

# **Work Session**

## **Attachments**

**May 3, 2016**

**Part 2 - CL&CC**

**(Policies & Regulations)**

# REGULATION

## OCEAN TOWNSHIP BOARD OF EDUCATION

**NEW**

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INDUCTION PROGRAM FOR PROVISIONAL TEACHERS

### **R 3126 INDUCTION PROGRAM FOR PROVISIONAL TEACHERS**

The Board of Education is authorized to employ a holder of a certificate of eligibility (CE) or certificate of eligibility with advanced standing (CEAS) after its mentoring plan has been approved pursuant to N.J.A.C. 6A:9-8.4.

#### **A. Definitions**

1. "Certificate of Eligibility or CE" means a credential with lifetime validity issued to persons who have completed degree, academic study, and applicable test requirements for certification. The CE permits the applicant to seek and accept employment in positions requiring certification.
2. "Certificate of Eligibility with Advanced Standing or (CEAS) means a credential with a lifetime validity issued to persons who have completed degree, academic study, applicable test requirements, and traditional professional preparation programs for certification. The CEAS permits the applicant to seek and accept employment in positions requiring certification.
3. "Mentor teacher" means a New Jersey certified experienced teacher who is assigned to provide support and guidance to a novice teacher.
4. "Novice teacher" means any full-time or part-time teacher who has not completed one year of full-time teaching under a valid State teaching certificate.
5. "Professional Development Committee" means the local district committee established by the Board of Education pursuant to N.J.A.C. 6A:9-15.3(d) to plan and implement local district professional development programs.



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6. "Professional Standards for Teachers" means the knowledge, skills, and dispositions that all new teachers must acquire and describes what all teachers should know and be able to do.

#### B. State-Approved District Training Program

1. The State-approved district training program shall provide essential knowledge and skills through the following training:
  - a. On-going mentoring of the provisional teacher shall take place over a period of thirty weeks or proportionally longer if the provisional teacher holds a part-time teaching position in accordance with the district's mentor plan pursuant to N.J.A.C. 6A:9-8.4 and in accordance with the Professional Standards for Teachers.
  - b. The Building Principal or an appropriately certified school administrative designee shall observe and formally evaluate the provisional teacher in accordance with N.J.A.C. 6A:9-8.6 and 8.7.
  - c. Except for d. and e. below, a minimum of two hundred hours of formal instruction in professional education aligned with the Professional Standards for Teachers shall be completed by the provisional teacher concurrently with the requirements of a. and b. above. This requirement shall not apply to provisional teachers who hold a CEAS pursuant to N.J.A.C. 6A:9-8.1(c).
  - d. For provisional teachers who are holders of a career and technical education CE, a minimum of two hundred hours of formal instruction in a State-approved career and technical education professional education program that is aligned with the Professional Standards for Teachers and that includes the essential knowledge and skills regarding the delivery of career and technical education programs shall be completed



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concurrently with the requirements of a. and b. above. This requirement shall not apply to provisional teachers who hold a CEAS pursuant to N.J.A.C. 6A:9-8.1(b). The effective date of this requirement shall be February 1, 2010.

- e. For provisional teachers who are holders of an elementary school (Kindergarten through grade five) endorsement, a minimum of two hundred ninety hours of formal instruction over no more than two years in a State-approved program of formal instruction that is aligned with the Professional Standards for Teachers shall be completed. This instruction must include in the first calendar year of a teacher's employment a minimum of forty-five hours of study in the teaching of language arts/literacy at the Kindergarten through grade five level and a minimum of forty-five hours of study in teaching mathematics at the Kindergarten through grade five level. The effective date of this requirement shall be October 31, 2009. Provisional teachers holding an elementary school (Kindergarten to grade five) certificate of eligibility may be exempted from completing forty-five hours of study in the teaching of language arts/literacy at the Kindergarten through grade five level as well as from completing forty-five hours of study in the teaching of mathematics at the Kindergarten through grade five level if:

- (1) For each area of study, they have completed forty-five hours of study in that area within the three years prior to receiving their certificate of eligibility as documented by a New Jersey Department of Education approved alternate route regional training center or through equivalent coursework on the transcript of a regionally accredited four-year college or university; or
- (2) For each area of study, they document the equivalent of at least one year of successful experience as a full-time





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teacher during which the subject area is regularly taught, among the other subjects for which a Kindergarten through grade five teacher would be responsible. This experience must take place within the three years prior to receiving their certificate of eligibility and documented by submitting a completed, original form provided by the Department of Education.

2. Districts or consortia of districts, in conjunction with a college or university, shall provide formal instruction to the provisional teachers they employ pursuant to B.1.d. above. The district or consortium shall submit a written plan for the department's approval. In the event that joint sponsorship with a college or university cannot be achieved, the department may authorize the district or consortium to provide the formal instruction independently or in joint sponsorship with a non-collegiate entity. The district or consortium's written plan shall include documentation of its efforts to secure college or university participation.
3. Districts unable to provide formal instruction to provisional teachers in their employ shall provide access to formal instruction through a network of department-authorized providers.

#### C. Requirements for Local Mentor Plan

1. A "novice teacher" means any full-time or part-time teacher who has not completed one year of full-time teaching under a valid State teaching certificate. All novice teachers are required to participate in a mentoring program that takes place over a period of thirty weeks for provisional teachers holding a CEAS and thirty-four weeks for provisional teachers holding a CE.

Provisional teachers shall participate for a proportionally longer period of time if in a part-time teaching position. The mentoring



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program shall be implemented by the mentor teacher, supervised by the school Principal, and conducted within the parameters of a school district's local mentor plan and the requirements of N.J.A.C. 6A:9-8.3.

