evaluator conducted post-observation conferences in accordance with the regulation.
 15. N.J.A.C. 6A:10-4.4(c) requires that at least one observation in an academic year be announced and preceded by a pre-observation conference.
 16. In the 2013-2014 academic year, Daniel Ojomoh participated in a pre-conference which, upon information and belief, was in compliance with the timing requirements set forth in the regulations.
 17. N.J.A.C. 6A:10-4.4(c) also requires that at least one teacher observation occur during the first half of the school year and at least one occur during the second half of the school year.
 18. In the case of Daniel Ojomoh, at least one observation occurred in the first half of the school year and at least one occurred in the second half.
 19. Finally, every teacher of the District had access to each of their observations as soon as it was uploaded via the TeachScape program and continued to have such access throughout the remainder of the academic year.

Student Growth Achievement Portion

20. Pursuant to N.J.A.C. 6A:10-4.1(b) and 4.1(c), each teacher shall have a measurement of student growth achievement such as an SGO.

21. Daniel Ojomoh's SGO scores for the 2013-2014 academic year were a 1.00 and a 1.00.

2013-2014 Summative Rating/Conference

22. After weighing each component of the evaluation, Daniel Ojomoh's summative rating was calculated to be 1.79, ineffective.
23. Pursuant to N.J.A.C. 6A:10-2.4(f), a summative conference must be held and both the teacher and supervisor must sign the summative evaluation within five (5) days of such conference. In this case, a conference was held on June 23, 2014 and the summative form was signed by the teacher on June 23, 2014 and by the supervisor on June 23, 2014.

Corrective Action Plan

24. A teacher who is rated "partially effective" or "ineffective" during an academic year is required to be placed on a corrective action plan ("CAP") pursuant to N.J.A.C. 6A:10-2.5(a). The CAP is required to be created prior to September 15th of the next academic year in most cases and both the teacher and supervisor are required to participate in creating the CAP, N.J.A.C. 6A:10-2.5(b).
25. Daniel Ojomoh's CAP was created and, upon information and belief, both the teacher and the supervisor participated in its creation.

Professional Development

26. During the 2013-2014 academic year, all teachers were provided with professional development opportunities both generally and specific to the areas of improvement needed for each teacher individually.

Year 2: The 2014-2015 Evaluation Process and Requirements

Practical Portion

27. N.J.A.C. 6A:10-2.5(n) requires that teachers who are on a CAP must be observed at least four times with each observation lasting at least twenty (20) minutes. Additionally, multiple (more than one) evaluators must perform observations of a teacher on a CAP. N.J.A.C. 6A:10-2.5(i).

28. Daniel Ojomoh was observed four (4) times in the 2014-2015 academic year on the following dates by the following evaluators:
 - a. Short Observation #1: October 28, 2014 – Charles Dawson
 - b. Short Observation #2: November 10, 2014 – David Corvi
 - c. Short Observation #3: February 5, 2015 – Charles Dawson
 - d. Short Observation #4: February 24, 2015 – David Corvi
29. Upon information and belief, each observation lasted for the required twenty minutes and Daniel Ojomoh was evaluated by more than one evaluator during the 2014-2015 academic year.
30. N.J.A.C. 6A:10-4.4(b) requires that each evaluator conduct a post-observation conference not more than fifteen (15) working days after the observation.
31. It is the practice of the District to conduct post-observation conferences within the timeframe required and, upon information and belief, each evaluator conducted such post-observation conferences in accordance with the regulation.
32. N.J.A.C. 6A:10-4.4(c) requires that at least one observation in an academic year be announced and preceded by a pre-observation conference.
33. In the 2014-2014 academic year, Daniel Ojomoh participated in a pre-conference which, upon information and belief, was in compliance with the timing requirements set forth in the regulations.
34. N.J.A.C. 6A:10-4.4(c) also requires that at least one teacher observation occur during the first half of the school year and that at least one occur during the second half of the school year.
35. In the case of Daniel Ojomoh, at least one observation occurred in the first half of the school year and at least one occurred in the second half.

36. Finally, every teacher of the District had access to each of their observations as soon as it was uploaded via the TeachScape program and continued to have such access throughout the remainder of the academic year.

Student Growth Achievement Portion

37. Pursuant to N.J.A.C. 6A:10-4.1(b) and 4.1(c), each teacher shall have a measurement of student growth achievement such as an SGO.
38. Daniel Ojomoh's SGO scores for the 2014-2015 academic year were a 4.00 and a 1.00.

2014-2015 Summative Rating/Conference

39. After weighing each component of the evaluation, Daniel Ojomoh's summative rating was calculated to be 1.83, ineffective.
40. Pursuant to N.J.A.C. 6A:10-2.4(f), a summative conference must be held and both the teacher and supervisor must sign the summative evaluation within five (5) days of such conference. In this case, a conference was held on June 3 2015 and the summative form was signed by the teacher on June 3, 2014 and by the supervisor on June 3, 2014.

Corrective Action Plan

41. A teacher who is rated "partially effective" or "ineffective" during an academic year is required to be placed on a corrective action plan ("CAP") pursuant to N.J.A.C. 6A:10-2.5(a) for the next academic year. During the year for which the CAP applies, the teacher and the supervisor are required to meet by February 15th in order to review the teacher's mid-year progress in accordance with the CAP. N.J.A.C. 6A:10-2.5(m).
42. Daniel Ojomoh and the supervisor had a mid-year conference.

Professional Development

43. During the 2014-2015 academic year, all teachers were provided with professional development opportunities both generally and specific to the areas of improvement needed for each individual teacher.

Conclusion: Inefficiency

44. Due to the fact that Daniel Ojomoh received an ineffective rating for the 2013-2014 academic year and an Ineffective rating for the 2014-2015 academic year, the Superintendent is required to bring tenure charges for inefficiency under the TEACHNJ statute.
45. As such, the District is pursuing tenure charges against Daniel Ojomoh for inefficiency.

BACKGROUND

The Respondent, Daniel Ojomoh, has a Bachelor's Degree in Business Administration from Temple University and a Master's Degree in Finance from St. Joseph's University. He also has a Master's Degree in Education from Cheney University. He initially served as a substitute teacher in the Camden City School System between 1991 and 1994. Mr. Ojomoh was hired by the District as a computer teacher in 1995. He is certified in elementary education as well as business education K-12.