- a. In the event that no State funds are available to pay the costs of mentoring fees, candidates who are required to complete a provisional year of teaching in order to obtain standard certification shall be responsible for payment of mentoring fees during the provisional year. [Optional – The district may, at its discretion, pay all or part of the mentoring fee.]
  - b. All novice teachers whose positions require possession of instructional certificates in accordance with N.J.S.A. 18A:26-2 and N.J.A.C. 6A:9-5.1(a) shall comply with the requirements of the district's mentoring plan.
2. Novice teachers in positions requiring the possession of instructional certificates shall comply with the provisions of N.J.A.C. 6A:9-8 and shall ensure the following:
- a. The rigorous mentoring shall be provided to novice teachers by developing a local mentor plan in which experienced teachers give confidential support and guidance to novice teachers in accordance with the Professional Standards for Teachers;
  - b. That each novice teacher is assigned a mentor at the beginning of the contracted teaching assignment;
  - c. That the district's mentor plan includes in-person contact between the mentor teacher and the novice teacher over the course of thirty weeks or proportionally longer if the novice teacher holds a part-time teaching assignment;



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- d. That the local Professional Development Committee established pursuant to N.J.A.C. 6A:9-15.3(d) develops the district's mentor plan; and
  - e. That the Board of Education shall report annually the implementation of the district's mentor plan as required by the Department of Education.
3. The district's Professional Development Committee shall ensure the development of a district mentor plan as follows:
- a. The district's Professional Development Committee shall develop a district mentor plan that includes:
    - (1) Goals that at a minimum enhance teacher knowledge of and strategies related to the CCCS in order to facilitate student achievement; identify exemplary teaching skills and educational practices necessary to acquire and maintain excellence in teaching; and assist novice teachers in the performance of their duties and adjustment to the challenges of teaching;
    - (2) An application process for selecting mentor teachers;
    - (3) Criteria for mentor teacher selection;
    - (4) Provisions for comprehensive mentor training;
    - (5) Identification of mentor teacher responsibilities;
    - (6) Logistics for mentor plan implementation;
    - (7) Consideration of collaborative arrangements with colleges and universities;



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- (8) Provisions for the use of State funds; and
      - (9) An addendum with criteria and guidelines for the twenty-day clinical experience pursuant to N.J.A.C. 6A:9-8.3(b)1.
    - b. The Professional Development Committee shall submit the district's mentor plan to the Board of Education for initial approval.
    - c. The Professional Development Committee shall submit the addendum for the twenty-day clinical experience pursuant to N.J.A.C. 6A:9-8.3(b)1 to the Board of Education for initial approval and to the Executive County Superintendent for final approval.
    - d. After the mentor plan is reviewed, the Board shall submit the plan to the Executive County Superintendent for final review and approval. The Executive County Superintendent shall notify the Department of plan approval.
    - e. Every three years, the district's mentor plan shall be revised and re-submitted to the Executive County Superintendent based on program evaluation.
  - 4. The Board of Education shall be responsible for the implementation of the district's mentor plan through the following:
    - a. The plan shall provide criteria for selection of mentor teachers. At a minimum, the criteria shall include the following:
      - (1) The Board may select a certified teacher with at least three years of experience who is actively teaching in the district to serve as a mentor teacher;



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- (2) The mentor teacher applicant is committed to the goals of the local mentor plan;
  - (3) The mentor teacher applicant has agreed to maintain the confidential nature of the mentor teacher/novice teacher relationship;
  - (4) The mentor teacher applicant has demonstrated exemplary command of content area knowledge and of pedagogy;
  - (5) The mentor teacher applicant is experienced and certified in the subject area in which the novice teacher is teaching, where possible;
  - (6) The mentor teacher applicant is knowledgeable about the social and workplace norms of the school district and the community the Board of Education serves;
  - (7) The mentor teacher applicant is knowledgeable about the resources and opportunities in the district and able to act as a referral source to the novice teacher;
  - (8) The mentor teacher applicant provides letters of recommendation as determined by the district mentor plan from those who are familiar with the mentor teacher applicant's work; and
  - (9) The mentor teacher applicant agrees to complete a comprehensive mentor training program.
- b. Annually, the district shall submit a report on the effectiveness of the district's mentor plan to the Department of Education. The report, using data collected on a Department of Education



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developed form, shall include program impact on job satisfaction, adequacy of time and training, and recommended program changes and additions.

- c. The district shall align the mentor plan with the Professional Standards for Teachers.

- 5. The Board of Education shall be responsible to budget any State funds appropriated for the novice teacher mentoring program.

- a. Subject to the availability of funds, the department shall appropriate State funds based on the number of novice teachers employed each year in a given public school district.

- b. The Board of Education shall ensure that State funds appropriated for this program shall supplement, and not supplant, any Federal, State, or local funds already devoted to planning and implementing a novice teacher mentor program.

- c. The Board of Education shall ensure that State funds shall be used for one or more of the following:

- (1) Stipends for mentor teachers;
- (2) The costs associated with release time;
- (3) Substitutes for mentor teachers and novice teachers; and
- (4) Professional development and training activities related to the program.

#### D. Evaluation of Provisional Teachers

- 1. An appropriately certified Building Principal or administrative designee authorized to supervise instructional staff shall observe and



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evaluate the provisional teacher three times during the first year of mentoring for purposes of certification. All performance evaluations shall be aligned with the Professional Standards for Teachers as defined in N.J.A.C. 6A:9-3.3 and reported on State-developed forms. Performance evaluations for career and technical education teachers shall also include career and technical education knowledge and skills.

- a. The first formative evaluation shall be completed at the end of ten weeks, or proportionally longer if the teacher is part-time, after the provisional teacher assumes full responsibility of a classroom.
  - b. The second formative evaluation shall be completed at the end of twenty weeks, or proportionally longer for part-time teachers, after the provisional teacher assumes full responsibility of a classroom.
  - c. The final summative evaluation shall be completed at the end of thirty weeks, or proportionally longer for part-time teachers, after the provisional teacher assumes full responsibility of a classroom. This final, summative evaluation shall be completed by the Building Principal who shall make one of three recommendations for certification pursuant to N.J.A.C. 6A:9-8.7(b).
2. Within fifteen days following each evaluation, the evaluator pursuant to a. above shall provide a copy of the evaluation to the provisional teacher.
  3. Mentor teachers shall not assess or evaluate the performance of provisional teachers. Interactions between provisional teachers and experienced mentor teachers are formative in nature and considered a matter of professional privilege. Mentor teachers shall not be compelled to offer testimony on the performance of provisional teachers.



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#### **E. Recommendation for Certification of Provisional Teachers**

1. Within thirty days after the conclusion of the State-approved district training program, the Building Principal shall submit the final evaluation directly to the Secretary of the New Jersey State Board of Examiners that shall contain a recommendation regarding standard certification for each provisional teacher.
2. The final evaluation for each provisional teacher shall include one of the following recommendations:
  - a. **Approved:** Recommends issuance of a standard certificate;
  - b. **Insufficient:** Recommends that a standard certificate not be issued but that the candidate be permitted to seek entry on one more occasion into a State-approved district training program. A second rating of "insufficient" shall be deemed a "disapproved" in accord with c. below; or
  - c. **Disapproved:** Recommends that a standard certificate not be issued and that the candidate not be allowed to enter into another State-approved district training program.
3. Candidates who receive a recommendation of "disapproved" or two recommendations of "insufficient" may petition the Board of Examiners for approval of additional opportunities to seek provisional employment in districts other than those in which they received unfavorable recommendations pursuant to N.J.A.C. 6A:9-17.18.