When Mr. Ojomoh was initially hired, he was assigned as a computer teacher at the Camden Middle School. Mr. Ojomoh was transferred to several different schools until the 2013-2014 school year when he was assigned to Camden High School. Mr. Ojomoh was assigned to teach Web Page Creation, Personal Financial Literacy and Office Systems.

In order to implement the TEACHNJ law, the District has adopted the Charlotte Danielson Framework for use to evaluate teacher practices and professional development. The Danielson Framework has four domains: (1) planning and preparation; (2) classroom environment; (3) instruction and (4) professional responsibilities. Each domain includes several components.

The Danielson Framework is used to evaluate teachers by collecting "evidence," that is, collecting facts from what is seen or heard from teachers or students in a classroom. The evidence that is collected is then aligned to the components within the four domains. Evaluators from the District, after aligning the evidence to the components, then score the components on a scale of one through four, one being ineffective and four being highly effective.

In addition to the scoring the components within the four domains of the Danielson Framework, teachers are also evaluated and measured for "student growth objectives" ("SGOs"), where baseline or diagnostic data on students are taken in September and then growth marks or goals are set that students need to achieve before the end of the school year. For example, in core subject areas,

standardized test assessments are used to measure whether there has been growth in student academic performance. The goals are set by the teachers with input from administrators and finalized between the teacher and the administrator. Under the Danielson Framework, in the second year, 20 percent of a teacher's overall evaluation score is based on SGOs and the remaining 80 percent based on classroom observation. In special subject areas, such as computer classes, the teacher establishes the SGO.

The District uses an online platform called TeachScape as a portal to implement the Danielson Framework. TeachScape is used by approximately one hundred and ninety (190) other school districts in New Jersey. Teachers can access TeachScape on laptop computers provided by the District, their home computer or smart phone through an account, login and password assigned to each teacher. Information such as records of classroom observations, SGO scoring, information or documents provided by teachers to support their instruction can be uploaded into TeachScape by teachers and administrators.

During the 2012-2013, 2013-2014 and 2014-2015 school years, Mr. Ojomoh received training in TEACHNJ, the Danielson Framework and TeachScape. Mr. Ojomoh also recalled that he attended optional workshops presented by the NJEA to address TEACHNJ and the new evaluation process. Mr. Ojomoh described these workshops as "general". Mr. Ojomoh acknowledged, "[p]ersonally, I didn't understand it." He believed that the Danielson model was supposed to help teachers improve their skills rather than being used as a tool to terminate teachers.

During the 2013-2014 school year, Mr. Ojomoh taught computer and business classes at Camden High School. Jerry Brown, a Vice Principal at Camden High School, conducted a short or twenty minute observation of Mr. Ojomoh on November 12, 2013. Mr. Brown did not recall conducting a pre-observation conference. Mr. Brown found that Mr. Ojomoh did not "try to ascertain varied ability levels among students in the class." Mr. Brown observed that the "quality of interactions between teacher and students, or among students, is uneven, with occasional disrespect or insensitivity." Mr. Ojomoh submitted a Post-Observation Reflection Form that addressed his lesson plans and objectives as well as pointing out "inadequacies" in his classroom. These included "lack of heat, lack of adequate furnitures (sic), use of laptops coupled with student logins problems." After receiving this, Mr. Brown conducted but could not specifically recall a post-observation conference.

Robert Atwell worked as a Vice Principal at Camden High School. After scheduling a pre-conference and observation with Mr. Ojomoh that needed to be rescheduled as a result of a weather-related delayed opening, Mr. Atwell conducted a short observation of Mr. Ojomoh on December 10, 2013. Mr. Atwell does not specifically recall conducting a pre-conference with Mr. Ojomoh, but Mr.

Ojomoh submitted a pre-observation form on December 10. Further, a December 9, 2010 email from Mr. Atwell to Mr. Ojomoh rescheduled the pre-observation conference to 7:30 a.m., the next day and advised that he would conduct the observation on December 10 during second period. Atwell rated Mr. Ojomoh as partially effective at "managing student behavior" and recommended, that he "[d]evelop better techniques and strategies to manage behavior." According to Mr. Ojomoh, Atwell returned to classroom at a later date for an informal observation. At that time, Mr. Atwell told him that he was improving.

On February 19, 2014, Dr. Jennifer Foley, who at the time worked for the District as a coach evaluator within the Office of Evaluation, conducted a short evaluation of Mr. Ojomoh. Based upon her twenty minute plus unannounced observation, Dr. Foley noted that the observation occurred "during the opening days of a new semester" and, as a result, Mr. Ojomoh "had limited time to get to know his students." She further observed that the lesson plan, had it been followed, would have provided Mr. Ojomoh with "ample opportunity to get to know his students." Dr. Foley addressed the classroom environment finding "numerous examples of disrespect" that were ignored by Mr. Ojomoh. Dr. Foley observed that instructional goals were set so low that students received a message that they were not capable of more and stopped making an effort.

Dr. Foley made other observations and urged Mr. Ojomoh to establish "clear procedures for work within the classroom and then follow through with them." Dr. Foley documented several examples and noted that "[s]tudents were in control of the classroom and demonstrated that regularly by ignoring Mr. Ojomoh's limited attempts at control."

Documentation of a post-observation conference that occurred on February 24, 2014 included a suggestion by Foley that Mr. Ojomoh "speak with your building principal about being assigned a mentor to aid you in your development. Observe other teachers and reflect upon what they do to establish control in their classrooms." Dr. Foley rated Mr. Ojomoh as ineffective. Foley also recommended that Mr. Ojomoh watch TeachScape videos addressing components, 1E, Designing Coherent Instruction, 2A, creating an environment of respect and rapport and 2C, managing classroom procedures.

Mr. Ojomoh explained that the day Dr. Foley conducted an observation was not a typical day. It was very cold and the High School was conducting a "round up" where security officers round up students from hallways, the campus or the streets and bring students into classrooms. According to Ojomoh, this caused a lot of commotion. Mr. Ojomoh explained that students were dragged in one at a time over the course of ten or fifteen minutes. Mr. Ojomoh observed that it took these students, who did not want to be in the classroom, a long time to settle down. Further, the class was not one that Mr. Ojomoh had been teaching on a regular basis. The class had been assigned to another teacher. Mr. Ojomoh

acknowledged that the situation was so chaotic that day he considered calling security.

Mr. Ojomoh recalled that at the post-observation conference, Dr. Foley told him that she would speak to the principal about providing him with some workshops on how to handle this type of situation. According to Mr. Ojomoh, the principal never offered him the opportunity to attend any such workshops. Mr. Ojomoh did not take any action to secure a mentor. The record does not reflect that Ojomoh watched the recommended TeachScape videos.

On June 23, 2014, Camden High School Principal James Thompson completed Mr. Ojomoh's annual evaluation. As a result of that evaluation, Mr. Ojomoh received an overall score of 1.79, ineffective. This score was based on a score of 2.6 for student growth objectives, which received a weight of .15 and a score of 1.65 for teacher practice which received a weight of .85.¹ This overall evaluation was based upon the three short (minimum twenty minutes) observations by Mr. Brown, Mr. Atwell and Dr. Foley. Based upon these observations, Mr. Thompson listed three areas for growth:

- Teacher needs to improve classroom management
- Teacher needs to improve engaging students
- Teacher must become more familiar with the Danielson rubric

For the 2014-2015 school year, Mr. Ojomoh was transferred to the Forest Hill School. According to David Corvi, Principal at Forest Hill, there were weekly staff meetings that included training sessions on best practices for instruction. Those sessions included information about ACHIEVE NJ, TeachScape and the Danielson Framework. Mr. Corvi also indicated that one of the three professional development days prior to the start of the school year addressed the Danielson model, AchieveNJ, SGOs and TeachScape. The District also offered a Summer Teacher Academy before the beginning of the 2014-2015 school year that included optional training on the Danielson Model, AchieveNJ and SGOs. Mr. Ojomoh acknowledged that he attended this training. The NJEA also offered similar training and Mr. Ojomoh acknowledged attending that training.

Based upon his summative rating of ineffective for the 2013-2014 school year, Mr. Ojomoh was placed on a corrective action plan (CAP) for the 2014-2015 school year. Mr. Ojomoh met with Principal Corvi on September 15, 2014 to review the CAP. According to Mr. Ojomoh, he was given approximately five minutes to review the CAP and asked to sign it. Mr. Ojomoh explained that he was not given an opportunity to review the document prior to his meeting with Mr. Corvi and was

¹ Nick Pillsbury, Implementation Manager for the District's Office of Evaluation, explained that Respondent's SGOs were scored incorrectly and Mr. Ojomoh actually received a score of 3. This change would not have materially affected his summative rating of ineffective for the 2013-2014 school year.

not asked for his input. Mr. Corvi estimated that Mr. Ojomoh had approximately five minutes to review the document before their meeting began. The CAP was developed by Vice Principal Charles Dawson and approved by Principal Corvi.

The CAP addressed 1E – Designing Coherent Instruction by requiring Mr. Ojomoh to submit weekly lesson plans which required weekly approval, feedback and revisions by Mr. Corvi and/or Mr. Dawson. Mr. Ojomoh’s Measure of Success required a score of 4/5 on each lesson plan rubric throughout the school year.

The “Action Step for Supervisor” block of the CAP addressing “Managing Classroom Procedures incorrectly references Mr. Turner, a physical education teacher who was also placed on a CAP. Specifically, the “Action Steps for Supervisor” provides:

Mr. Corvi and/or Mr. Dawson will check equipment inventory submitted by Mr. Turner, as well as check that the equipment closet is organized according to inventory.

Similarly, the “Measure of Success” for that same component provides:

- Mr. Turner will submit an itemized inventory of all Physical Education equipment to Mr. Corvi and Mr. Dawson by October 3, 2014.
- Mr. Corvi and/or Mr. Dawson will check that the closet in the gymnasium has been organized according to the inventory.
- Mr. Turner will score at least a 3 – effective during his three observations in the component 2C – Managing Classroom Procedures.

Likewise, component 3C – Engaging Students in Learning also references Mr. Turner under “Action Steps for Supervisors,” providing that “Mr. Corvi and/or Mr. Dawson will check Mr. Turner’s lesson plans for the times he will stop and the questions he will pose to students.” Mr. Corvi characterized these errors as typographical errors. Neither Mr. Corvi, Mr. Dawson, nor Mr. Ojomoh appeared to notice these errors. According to Mr. Corvi, these typographical errors “would not have had any major impact” on the implementation of Mr. Ojomoh’s CAP.

“Action Steps for Supervisor” also provided that Mr. Corvi or Mr. Dawson “will conduct weekly walk-throughs and coaching conferences to observe that Mr. Ojomoh is stopping 3-4 times throughout instruction and implementing these strategies.”

The “Measures of Success” for 3C – Engaging Students in Learning” provides as follows:

Mr. Ojomoh will effectively stop, pose open questions to students, and utilize one of the two strategies discussed during his weekly walk-throughs conducted by Mr. Corvi and/or Mr. Dawson.

Under all three development areas, 1E – Designing Coherent Instruction; 2C – Managing Classroom Procedures; and 3C – Engaging Students in Learning, the Action Steps for Supervisor included “weekly walk-throughs and coaching conferences.” Vice Principal Charles Dawson was primarily responsible for overseeing Mr. Ojomoh and his progress under the CAP.

Mr. Dawson completed a short observation of Mr. Ojomoh on October 29, 2014 where he observed students “talking and not paying attention” and students did not respond to Mr. Ojomoh’s directions. Mr. Dawson rated Mr. Ojomoh partially effective for Components 1E – Designing Coherent Instruction and 2A – Creating an Environment of Respect and Rapport; Components 3A – Communicating with Students; Component 3B – Using Questioning and Discussion Techniques; and Component 3C – Engaging Students in Learning, and ineffective for Components 2B – Establishing a Culture of Learning; Component 2C – Managing Classroom Procedures and Component 2D – Managing Student Behavior.

Mr. Dawson identified Component 2C – Managing Classroom Procedures as an area of growth noting:

Students not working with the teacher are not productively engaged. Transitions are disorganized, with much loss of instructional time; There do not appear to be any established procedures for distributing and collecting materials; A considerable amount of time is spent off task because of unclear procedures.

Mr. Dawson recommended that Mr. Ojomoh “[s]cript out minute by minute routines and procedures in your classroom; start with enter and exit to class – what exactly will students do when they enter and exit the classroom? How will this look and sound?”

Mr. Corvi conducted a classroom observation of Mr. Ojomoh on November 10, 2014 focusing on components in Domain 2, the Classroom Environment, and Domain 3, Instruction. Both of these domains rely primarily on classroom observation. The observation lasted approximately 20 minutes. Mr. Corvi observed that Mr. Ojomoh attempted to make connections with students and to respond to disrespectful behavior, but with “uneven results.” Mr. Corvi noted that Mr. Ojomoh did not have “established procedures for distributing and collecting materials”; transitions were “disorganized”; and “students not working with the

teacher were not productively engaged.” Mr. Corvi conducted a post-observation conference with Mr. Ojomoh on November 13, 2014.