**Adopted:** 17 May 2016





## 3221 EVALUATION OF TEACHERS

### M

The Board of Education recognizes the importance of teacher effectiveness to further the development of a professional corps of educators and to increase student achievement. The Board of Education adopts Policy and Regulation 3221 for the evaluation of teachers consistent with the Teacher Effectiveness and Accountability for the Children of New Jersey Act (TEACHNJ) and the AchieveNJ administrative codes. This Policy and Regulation provides the provisions and requirements for teacher evaluations consistent with TEACHNJ and AchieveNJ.

For the purposes of Policy and Regulation 3221, "teacher" means a teaching staff member **who holds the appropriate** ~~holding the position of teacher and holding a valid and effective~~ standard, provisional, or emergency instructional certificate **issued by the Board of Examiners and is assigned a class roster of students for at least one particular course.**

The rules in N.J.A.C. 6A:10 – Educator Effectiveness shall not override any conflicting provision(s) of collective bargaining agreements or other employment contracts in effect on July 1, 2013 and no collective bargaining agreement entered into after July 1, 2013, shall conflict with the educator evaluation system established pursuant to N.J.A.C. 6A:10-1.1 et seq. or any other specific statute or regulation, nor shall topics subject to bargaining involve matters of educational policy or managerial prerogatives. All information contained in written performance reports and all information collected, compiled, and/or maintained by employees for the evaluation process pursuant to N.J.A.C. 6A:10-1.1 et seq. shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

The Board shall annually adopt evaluation rubrics for teachers which shall be submitted to the Commissioner by June 1 for approval by August 1 of each year. The evaluation rubrics shall have four defined annual ratings: ineffective, partially effective, effective, and highly effective. The Board shall meet the requirements as outlined in N.J.A.C. 6A:10-2.2(a) for the annual evaluation of teachers and shall ensure the training procedures as outlined in N.J.A.C. 6A:10-2.2(b) are followed when implementing the evaluation rubrics for all teachers. A District Evaluation Advisory Committee shall be established in accordance with the requirements of N.J.A.C. 6A:10-2.3.



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The minimum requirements for the evaluation procedures for teachers as outlined in N.J.A.C. 6A:10-2.4 shall be followed. For each teacher rated ineffective or partially effective on the annual summative evaluation rating, as measured by the evaluation rubrics, a corrective action plan shall be developed in accordance with the provisions of N.J.A.C. 6A:10-2.5. A School Improvement Panel shall be established in accordance with N.J.A.C. 6A:10-3.1 **and** with the responsibilities outlined in N.J.A.C. 6A:10-3.2.

The components of the teacher evaluation rubrics as described in N.J.A.C. 6A:10-4.1 shall apply to teachers. Measures of student achievement, as outlined in N.J.A.C. 6A:10-4.2, shall be used to determine impact on student learning. Teacher observations shall be conducted in accordance with the provisions of N.J.A.C. 6A:10-4.4. 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).

The teacher practice instrument approved by the Department of Education shall meet the criteria as outlined in N.J.A.C. 6A: 10-76.2.

The Superintendent shall annually notify all teachers of the adopted evaluation policies and procedures/regulations no later than October 1. If a teacher is hired after October 1, the Superintendent shall notify the teacher of the policies and procedures/regulations at the beginning of his or her employment. All teachers shall be notified of amendments to the policy and procedures/regulations within ten teacher working days of adoption.

N.J.S.A. 18A:6-117 et seq.

N.J.A.C. 6A:10-1.1 through 1.4; 6A:10-2.1 through 2.5

N.J.A.C. 6A:10-3.1 and 3.2; N.J.A.C. 6A:10-4.1 through 4.4

N.J.A.C. 6A:10-76.1 and 76.2

Adopted: 31 March 2009

Revised: 23 August 2011, 18 February 2014, 17 May 2016



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### R 3221 EVALUATION OF TEACHERS

M

A. Definitions – N.J.A.C. 6A:10-1.2

The following words and terms shall have the following meanings when used in Policy and Regulation 3221 unless the context clearly indicates otherwise:

“Announced observation” means **an observation in which** the person conducting an evaluation for the purpose of evaluation will notify the teacher of the date and the class period the observation will be conducted.

“Annual performance report” means a written appraisal of the teacher’s performance prepared by the **teacher’s designated supervisor** ~~Principal or designee~~ based on the evaluation rubric for his or her position.

“Annual summative evaluation rating” means an annual evaluation rating that is based on appraisals of educator practice and student performance, and includes all measures captured in a teacher’s evaluation rubric. The four summative performance categories are ineffective, partially effective, effective, and highly effective.

“Calibration” in the context of educator evaluation means a process to monitor the competency of a trained evaluator to ensure the evaluator continues to apply an educator practice instrument accurately and consistently according to the standards and definitions of the specific instrument.

“Chief School Administrator” means the Superintendent of Schools or the Administrative Principal if there is no Superintendent.

“Commissioner” means Commissioner of the New Jersey Department of Education.

“Co-observation” means two or more supervisors who are trained on the practice instrument who observe simultaneously, or at alternate times, the same lesson or portion of a lesson for the purpose of training.

“Corrective Action Plan” means a written plan developed by a teaching staff member serving in a supervisory capacity in collaboration with the



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teacher to address deficiencies as outlined in an evaluation. The corrective action plan shall include timelines for corrective action, responsibilities of the individual teacher and the school district for implementing the plan, and specific support that the district shall provide.

“Department” means the New Jersey Department of Education.

**“Designated supervisor” means the supervisor designated by the Superintendent of Schools or designee as the teacher’s supervisor.**

“District Evaluation Advisory Committee” means a group created to oversee and guide the planning and implementation of the Board of Education's evaluation policies and procedures as set forth in N.J.A.C. 6A:10-2.3.

“Educator practice instrument” means an assessment tool that provides: scales or dimensions that capture competencies of professional performance; and differentiation of a range of professional performance as described by the scales, which must be shown in practice and/or research studies. ~~The scores from the teacher practice instrument are components of the teacher’s evaluation rubrics and the scores are included in the summative evaluation rating for the individual.~~

“Evaluation” means an appraisal of an individual’s professional performance in relation to his or her job description, professional standards, and Statewide evaluation criteria that incorporates analysis of multiple measures of student achievement or growth and multiple data sources.

“Evaluation rubrics” means a set of criteria, measures, and processes used to evaluate all teachers in a specific school district or local education agency. Evaluation rubrics consist of measures of professional practice, based on educator practice instruments and student outcomes. Each Board of Education will have an evaluation rubric specifically for teachers, another specifically for Principals, Vice Principals, and Assistant Principals, and evaluation rubrics for other categories of teaching staff members.

“Indicators of student progress and growth” means the results of assessment(s) of students as defined in N.J.A.C. 6A:8, Standards and Assessment.



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~~“Individual professional development plan” is means a written statement of goals developed by a teaching staff member serving in a supervisory capacity in collaboration with a teaching staff member that aligns with professional standards for teachers set forth in N.J.A.C. 6A:9-3.3 and the New Jersey Professional Development Standards; derives from the annual evaluation process; identifies professional goals that address specific individual, district or school needs, or both; and grounds professional development activities in objectives related to improving teaching, learning, and student achievement. The individual professional development plan shall include timelines for implementation, responsibilities of the employee and the school district for implementing the plan, and specific support and periodic feedback that the district shall provide as defined in N.J.S.A. 18A:6-119.~~

“Job description” means a written specification of the function of a position, duties and responsibilities, the extent and limits of authority, and work relationships within and outside the school and school district.

“Long observation” means an observation for the purpose of evaluation that is conducted for a minimum duration of forty minutes or one class period, whichever is shorter.

**“Model evaluation rubric” means district educator evaluation rubrics that have been reviewed and accepted by the Commissioner. A model teaching or principal evaluation rubric includes a teacher or principal practice instrument that appears on the Department’s list of approved educator practice instruments.**

“Observation” means a method of collecting data on the performance of a teacher's assigned duties and responsibilities. An observation for the purpose of evaluation will be included in the determination of the annual summative evaluation rating and shall be conducted by an individual employed in the school district in a supervisory role and capacity and possessing a school administrator, Principal, or supervisor endorsement as defined in N.J.A.C. 6A:9-1.1.

“Post-observation conference” means a meeting, either in-person or remotely, between ~~the~~ a supervisor who conducted the observation and the teacher for the purpose of evaluation to discuss the data collected in the observation.



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“Scoring guide” means a set of rules or criteria used to evaluate a performance, product, or project. The purpose of a scoring guide is to provide a transparent and reliable evaluation process. **Teacher Educator** practice instruments include a scoring guide that an evaluator uses to structure his or her assessments and ratings of professional practice.

“Semester” means half of the school year.

“Short observation” means an observation for the purpose of evaluation that is conducted for at least twenty minutes.

“Signed” means the name of one physically written by oneself or an electronic code, sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

“Student growth objective” means is an academic goal that teachers and evaluators set for groups of students.

“Student growth percentile” means a specific metric for measuring individual student progress on Statewide assessments by tracking how much a student’s test scores have changed relative to other students Statewide with similar scores in previous years.

“Superintendent” means Superintendent of Schools or Chief School Administrator.

“Supervisor” means an appropriately certified teaching staff member, as defined in N.J.S.A. 18A:1-1, or **Superintendent** employed in the school district in a supervisory role and capacity, and possessing a school administrator, Principal, or supervisor endorsement as defined in N.J.A.C. **6A:9B-11** ~~6A:9-1.1~~.

“Teacher” means a teaching staff member **who holds** ~~holding the appropriate position of teacher and holding a valid and effective standard, provisional, or emergency instructional certificate issued by the Board of Examiners and is assigned a class roster of students for at least one particular course.~~

“Teacher practice instrument” means an assessment tool that provides: scales or dimensions that capture competencies of professional performance; and differentiation of a range of



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professional performance as described by the scales, which must be shown in practice and/or research studies. The scores from the teacher practice instrument are components of the teacher's evaluation rubrics and the scores are included in the summative evaluation rating for the individual.

~~"Teaching staff member" means a member of the professional staff of any district or regional Board of Education, or any county vocational school district Board of Education, holding office, position, or employment of such character that the qualifications for such office, position, or employment require him or her to hold a valid, effective, and appropriate standard, provisional, or emergency certificate issued by the State Board of Examiners. Teaching staff members include the positions of school nurse and school athletic trainer. There are three different types of certificates that teaching staff members work under:~~

- ~~1. An instructional certificate (holders of this certificate are referred to in N.J.A.C. 6A:10-1.1 et seq. as "teachers");~~
- ~~2. Administrative certificate; and~~
- ~~3. Educational services certificate.~~

"Unannounced observation" means **an observation in which** the person conducting an observation for the purpose of evaluation will not notify the teacher of the date or time the observation will be conducted.

~~"Validity" means the extent to which evidence and theory support an interpretation of scores from a measurement instrument for a particular use of the instrument. In the context of evaluating educator practice, this means the evidence gathered using the instrument supports correct and useful inferences and decisions about the effectiveness of the practice observed.~~

B. Applicability of Rules on Collective Bargaining Agreements – N.J.A.C. 6A:10-1.3

The rules in N.J.A.C. 6A:10-1.1 et seq. shall 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. No collective bargaining agreement entered into after July 1, 2013, shall conflict with the educator evaluation system established pursuant to N.J.A.C. 6A:10-1.1 et seq. or any other specific statute or regulation, nor



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shall topics subject to bargaining involve matters of educational policy or managerial prerogatives.

C. Educator Evaluation Data, Information, and Written Reports – N.J.A.C. 6A:10-1.4

All information contained in written performance reports and all information collected, compiled, and/or maintained by employees of the Board of Education for the purposes of conducting the educator evaluation process pursuant to N.J.A.C. 6A:10-1.1 et seq. shall be confidential. Such information shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Nothing contained in N.J.A.C. 6A:10-1.1 et seq. shall be construed to prohibit the Department **or a school district** from, at its discretion, collecting evaluation data pursuant to N.J.S.A. 18A:6-123.e or distributing aggregate statistics regarding evaluation data.

D. Evaluation of Teachers – N.J.A.C. 6A:10-2.1

1. The Board of Education annually shall adopt evaluation rubrics for teachers. The evaluation rubrics shall have four defined annual ratings: ineffective, partially effective, effective, and highly effective.
2. The evaluation rubrics for teachers shall include all other relevant minimum standards set forth in N.J.S.A. 18A:6-123-~~b~~ (P.L. 2012, c. 26, § 17c).
3. Evaluation rubrics shall be submitted to the Commissioner by June 1 for approval by August 1 of each year.