Mr. Ojomoh submitted a Post-Observation Conference Form acknowledging that the lesson was not successful but asserting that classroom procedures are in place because “students line up before they enter the lab and sit on assigned seats.” Mr. Ojomoh viewed the login issues as an impediment to delivering the lesson effectively.

Mr. Dawson conducted a second observation of Mr. Ojomoh on February 5, 2015. Mr. Dawson’s ratings and comments about Mr. Ojomoh’s control of the classroom mirror those of his first observation. Specifically, Dawson observes that students are talking to each other throughout the class requiring Mr. Ojomoh to repeat instructions over and over. Students are not responding to Mr. Ojomoh’s directives. Mr. Dawson identified the following areas of growth:

2c – The transitions are disorganized with much loss of instructional time. Procedures for transitions, and a classroom routine has not been clearly established. There do not appear to be any established classroom routines or procedures. A considerable amount of time is spent off task because of unclear procedures.

Mr. Dawson gave Mr. Ojomoh the following recommendations:

As the instructional leader, you must establish and maintain full control of your classroom. The first routine or procedure that must be implemented is an effective entry routine. Your entry routine describes how you expect students to enter the classroom and how the classroom session begins. Secondly, institute daily “Do Now” activities should be written on the white board or placed on student’s desks for them to do as soon as they enter the classroom. In order to increase communication between with all of your students, they should be fully aware of the objective being taught each day. Post It means displaying your lesson plan objective in the same location every day so that anyone that walks into the classroom can identify your purpose. This technique will help students pursue the objective more intentionally and will help peers give you useful feedback on whether you are doing what you set out to do.

Mr. Dawson recalled that this observation was conducted shortly after Mr. Ojomoh returned from a bereavement leave in Africa where one of his wife’s relatives had passed away.

Mr. Corvi conducted an additional observation of Mr. Ojomoh on February 24, 2015. During that observation, Corvi observed students playing computer

games for approximately 16 minutes and noted that the “materials do not meet instructional outcomes.” Based upon this observation, Mr. Corvi rated Mr. Ojomoh ineffective in Component 1E, Designing Coherent Instruction.

Mr. Corvi rated Mr. Ojomoh partially effective for Component 2A – Creating an Environment of Respect and Rapport. Corvi noted that Mr. Ojomoh attempted to “respond to disrespectful behavior among students with uneven results.” Corvi also rated Mr. Ojomoh partially effective on Component 2B – Establishing a Culture of Learning, noting that Mr. Ojomoh’s “primary concern appears to be complete the task at hand” and that Mr. Ojomoh’s “energy for the work is neutral, neither indicating a high level of commitment nor ascribing need to do the work to external focus.” Mr. Corvi rated Mr. Ojomoh ineffective on Component 2C – Managing Classroom procedures, noting that “there do not appear to be any established procedures for distributing and collecting materials” and as a result, “a considerable amount of time is spent off task.” Mr. Corvi also observed that “[s]tudents not working with the teacher are not productively engaged.” Mr. Corvi rated Mr. Ojomoh partially effective for Component 2D – Managing Student Behavior. Mr. Corvi noted that Mr. Ojomoh “attempted to keep track of student behavior, but with no apparent system” and that he attempted to “maintain order in the classroom” by referring to classroom rules, “but with uneven success.” Addressing Component 2E – Organizing Physical Space, Mr. Corvi rated Mr. Ojomoh partially effective, noting that the physical environment neither “enhance[d]” nor impeded learning.

Turning to the instructional component, Mr. Corvi rated Mr. Ojomoh ineffective at communicating with students observing that “at no time during the lesson does the teacher convey to students what they will be learning.” Mr. Corvi also rated Mr. Ojomoh ineffective on Component 3C – Engaging Students in Learning, observing that “[f]ew students are intellectually engaged in the lesson” and “[l]earning tasks/activities and materials require only recall or have a single correct response or method.”

After this observation, Mr. Corvi again identified as areas of growth, Components 1E – Designing Coherent Instruction, 2C – Managing Classroom Procedures and 3A – Communicating with Students. Mr. Corvi provided the following recommendations:

Map out all your routines down to the smallest student action. How do students enter the classroom; how do they sit down; how do they log in; what should the classroom sound like, etc. Provide students very clear what to do directions and implant (sic) 100% strategy, start with narrative the positive.

Mr. Ojomoh completed a Pre-Observation Conference Form for his February 24, 2015 observation on February 27, 2015.

Mr. Corvi also recounted instances of “coaching in the moment” where he stopped by Mr. Ojomoh’s classroom and stepped in and took over the classroom to get students in their seats and settled. Mr. Corvi explained that this would model an approach to controlling the classroom for Mr. Ojomoh.

Dawson walked through the school two or three times daily and often peeked in to make sure everything was okay in Mr. Ojomoh’s classroom. According to Mr. Dawson, if necessary, an informal conference to address issues or provide assistance. Mr. Dawson recalled that Mr. Ojomoh sent students to the administrative office to request his presence in the classroom when Mr. Ojomoh had trouble controlling the class. Mr. Dawson recalled that students were unruly when they came into Mr. Ojomoh’s classroom, so he suggested not allowing them to enter the classroom until they were lined up and quiet. Dawson also suggested that Mr. Ojomoh assign seats or computers so that students cannot sit where they are most comfortable. Mr. Dawson explained that it reduced talking in class. Mr. Dawson also addressed making sure that the level of instruction is appropriate and the lesson is sufficiently rigorous. Mr. Dawson testified that he did review Mr. Ojomoh’s lesson plans on a bi-weekly basis and was in his classroom for walk-throughs on a weekly basis. Dawson acknowledged that they did not have weekly meetings as provided in the CAP.

Because Mr. Ojomoh was on a CAP, he received a mid-year evaluation. This mid-year evaluation was conducted at the same time as the post-observation conference after his fourth observation conducted by Mr. Corvi. That review reflected that Mr. Ojomoh did not meet the goals set out for him in the CAP and concluded:

At this time, Mr. Ojomoh has not met the criteria set forth in this Corrective Action Plan. Additionally, he has been receptive to the recommendations made by Mr. Dawson, however, successful and effective implementation of these strategies has not yet occurred. A Summative Evaluation Meeting for Mr. Ojomoh will be scheduled between May-June of 2015 to assess whether these goals were reached. At this meeting, next steps will be discussed and decided, which may include any one of the following: Removal from Improvement Plan with Support, or Recommendation for Termination from Position.