E. Duties of the Board of Education – N.J.A.C. 6A:10-2.2

1. The Board of Education shall meet the following requirements for the annual evaluation of teachers, unless otherwise specified:
  - a. Establish a District Evaluation Advisory Committee to oversee and guide the planning and implementation of the Board of Education's evaluation policies and procedures as set forth in N.J.A.C. 6A:10-1.1 et seq.





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- b. Annually adopt policies and procedures developed by the Superintendent pursuant to N.J.A.C. 6A:10-2.4, including the evaluation rubrics approved by the Commissioner pursuant to N.J.A.C. 6A:10-2.1(c).
- c. Ensure the Superintendent annually notifies all teachers of the adopted evaluation policies and procedures no later than October 1. If a teacher is hired after October 1, the Board/Superintendent shall notify the teacher of the policies and procedures at the beginning of his or her employment. All teachers shall be notified of amendments to the policy and procedures within ten teacher working days of adoption.
- d. Annually adopt by June 1, any Commissioner-approved ~~educator~~ **teacher** practice instruments and, as part of the process described at N.J.A.C. 6A:10-2.1(c), notify the Department which instruments will be used as part of the school district's evaluation rubrics.
- e. Ensure the Principal of each school within the school district has established a School Improvement Panel pursuant to N.J.A.C. 6A:10-3.1. The panel shall be established annually by August 31 and shall carry out the duties and functions described in N.J.A.C. 6A:10-3.2.
- f. Ensure data elements are collected ~~from the implementation of the teaching practice instrument~~ and stored the data in an accessible and usable format. Data elements shall include, but not be limited to, scores or evidence from observations for the purpose of evaluation **and student growth objective data;** and
- g. Ensure **the Superintendent or designee certifies to the Department that each Principal in the district** certifies any observer who conducts an observation of a teacher for the purpose of evaluation as described in ~~N.J.A.C. 6A:10-2.4(h);~~ N.J.A.C. 6A:10-4.4; and N.J.A.C. 6A:10-5.4; **and N.J.A.C. 6A:10-6.2,** shall meet the statutory observation requirements of N.J.S.A. 18A:6-119; 18A:6-123.b(8); and N.J.S.A. 18A:27-3.1 and the teacher



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member of the School Improvement Panel requirements of N.J.A.C. 6A:10-3.2.

2. The Board of Education shall ensure the following training procedures are followed when implementing the evaluation rubric for all teachers and, when applicable, applying the Commissioner-approved educator practice instruments:
  - a. Annually provide training on and descriptions of each component of the evaluation rubric for all teachers who are being evaluated in the school district and provide more thorough training for any teacher who is being evaluated for the first time. Training shall include detailed descriptions of all evaluation rubric components including, when applicable, detailed descriptions of student achievement measures and all aspects of the educator practice instruments;
  - b. Provide training on the teacher practice instrument for any supervisor who will conduct observations for the purpose of evaluation of teachers. Training shall be provided before the observer conducts his or her first observation for the purpose of evaluation;
  - c. Annually provide updates and refresher training on the teacher practice instrument for any supervisor who will observe ~~teaching~~ **teacher** practice for the purpose of increasing accuracy and consistency among observers;
  - d. Annually require each supervisor who will conduct observations for the purpose of evaluation of a teacher to complete two co-observations during the academic year:
    - (1) ~~At least one co-observation shall be completed by December 1;~~
    - (1)(2) Co-observers shall use the **co-observation** ~~double observation~~ to ~~calibrate~~ ~~teacher~~ ~~practice instruments~~, promote accuracy in scoring, and to continually train themselves on the instrument; ~~and~~.
    - (2)(3) A co-observation ~~may~~ **shall** count as **one** a required observation for the purpose of evaluation pursuant



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to N.J.A.C. 6A:10-4.4, as long as the observer meets the requirements set forth in N.J.A.C. 6A:10-4.3 and 4.4. ~~A co-observation shall count as one required observation under N.J.A.C. 6A:10-4.4.~~

- e. The Superintendent shall annually certify to the Department that all supervisors of teachers in the school district who are utilizing **teacher** ~~educator~~ practice instruments have completed training on the instrument and its application and have demonstrated competency in applying the educator practice instruments.

#### F. District Evaluation Advisory Committee – N.J.A.C. 6A:10-2.3

1. Members of the District Evaluation Advisory Committee shall include representation from the following groups: teachers from each school level represented in the school district; central office administrators overseeing the teacher evaluation process; supervisors involved in teacher evaluation, when available or appropriate; and administrators conducting evaluations, including a minimum of one administrator conducting evaluations who participates on a School Improvement Panel. Members also shall include the Superintendent, a special education administrator, a parent, and a member of the Board of Education.
2. The Superintendent may extend membership on the District Evaluation Advisory Committee to representatives of other groups **and to individuals.**
3. Beginning in 2017-2018, the District Evaluation Advisory Committees shall no longer be required and the Board of Education shall have the discretion to continue the District's Evaluation Advisory Committee.

#### G. Evaluation Procedures for Teachers – N.J.A.C. 6A:10-2.4

1. The provisions outlined in Policy and Regulation 3221 and N.J.A.C. 6A:10-2.4 shall be the minimum requirements for the evaluation **of procedures for** ~~procedures for~~ teachers.



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2. Evaluation policies and procedures requiring the annual evaluation of all teachers shall be developed under the direction of the Superintendent, who may consult with the District Evaluation Advisory Committee or representatives from School Improvement Panels, and shall include, but not be limited to, a description of:
  - a. ~~Evaluation rubrics for all teachers;~~
  - ab. Roles and responsibilities for implementation of evaluation policies and procedures;
  - be. Job descriptions, **evaluation rubrics for teachers, the process for calculating the summative ratings and each component**, and ~~evaluation criteria based upon school district goals, student achievement, instructional priorities, and the evaluation regulations set forth in this N.J.A.C. 6A:10 et seq.;~~
  - cd. Methods of data collection and reporting appropriate to each job description, including, but not limited to, the processes for **student attribution to teachers, Principals, Assistant Principals, and Vice Principals for calculating the median and school-wide student growth percentile observations for the purpose of evaluation and post-observation conference(s) by the teacher's supervisor, or his or her designee;**
  - d. **Processes for observations for the purpose of evaluation and post-observation conference(s) by a supervisor;**
  - e. The process for preparation of individual professional development plans; and
  - f. The process for preparation of an annual written performance report by the teacher's **designated** supervisor ~~or designee~~, and an annual summary conference between the teacher and his or her **designated** supervisor, ~~or the supervisor's designee.~~
3. The annual summary conference between the **designated** supervisors and the teachers shall be held before the written



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performance report is filed. The conference shall **occur on or before June 30 of each year and shall** include, but not be limited to, a review of the following:

- a. The performance of the teacher based upon the job description and the scores or evidence compiled using the teacher's evaluation rubric, including the **when applicable**, the teacher's practice instrument;
  - b. The progress of the teacher toward meeting the **goals objectives** of the individual professional development plan or, ~~whenever~~ **when** applicable, the corrective action plan;
  - c. Available indicators or scores of student or growth, **when applicable**, such as student growth objective scores and student growth percentile scores, ~~as applicable~~; and
  - d. The preliminary annual written performance report.
4. If any scores for the teacher's evaluation rubric are not available at the time of the annual summary conference due to pending assessment results, the annual summative evaluation rating shall be calculated once all component ratings are available.
5. The annual written performance report shall be prepared by the teacher's **designated supervisor** ~~Principal or designee~~, and shall include, but not be limited to:
- a. A summative rating based on the evaluation rubric, including **when applicable**, a total score for each component as described in N.J.A.C. 6A:10-4;
  - b. Performance area(s) of strength and area(s) needing improvement based upon the job description, observations for the purpose of evaluation and the **when applicable**, the teacher practice instrument; **and**
  - c. An individual professional development plan developed by the **designated** supervisor and the teacher or, when applicable, a corrective action plan from the evaluation year being reviewed in the report.; ~~and~~



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- d. ~~A summary of student achievement scores or growth indicators.~~
  - 6. The teacher and the **designated supervisor** ~~preparer of the annual written performance report~~ shall sign the report within five teacher working days of the review.
  - 7. ~~The annual summary conference and annual written performance report shall be completed prior to June 30.~~
  - 78. The Board of Education shall **include** add all written performance reports and supporting data, including, but not limited to, **written observation reports and additional components of the summative evaluation rating** ~~indicators of student progress and growth for a teacher as part of the teacher's his or her personnel file, or in an alternative, confidential location. If reports and data are stored in an alternative location, the personnel file shall clearly indicate the report's location and how it can be easily accessed.~~ The records shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.
- H. Corrective Action Plans for Teachers – N.J.A.C. 6A:10-2.5
- 1. For each teacher rated ineffective or partially effective on the annual summative evaluation rating, as measured by the evaluation rubrics, a corrective action plan shall be developed by the teacher and the Superintendent or the teacher's **designated** supervisor.
  - 2. If the summative evaluation rating is calculated before the end of the school year, then the corrective action plan shall be developed and the teacher and his or her **designated** supervisor shall meet to discuss the corrective action plan prior to September 15 of the following school year. The conference to develop and discuss the corrective action plan may be combined with the teacher's annual summary conference that occurs at the end of the year of evaluation.
  - 3. If the ineffective or partially effective summative evaluation rating is received after the start of the school year following the year of



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evaluation, then a corrective action plan must be developed, and the teacher and his or her **designated** supervisor shall meet to discuss the corrective action plan within fifteen teacher working days following the school district's receipt of the teacher's summative rating.

4. The content of the corrective action plan shall replace the content of the individual professional development plan required in N.J.A.C. ~~6A:9-15.4(e) and 15.7(e)~~ **6A:9C-3.4(c) and 3.7(c)** until the next annual summary conference.
5. The content of the corrective action plan shall:
  - a. Address areas in need of improvement identified in the teacher evaluation rubric;
  - b. Include specific, demonstrable goals for improvement;
  - c. Include responsibilities of the evaluated employee and the school district for the plan's implementation; and
  - d. Include timelines for meeting the goal(s).
6. The teacher's **designated** supervisor, ~~or his or her designee,~~ and the teacher on a corrective action plan shall discuss the teacher's progress toward the goals outlined in the corrective action plan during each post-observation conference, when required by N.J.S.A. 18A:27-3.1 or N.J.A.C. 6A:10-4.
7. Progress toward the teacher's goals outlined in the corrective action plan, ~~and data and evidence collected by the supervisor and/or the teacher to determine progress between the time the corrective action plan began and the next annual summary conference,~~ shall be documented in the teacher's personnel file and reviewed at the annual summary conference or the mid-year evaluation, **when applicable. Both the teacher on a corrective action plan and his or her designated supervisor may collect data and evidence to demonstrate the teacher's progress toward his or her corrective action plan goals.**



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8. Progress toward the teacher's goals outlined in the corrective action plan may be used as evidence in the teacher's next annual summative evaluation; however, such progress shall not guarantee an effective rating on the next summative evaluation.
9. Responsibilities of the evaluated teacher on a corrective action plan shall not be exclusionary of other plans for improvement determined to be necessary by the teacher's **designated** supervisor.
10. The School Improvement Panel shall ensure teachers with a corrective action plan receive a mid-year evaluation as required by N.J.S.A. 18A:6-120.c. If the corrective action plan was created on or prior to September 15 of the academic year, the mid-year evaluation shall occur before February 15; if the corrective action plan was created after September 15, the mid-year evaluation shall occur **midway between the development of the corrective action plan and before the annual summary conference**. The mid-year evaluation shall include, at a minimum, **a conference to discuss progress toward the teacher's goals outlined in the corrective action plan.** The mid-year evaluation conference may be combined with a post-observation conference.
  - a. ~~One observation in addition to the observations required in N.J.A.C. 6A:10-4.4 for the purpose of evaluation as defined in N.J.A.C. 6A:10-1.2 and described in N.J.A.C. 6A:10-4.4(a), the length of which shall be determined by the Superintendent or the Principal and shall be the same length for all teachers with a corrective action plan; and~~
  - b. ~~One post-observation conference in addition to the observations required in N.J.A.C. 6A:10-4.4, as defined in N.J.A.C. 6A:10-1.2 and described in N.J.A.C. 6A:10-4.4(b), during which progress toward the teacher's goals outlined in the corrective action plan shall be reviewed.~~
11. The School Improvement Panel shall ensure teachers with a corrective action plan receive one observation, including a post-observation, in addition to the observations required in N.J.A.C. 6A:10-4.4 for the purpose of evaluation as described





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**in N.J.A.C. 6A:10-1.2 and 4.4(a). The Superintendent or Principal shall determine the length of the additional observation.**

**1244.** Tenured teachers with a corrective action plan shall be observed by multiple observers for the purpose of evaluation as described in N.J.A.C. 6A:10-4.4(c)2.