Mr. Corvi explained that at this point, “it might be that there was some kind of effort involved” ... [b]ut overall, Mr. Ojomoh’s ability to instruct and deliver instruction and manage the classroom were just unsuccessful.”

Although no formal observations occurred between that meeting on February 27, 2015 and his final summative evaluation, Mr. Dawson continued to

visit his classroom and walk-throughs which generally lasted five to ten minutes. They discussed and Mr. Ojomoh was receptive to suggestions regarding classroom management, classroom routine and classroom procedures.

Mr. Ojomoh received a summative evaluation for the 2014-2015 school year on June 3, 2015. Mr. Ojomoh's summative rating was 1.83 or ineffective. This rating was based on an average score for Domain 1 – Planning and Preparation, of 1.75, an average score for Domain 2 – Classroom Environment of 1.53; an average rating for Domain 3 – Instruction 1.5; an average rating for Domain 4 – Professional Responsibility of 2; and a score of 2.5 for Student Growth Objectives.

Mr. Ojomoh recalled that when Mr. Corvi gave him his summative evaluation, he learned that tenure charges would follow.

DISCUSSION

The District asserts that Respondent is required to prove that one of the four factors in N.J.S.A. 18A:6-17.2(a) apply and, if so, he must also establish that this factor “materially impacted the outcome of the evaluation.” N.J.S.A. 18A:6-17.2(b). Further, the District emphasizes that the TEACHNJ Act provides explicitly that “the evaluator’s determination as to the quality of an employee’s classroom performance shall not be subject to an arbitrator’s review.”

The District argues that Respondent is required to show that “the employee’s evaluation failed to adhere substantially to the evaluation process.” (emphasis added). Acknowledging that Respondent may point to alleged omissions by the District in implementing the TEACHNJ Act procedures, the District asserts that none of those alleged omissions are “substantial.” To the contrary, the District contends that the record establishes its substantial efforts to comply with the new statutory and regulatory requirements for removal of teachers for inefficiency. The District maintains that even if Respondent is able to demonstrate the alleged problems in his evaluation process, either individually or collectively, he cannot demonstrate either that they amount to substantial failure by the District to adhere to the evaluation process or that they materially affect the outcome of his evaluation.

The District emphasizes that although Respondent received poor scores in other areas, observations from seven different observers over a two year period, all identified the same fundamental problem, that Respondent was unable to control the classroom. Further, the District points out that despite having two entirely different sets of evaluators in two different school years at two different schools, Respondent received “pretty close overall scores.”

The District contends that Respondent cannot show that it did not try to help him overcome his classroom management problems and he was simply unable to do so despite the support provided by the District.

The District emphasizes its substantial efforts during the 2013-2014 school year to provide training to evaluators as well as training to teachers regarding TEACHNJ, the Danielson Framework and TeachScape. That training continued into the 2014-2015 school year with the Danielson Framework discussed repeatedly in weekly staff meetings. Further, the District points out that it provided full-day non-mandatory education and training session for teachers and additionally, teachers may review training videos provided on TeachScape. The District points out that Respondent took advantage of seminars on TEACHNJ that were conducted by the NJEA.

The District points to Mr. Corvi's testimony that during the 2014-2015 school year, he informally met with Respondent and engaged in "coaching in the moment" with him by taking over the classroom to provide Respondent with a model to follow in controlling classroom behavior. The District notes that Mr. Corvi also went to Respondent's classroom on several occasions to assist with noisy students and provide visible support for him in the classroom.

Further, the District points to Mr. Dawson's testimony that he went to Respondent's classroom to "just see if he needed support." Mr. Dawson also noted that on occasion, Respondent would send a student to him and Dawson would go to Respondent's classroom to find out what the problem was. The District points out that these informal meetings occurred frequently because Mr. Dawson walked through the school two or three times each day. The District points out Mr. Dawson also provided specific tips to Respondent.

The District argues that the record is devoid of evidence of alleged failure to comply with the TEACHNJ evaluation requirements that would have made any difference in Respondent's evaluation over a two-year period. The District acknowledges that pre-observation conferences were missed but notes that Respondent did not demonstrate how the failure to conduct such a conference rose to the level of a "substantial" failure to adhere to the evaluation process or how it "materially" impacted the results of Respondent's evaluation.

Addressing other alleged failures, the District points to the allegation that Thompson did not discuss Respondent's summative evaluation with him in 2013-2014 when it was given in June of 2014. However, the District points out that Respondent signed the acknowledgment for the summative evaluations in which he certified that Thompson discussed it with him.

Addressing that Respondent's CAP for the 2014-2015 school year mistakenly referred to "Mr. Turner" rather than Respondent, the District maintains

that this error cannot be considered a “substantial” failure to adhere to the evaluation process and cannot be said to have a “material” impact on the evaluation. Rather, the District considers it to be a “mere proofreading error” that was overlooked by everyone, including Respondent who also signed off on the CAP.

The District asserts that its alleged failure to review Respondent’s lesson plans also was neither a “substantial” failure to adhere to the evaluation process or “materially” affected the outcome the final score of “ineffective.” Addressing the alleged failure to conduct weekly coaching sessions, the District points to the substantial support, backup and coaching provided by both Mr. Corvi and Mr. Dawson throughout the 2014-2015 school year. The District maintains that given this extensive support, backup and coaching, the record does not support an alleged substantial failure to adhere to the evaluation process based upon an alleged failure to conduct weekly coaching sessions.

Finally, the District asserts that there is no meaningful consequence arising from the fact that Respondent’s mid-year review in the 2014-2015 school year occurred on February 27 instead of February 15, 2015, the date set by TEACHNJ. The District emphasizes that there is no evidence that it would have made any material difference in the outcome if the mid-year review occurred two weeks earlier. The District points out that by February of 2015, Respondent had gone through seven observations with the attendant post-observation conferences, a summative evaluation conference in June of 2014, a CAP conference in September of 2014, and ongoing coaching and counseling provided by Mr. Corvi and Mr. Dawson throughout the 2014-2015 school year. The District maintains that despite extensive interactions with administration members regarding how to handle a classroom, Respondent, through receptive to counseling, was unsuccessful in implementing the ongoing tips, recommendations and advice he received.