**13. The corrective action plan shall remain in effect until the teacher receives his or her next summative evaluation rating.**

I. School Improvement Panel – N.J.A.C. 6A:10-3 et seq.

1. School Improvement Panel Membership – N.J.A.C. 6A:10-3.1

a. The School Improvement Panel shall include the Principal, a Vice Principal, and a teacher who is chosen in accordance with b. below by the Principal in consultation with the majority representative. The Principal may appoint additional members to the School Improvement Panel as long as all members meet the criteria outlined in this section and N.J.S.A. 18A:6-120.a and the teacher(s) on the panel represents at least one-third of its total membership.

b. The Principal annually shall choose the teacher(s) on the School Improvement Panel through the following process:

(1) The teacher member shall be a person with a demonstrated record of success in the classroom. Beginning in academic year 2015-2016, a demonstrated record of success in the classroom means the teacher member shall have been rated effective or highly effective in the most recent available annual summative rating.

(2) The majority representative, in accordance with a. above, may submit to the Principal, teacher member nominees for consideration.



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- (3) The Principal shall have final decision making authority and is not bound by the majority representative's list of nominees.
  - c. The teacher member shall serve a full academic year, except in case of illness or authorized leave, but may not be appointed more than three consecutive years.
  - d. All members of the School Improvement Panel shall be chosen by August 31 of each year.
2. School Improvement Panel Responsibilities – N.J.A.C. 6A:10-3.2
  - a. The School Improvement Panel shall:
    - (1) Oversee the mentoring of teachers according to N.J.A.C. 6A:9B-8 and support the implementation of the school district mentoring plan;
    - (2) Conduct evaluations of teachers pursuant to N.J.A.C. 6A:10-2.4 and 4.4;
    - (3) Ensure corrective action plans for teachers are created in accordance to N.J.A.C. 6A:10-2.5(j); and conduct mid-year evaluations for teachers who are on a corrective action plan; and
    - (4) Identify professional development opportunities for all teachers based on the review of aggregate school-level data, including, but not limited to, ~~teacher educator~~ evaluation and student performance data to support school-level professional development plans described in N.J.A.C. ~~6A:9-15.5~~ **6A:9C-3.5**.
  - b. To conduct observations for the purpose of evaluation, the teacher member shall have:
    - (1) Agreement of the majority representative;
    - (2) An appropriate supervisory certificate; and



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- (3) Approval of the Principal who supervises the teacher being observed.
  - c. The teacher member who participates in the evaluation process shall not serve concurrently as a mentor under N.J.A.C. 6A:9B-8.4.
- J. Components of Teacher Evaluation Rubric – N.J.A.C. 6A:10-4.1
  1. The components of the teacher evaluation rubric described in N.J.A.C. 6A:10-4.1 et seq. shall apply to teachers holding the position of teacher and holding a valid and effective standard, provisional, or emergency instructional certificate.
  2. Evaluation rubrics for all teachers shall include the requirements described in N.J.S.A. 18A:6-123, including, but not limited to:
    - a. Measures of student achievement pursuant to N.J.A.C. 6A:10-4.2; and
    - b. Measures of teacher practice **pursuant to determined** ~~through a teacher practice instrument and other measures described in N.J.A.C. 6A:10-4.3 and 4.4.~~
  3. **To earn a summative rating, a teacher shall have a student achievement score, including median student growth percentile and/or student growth objectives(s) scores, and a teacher practice score pursuant to N.J.A.C. 6A:10-4.4.**
  43. Each ~~measure score~~ shall be converted to a percentage weight so all **components** ~~measures~~ make up 100 percent of the evaluation rubric. By ~~April 15~~ **August 31** prior to the **academic** ~~school~~ year **in which** the evaluation rubric applies, the Department shall provide on its website the required percentage weight of each ~~measure component and the required summative rating scale.~~ All components shall be worth the following percentage weights or fall within the following ranges:
    - a. If, according to N.J.A.C. 6A:10-4.2(b), a teacher receives a median student growth percentile, the student achievement



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component shall be at least ~~forty~~ **thirty** percent and no more than fifty percent of a teacher's evaluation rubric rating as determined by the Department.

- b. If, according to N.J.A.C. 6A:10-4.2(b), a teacher does not receive a median student growth percentile, the student achievement component shall be at least fifteen percent and no more than fifty percent of a teacher's evaluation rubric rating as determined by the Department.
  - c. Measures of teacher practice described in N.J.A.C. 6A:10-4.3 and 4.4 shall be at least fifty percent and no more than eighty-five percent of a teacher's evaluation rubric rating as determined by the Department.
  - d. **Notwithstanding the provisions of a, b, and c above, if a teacher's appeal of his or her student growth objective is approved, according to N.J.A.C. 6A:10-4.2(f), the student growth objective score weight within the student achievement component and the teacher practice weight shall be adjusted by the Superintendent or the Commissioner, as applicable according to N.J.A.C. 6A:10-4.2(f).**
54. Standardized tests, used as a measure of student progress, shall not be the predominant factor in determining a teacher's annual summative rating.

### K. Student Achievement Components – N.J.A.C. 6A:10-4.2

- 1. Measures of student achievement shall be used to determine impact on student learning. The **student achievement** measures shall include the following components ~~pursuant to 2. below and, when required by the Department, as described in N.J.A.C. 6A:10-4.1(e):~~
  - a. **If the teacher meets the requirements of 2. below, the median student growth percentile of all students assigned to a teacher, which shall be calculated as set forth in 4. below; and**



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- a. ~~The median student growth percentile of all students assigned to a teacher, which shall be calculated as set forth in 3. below; and~~
  - b. Student growth objective(s), which shall be specific and measurable, based on available student learning data, aligned to the Core Curriculum Content Standards, and based on growth and/or achievement.
    - (1) For teachers who teach subjects or grades not covered by the Core Curriculum Content Standards, student growth objective(s) shall align to standards adopted or endorsed, as applicable, by the State Board.
2. The median student growth percentile shall be included in the annual summative rating of a teacher who:
- a. Teaches at least one course or group within a course that falls within a standardized-tested grade or subject. The Department shall maintain on its website a course listing of all standardized-tested grades and subjects for which student growth percentile can be calculated pursuant to 4. below;
  - b. Teaches the course or group within the course for at least sixty percent of the time from the beginning of the course to the day of the standardized assessment; and
  - c. Has at least twenty individual student growth percentile scores attributed to his or her name during the academic year of the evaluation. If a teacher does not have at least twenty individual student growth percentile scores in a given academic year, **the student growth percentile scores attributed to a teacher during the two academic years prior to the evaluation year may be used in addition to the student growth percentile scores attributed to the teacher during the academic year of the evaluation. Only student growth percentile scores from academic year 2013-2014 or any year after shall be used to determine median student growth percentiles** ~~a maximum of three years of student growth percentiles~~