The District notes that Respondent showed a “surprising indifference or lack of comprehension” about the District’s implementation of TEACHNJ, the Danielson Framework and TeachScape. The District notes that Respondent received extensive training and education but claimed that he did not know what a CAP was until he met with Corvi and Dawson to go over his CAP. Further, Respondent claimed that he did not understand that if he did not perform well under the Danielson Framework, he could receive tenure charges and ultimately termination. Further, the District points out Respondent acknowledged that he was advised to seek a mentor but never did so and never sought out someone from the Association to complain that the District’s observations, evaluations, CAP or mid-year review were unfair but instead felt that he “knew the material well enough to teach effectively.” The District maintains that Respondent bears the burden to show that an omission in the implementation in the TEACHNJ standards was substantial and, if so, that it materially affected his evaluation. The District asserts

that Respondent did not offer evidence supporting this and thus the District asks that the tenure charges be sustained.

Respondent asserts that the District has not met its burden of proof. Respondent argues that the District did not comply with the statutory evaluation procedures and CAP procedures did not take place. According to Respondent, these deficiencies were significant enough to influence the outcome of the scoring. Specifically, Respondent asserts that the manner in which the evaluations were conducted and in which the CAP was prepared and implemented, materially affected the outcome of the evaluations and Respondent was set up for failure rather than success. Respondent points to the lack of pre-observation conferences as well as the fact that one of the critical observations during the 2014-2015 school year took place the day he returned to school from an extended bereavement leave of absence in Nigeria. Further, the final observation took place shortly thereafter and did not provide Respondent with a reasonable time period between observations to exhibit improvement.

Specifically, Respondent asserts that for the 2013-2014 school year, at least one of the three required observations was to be announced and preceded by a pre-observation conference. Respondent points out that none of his observations during the 2013-2014 school year included a pre-observation conference. Further, addressing the summative conference conducted on June 23, 2014, by Principal James Thompson, Respondent points out that Mr. Thompson did not appear at the hearing and Respondent testified that Thompson failed to explain the ramifications of an ineffective rating to him. Respondent points to his testimony that he did not know that he would be placed on a corrective action plan and he did not know that he would be transferred to a different school until mid-August of 2014.

Turning to the CAP, Respondent points out that Mr. Corvi and Mr. Dawson created the CAP based only on the information in TeachScape without input from prior administrators at the high school who had observed Respondent. Respondent emphasizes that the CAP was not properly prepared in that it contains many references to Mr. Turner who is a physical education teacher who was also placed on a CAP. Respondent maintains that this demonstrates that Mr. Corvi and Mr. Dawson were rushing to put together a CAP for Respondent that was not truly designed to facilitate his improvement and growth as a teacher. Further, once Respondent was presented with the CAP, he was only given a few moments to read it and review it and was not provided with a copy of the CAP before the meeting. Respondent emphasizes that he did not understand the ramifications of the CAP. Respondent also points to the differences between Corvi's testimony that Respondent was shown a CAP at a meeting and given a chance at input and Respondent's testimony that he was shown the CAP for the first time on September 15, 2014 and asked to sign it without previous review or an opportunity for input into the development of the CAP. Respondent emphasizes that his

meeting with Mr. Corvi and Mr. Dawson to discuss the CAP lasted five or six minutes and he understood that Mr. Dawson was assigned to work with him under the CAP. Further, Respondent points out that according to the CAP, he and Dawson were to have weekly coaching sessions on Tuesday mornings but those never occurred.

Further, Respondent points out that it is undisputed that Dawson, as the supervisor assigned to implement Respondent's CAP, did not comply with significant aspects of the plan. Respondent points out that lesson plans were not reviewed on a regular basis, weekly coaching sessions did not occur, and feedback was not provided to Respondent other than the reports following each of the observations that took place during the 2014-2015 school year. Respondent emphasizes that the discussion during each post-observation conference of Respondent's progress towards the goals set forth in the CAP was not occurring as required by N.J.A.C. 6A:10-2.5(f).

Respondent also points out that during the 2014-2015 school year, he had four observations with two being conducted by Corvi and two being conducted by Mr. Dawson and that none of these observations included a pre-conference before the observation. Further, because Respondent was on a CAP, he was required to have a mid-year evaluation before February 15 to include, at a minimum, a discussion of the teacher's goals outlined in the CAP. Pursuant to regulation, this evaluation may be combined with a post-observation conference. Respondent points out that his mid-year and fourth and final observation was conducted on February 24, 2015 by Mr. Corvi and he was scheduled to have a post-observation conference with Mr. Corvi on February 27, 2015. Respondent emphasizes that although a meeting occurred on February 27, 2015, there was no discussion of the CAP but rather Respondent was presented with a document dated February 13, 2015 that was a mid-year evaluation form. Respondent points out that regulation requires that the mid-year evaluation be completed by February 15, 2015 and thus, his mid-year evaluation was out of compliance.

Respondent emphasizes that he had no additional observations after February 24, 2015 and it is evident from the mid-year evaluation that Mr. Corvi had already determined that Respondent had not met the goals under the CAP. Respondent asserts that this conclusion is supported by the fact that he had no interaction with either Mr. Corvi or Mr. Dawson from the end of February until his summative conference on June 3, 2015.

Respondent argues that the tenure charges against him should be dismissed because the District failed to comply with the mandatory evaluation procedures and the corrective action plan. Respondent emphasizes that for the 2013-2014 school year, none of his observations were preceded by a pre-observation conference in violation of N.J.A.C. 6A:10-4.4(c). Similarly, Respondent emphasizes that the District did not establish that any of his

observations were preceded by a pre-observation conference for the 2014-2015 school year. Based on the failure to conduct pre-observation conferences, Respondent argues that he was deprived of the opportunity to discuss the lessons and what he was trying to accomplish prior to the observation.

Respondent also asserts that the numerous procedural deficiencies in the preparation of the CAP, as well as its implementation, also warrant dismissal of the tenure charges. Citing N.J.A.C. 6A:10-2.5(b), Respondent points out that the CAP is required to be developed and the teacher and his designated sponsor are required to meet to discuss the CAP before September 15 of the following school year. In this instance, Respondent points out that the record shows that Mr. Dawson prepared the CAP with no discussion or input from Respondent who was being transferred from another school in the District. Further, Respondent points out that neither Mr. Dawson nor Mr. Corvi ever contacted Respondent's previous principal but rather simply accessed the observation reports that were uploaded into TeachScape. Respondent argues that this process was both one-sided and non-collaborative, thus violating both the substance and spirit of the TEACHNJ Act.

Citing N.J.S.A. 18A:6-120(c), Respondent was required to receive a mid-year evaluation before February 15, 2015 to include, at a minimum, a conference to discuss progress towards the teacher's goals outline in the CAP. This conference did not occur until February 27, 2015, following Mr. Corvi's February 24, 2015 observation. At that conference, Respondent received a document indicating he had not met the goals set forth in the CAP. That document also references the coaching sessions that were to take place between Mr. Dawson and Respondent despite the fact that those sessions never took place. Further, although the form provided that Respondent would continue to be observed and monitored throughout the school year, no additional observations took place. Because no additional evaluations took place after February 27, 2015, the summative evaluation for the 2014-2015 school year was based only on four observations that occurred prior to February of 2015. As a result, Respondent was deprived of any opportunity to show that he exhibited improvement or progress to the goals set forth in the CAP.

Under the Teacher Effectiveness and Accountability for Children of New Jersey Act (TEACHNJ), N.J.S.A. 18A:6-17.2(a) the arbitrator's review of a board of education's finding of teacher inefficiency is limited to considerations of whether or not:

- (1) the employee's evaluation failed to adhere substantially to the evaluation process, including, but not limited to providing a corrective action plan;
- (2) there is a mistake of fact in the evaluation;

- (3) the charges would not have been brought but for considerations of political affiliation, nepotism, union activity, discrimination as prohibited by State or federal law, or other conduct prohibited by State or federal law; or
- (4) the district's actions were arbitrary and capricious.

Pursuant to N.J.S.A. 18A:6-17.2(b), if a respondent is able to prove one or more of the above considerations, then the arbitrator must determine whether “that fact materially affected the outcome of the evaluation.” In reviewing these considerations, the “quality of an employee’s classroom performance shall not be subject to an arbitrator’s review.” N.J.S.A. 18A:6-17(c).

Initially, the District is required to prove that the statutory criteria for tenure charges have been met. Passaic County Vocational School District & Patsy Contrera, Agency Dkt. No. 223-8/15 (Arb. Gandel).

Focusing on alleged deficiencies in the evaluation process in both the 2013-2014 and 2014-2015 school years, as well as in the creation and implementation of his CAP in the 2014-2015 school year, Respondent argues that the District failed to adhere to the evaluation process and its actions were arbitrary and capricious to the extent that the District’s actions “materially affected the outcome of the evaluation”.

Beginning with the 2013-2014 school year, Respondent points out that at least one of the three required observations was required to have a pre-observation conference and to be announced. Although Mr. Atwell does not have specific recall of such a pre-observation conference, Mr. Ojomoh submitted a Pre-Observation Planning Form on December 10, 2013 and email suggests that a pre-observation conference, along with the observation, was rescheduled due to a weather-related delayed opening. Under these circumstances, I find that Mr. Ojomoh was provided an opportunity for a pre-observation conference and had notice of when the December 10, 2014 observation would occur. That observation was not unannounced.

Further, Respondent notes that Mr. Thompson, who gave Mr. Ojomoh his summative evaluation in June of 2014, failed to appear at hearing and did not explain the ramifications of an ineffective rating. That Mr. Thompson did not appear at the hearing does not alter Respondent’s summative evaluation and has little impact on whether the District substantially adhered to the evaluation process. In this instance, the summative evaluation was based primarily on the three underlying observations. The individuals who conducted those observations testified to what occurred during the observations and the basis for both the ratings

and suggestions for improvement. Although Mr. Ojomoh was receptive, there is little evidence that his control over the students and the classroom or his planning and preparation improved. As an administrator, Mr. Thompson should have explained the ramifications of an ineffective rating to Mr. Ojomoh, but if he failed to do so, that does not render the summative evaluation itself or the underlying observations insufficient. Further, Mr. Ojomoh received training covering TEACHNJ during the 2012-2013 and 2013-2014 school years. Mr. Ojomoh should have been aware of the ramifications of an ineffective rating. There is insufficient evidence that the District failed to adhere substantially to the evaluation process in its observation and evaluation of Mr. Ojomoh during the 2013-2014 school year.

Turning to observations conducted during the 2014-2015 school year, Respondent asserts that although he had four observations, two conducted by Mr. Corvi and two conducted by Mr. Dawson, he had no pre-observation conference and his fourth and final observation was conducted on February 24, 2015, several months before the end of the school year, thus depriving him of the opportunity to have further improvement observed. There is no requirement that the fourth observation be conducted towards the end of the school year. The only requirement is that at least one observation be conducted during the first half of the school year and at least one observation be conducted during the second half of the school year. N.J.A.C. 6A:10-4.4(c). In this instance, two of four observations were conducted during the first half of the school year and the remaining two were conducted during the second half of the school year. Although Mr. Ojomoh completed a pre-observation form dated February 27 for the February 24, 2015 observation, there is no other evidence that a pre-observation conference was conducted. The District has not established that Mr. Ojomoh had a pre-observation conference at any point during the 2014-2015 school year.

Because Mr. Ojomoh was on a CAP, pursuant to N.J.S.A. 18A:6-120(c), the District was required to provide him with a mid-year evaluation by February 15, 2015. The District provided a mid-year evaluation together with a post-observation conference on February 27, 2015. Pursuant to N.J.A.C. 6A:10-2.5(m), the District is permitted to combine the mid-year evaluation with a post-observation conference, but does not have discretion to conduct that conference after February 15. Thus, the mid-year evaluation did not technically adhere to the evaluation process, but the deviation from the process was not substantial. I find that in this case, the twelve calendar day discrepancy between the deadline for the mid-year evaluation and the date when it occurred does not constitute substantial deviation from the evaluation process. I further find that Mr. Corvi's comments on the mid-year evaluation did not foreclose significant improvement by Mr. Ojomoh in the remaining months of the 2014-2015 school year. Mr. Corvi noted that Mr. Ojomoh had been "receptive" to suggestions but "successful and effective implementation of these strategies had not yet occurred." (emphasis added). Mr. Corvi, by noting that "successful and effective implementation had not yet occurred," left room for

Mr. Ojomoh to achieve such improvement in the remaining months of the school year.

I am not convinced that the late mid-year evaluation and likely lack of a pre-observation conference during the 2014-2015 school year, on their own, are sufficient to “materially affect the outcome of the observation.” Nonetheless, I consider them together with the District’s missteps and omissions regarding the creation and implementation of Mr. Ojomoh’s CAP.

Mr. Ojomoh’s CAP was drafted without due care and included significant references to requirements for improvement for a physical education teacher rather than a computer or business teacher. These errors are more significant than mere typographical errors. Specifically, a CAP requiring Mr. Ojomoh to take care to put away physical education equipment is not the same as a requirement that he take care of computer equipment. Further, although there is significant evidence that Mr. Ojomoh had difficulty controlling his classroom, there is no evidence that Mr. Ojomoh had difficulty corralling computer equipment. The record does not reflect that keeping track of physical education equipment is a task that appropriately should have been in Mr. Ojomoh’s CAP.

It is troubling that neither Mr. Corvi nor Mr. Dawson caught these mistakes. Given the brief opportunity for Mr. Ojomoh to review the document before meeting with Mr. Corvi, it is understandable that he did not immediately notice the errors. However, I note that as the school year progressed, neither Mr. Ojomoh nor Mr. Dawson, who was assigned by Mr. Corvi to coach and meet with Mr. Ojomoh weekly, noticed the error even though both were to be following the requirements of the CAP.

Mr. Dawson, as Mr. Ojomoh’s assigned coach or mentor was required to review lesson plans, meet with Mr. Ojomoh every Tuesday, and to conduct weekly walk throughs. Although Mr. Dawson did conduct frequent walk throughs and coaching and reviewed Mr. Ojomoh’s plans on at least a bi-weekly basis, he did not conduct weekly meetings or a weekly review of lesson plans with Mr. Ojomoh. Had those meetings occurred, greater discussion of the goals of the CAP might have disclosed the drafting errors.

Mr. Dawson’s failure to conduct weekly meetings with Mr. Ojomoh constitutes a significant failure to comply with the terms of the CAP that he and Mr. Corvi established and implemented for Mr. Ojomoh. Pursuant to N.J.A.C. 6A:10-2.5(e)(3), the CAP shall “[i]nclude responsibilities of the evaluated employee and the school district for the plan’s implementation.” This requires that both the teacher and the supervisor(s) meet their responsibilities under the terms of the CAP. The District’s failure to provide required guidance to Mr. Ojomoh as provided in the CAP constitutes “failure to adhere” to the evaluation process. In this instance, the District provided, but did not comply with its responsibilities under the

CAP. It is not enough to provide the teacher with a CAP. Both the employee and the District are required to fulfill their responsibilities as stated in the CAP.

When the District's failure to provide Mr. Ojomoh with a pre-observation conference during the 2014-2015 school year, and the late mid-year evaluation are coupled with its failure to take due care in creating a CAP that applied to Mr. Ojomoh and its failure to meet its stated responsibilities pursuant to the CAP, I find that the District failed "to adhere substantially to the evaluation process." When these defects in the evaluation process, including substantial errors in the drafting and implementation of the CAP are taken together with the likely lack of a pre-observation conference and the delayed mid-year evaluation, I find the deviation from the required evaluation process is substantial.

Accordingly, I turn to the question of whether the District's failure to "adhere substantially" to the evaluation process "materially" affected the outcome of the evaluation. In other words, I must determine if Mr. Ojomoh's ratings were materially affected by the District's failure to follow the required processes.

I find the District's errors and omissions did not materially affect the outcome of Mr. Ojomoh's evaluation. TEACHNJ creates a two-way street designed to improve teachers' performance. To that end, TEACHNJ imposes significant substantive and procedural requirements on school districts designed to assist poorly performing teachers to improve their teaching skills. That two-way street also requires the affected teacher to make significant efforts to improve his or her skills. In this instance, the record demonstrates that Mr. Ojomoh was cooperative and attempted to follow coaching instructions provided by Mr. Dawson. However, the record also reflects that Mr. Ojomoh repeatedly sought to deflect responsibility for his inability to control the class to outside forces, including equipment problems, a poorly heated classroom, recent return from a trip to Africa for a funeral and a new class where he did not know the students. While any teacher can have a bad day, and consequently a poor observation, Mr. Ojomoh was observed by five different supervisors over the course of two years and received consistent comments from them over the course of those two years. Those consistent comments demonstrate that Mr. Ojomoh must bear the responsibility for his consistent poor performance.

Further, at his post-observation conference with Dr. Foley, in February of 2014, she advised him to review videos on TeachScape and to seek out a mentor. She also indicated that she would recommend that Mr. Thompson send him to workshops. Mr. Thompson did not do so, but there is no evidence that Mr. Ojomoh sought a mentor, watched the training videos or followed up with Mr. Thompson. Likewise, despite attending repeated workshops sponsored by both the District and the NJEA, Mr. Ojomoh professed not to understand that the series of observations and the CAP could culminate in these tenure charges of inefficiency.

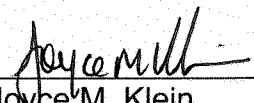
In sum, Mr. Ojomoh did not demonstrate his commitment to improving his teaching skills by following up on suggestions provided by those supervisors who observed his classes. Rather, he suggested a variety of excuses for consistent poor performance. Under these circumstances, including Mr. Ojomoh's limited efforts to improve his teaching performance and his failure to follow suggestions and direction that would have provided him with additional guidance, I do not find that the District's failure to strictly adhere to evaluation processes and CAP requirements materially affected Mr. Ojomoh's teaching performance.

Accordingly, I find that the District has established just cause for inefficiency charges. The charges of inefficiency against Respondent Daniel Ojomoh are substantiated.

AWARD

The charges of inefficiency against Respondent Daniel Ojomoh are substantiated.

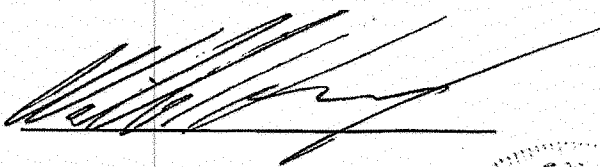
Dated: February 25, 2016
Ocean Grove, New Jersey



Joyce M. Klein

State of New Jersey }
County of Monmouth } ss:

On this 25th day of February, 2016, before me personally came and appeared Joyce M. Klein to me known and known to me to be the individual described in and who executed the foregoing instrument and she acknowledged to me that she executed same.



WILLIAM T. HEANEY
NOTARY PUBLIC OF NEW JERSEY
ID # 2421775
My Commission Expires 6/11/2017