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~~may be used, including the academic year of the latest summative evaluation rating.~~

3. The Department shall **periodically collect data for all teachers that include, but are not limited to, student achievement and teacher practice scores** ~~calculate the median student growth percentile for teachers using students assigned to the teacher by the school district.~~
4. The Department shall **calculate the median student growth percentile for teachers using students assigned to the teacher by the school district** ~~periodically collect data that include, but are not limited to, component-level scores.~~ For teachers who have a student growth percentile score:
  - a. The Board of Education shall submit to the Department final ratings for all components, other than the student growth percentile, for the annual summative rating; and
  - b. The Department **then** shall ~~then~~ report to the employing district Board of Education the annual summative rating, including the median student growth percentile for each teacher who receives a median student growth percentile.
5. Student growth objectives for teachers shall be developed and measured according to the following procedures:
  - a. The Superintendent shall determine the number of required student growth objectives for teachers, including teachers with a student growth percentile. A teacher with a student growth percentile shall have at least one and not more than four student growth objectives. A teacher without a student growth percentile shall have at least two and a maximum of four student growth objectives. By ~~April 15~~ **August 31** prior to the **academic** ~~school~~ year the evaluation rubric applies, the Department shall provide on its website the minimum and maximum number of required student growth objectives within this range.



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- b. A teacher with a student growth percentile shall not use the standardized assessment used in determining the student growth percentile to measure progress toward a student growth objective.
- c. **Each** All teachers shall develop, in consultation with **his or her supervisor or a Principal's designee** ~~their Principal or a teaching staff member appointed by the Principal~~, each student growth objective. If the teacher does not agree with the student growth objectives, the Principal shall make the final determination.
- d. Student growth objectives and the criteria for assessing teacher performance based on the objectives shall be determined, **recorded, and retained by the teacher and his or her supervisor by October 31 of each academic year, or within twenty work days of the teacher's start date if the teacher begins work after October 1 and recorded in the teacher's personnel file by November 15, 2013, and by October 15 of subsequent school years.**
- e. Adjustments to student growth objectives may be made by the teacher **in consultation with** ~~or~~ his or her supervisor only when approved by the Superintendent or designee. **Adjustments** ~~and~~ shall be recorded in the teacher's personnel file on or before February 15.
  - (1) **If the Student Growth Objective (SGO) covers only the second semester of the school year, or if the teacher begins work after October 1, adjustments shall be recorded before the mid-point of the second semester.**
- f. The teacher's **designated** supervisor ~~and/or a member of the School Improvement Panel~~ shall calculate each teacher's student growth objective score. The teacher's student growth objective score, if available, shall be discussed at the teacher's annual summary conference **and recorded in the teacher's personnel file.**



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L. Teacher Practice Components – N.J.A.C. 6A:10-4.3

1. The teacher practice component rating shall be based on the measurement of the teacher's performance according to the school district's Commissioner-approved teacher practice instrument. Observations pursuant to N.J.A.C. 6A:10-4.4 shall be used as one form of evidence for the measurement.

M. Teacher Observations – N.J.A.C. 6A:10-4.4

1. 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).
2. Observation conferences shall include the following procedures:
  - a. A supervisor who is present at the observation shall conduct a post-observation conference with the teacher being observed. A post-observation conference shall occur no more than fifteen **teacher teaching staff member** working days following each observation. ~~A pre-conference shall be required pursuant to 3. below.~~
  - b. The post-observation conference shall be for the purpose of reviewing the data collected at the observation, connecting the data to the teacher practice instrument and the teacher's individual professional development plan, collecting additional information needed for the evaluation of the teacher, and offering areas to improve effectiveness.
  - c. If agreed to by the teacher, post-observation conferences for short observations of tenured teachers who are not on a corrective action plan may be conducted via written communication, including electronic ~~communications~~.
  - d. A pre-conference, when required, shall occur **at least one but not more than** within seven **teacher teaching staff member** working days prior to the observation, ~~not including the day of the observation.~~





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3. Each teacher shall be observed as described in N.J.A.C. 6A:10-4.4, at least ~~three~~ **two** times during each school year, but not less than once during each semester. For all teachers, at least one of the required observations shall be announced and preceded by a pre-conference, and at least one of the required observations shall be unannounced. The Superintendent shall decide whether the third required observation is announced or unannounced. The following additional requirements shall apply:
  - a. Non-tenured teachers shall receive a minimum of three observations within the timeframe set forth in N.J.S.A. 18A:27-3.1, and observations for all other teachers shall occur prior to the annual summary conference, which shall occur prior to the end of the academic school year.
  - b. Teachers on a corrective action plan shall receive observations within the timeline set forth in N.J.A.C. 6A:10-2.5.
  - c. Non-tenured teachers shall be observed during the course of the year by more than one appropriately certified supervisor, either simultaneously or separately, by multiple observers, with the following provisions:
    - (1) A co-observation shall fulfill the requirement in this section for multiple observers.
    - (2) One co-observation shall count as one observation required in 4. below.
  - d. One post-observation conference may be combined with a teacher's annual summary conference as long as it occurs within the required fifteen ~~teacher teaching staff member~~ working days following the observation for the purpose of evaluation.
  - e. A written **or electronic** evaluation report shall be signed by the supervisor who conducted the observation and post-observation and the teacher who was observed.



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- f. The teacher shall submit his or her written objection(s) of the evaluation within ten teacher working days following the conference. The objection(s) shall be attached to each party's copy of the annual written performance report.
- 4. Each observation required for the purpose of evaluations shall be conducted for the minimum duration based on the following groups:
  - a. A non-tenured teacher who is in his or her first or second year of teaching in the school district shall receive at least two long observations and one short observation.
  - b. A non-tenured teacher who is in his or her third or fourth year of teaching in the school district shall receive at least one long observation and two short observations.
  - c. A tenured teacher shall receive at least ~~three~~ **one** short observations **and one long observation**.
- 5. **To earn a teacher practice score, a teacher shall receive at least two observations.**
  - a. **If a teacher is present for less than forty percent of the total student school days in an academic year, he or she shall receive at least two observations to earn a teacher practice score.**

N. Teacher Practice Instrument – N.J.A.C. 6A:10-6.2

- 1. The teacher practice instrument approved by the Department shall meet the following criteria:
  - a. Include domains of professional practice that align to the New Jersey Professional Standards for Teachers pursuant to N.J.A.C. 6A:9-3;
  - b. Include scoring guides for assessing teacher practice that differentiate among a minimum of four levels of performance, and the differentiation has been shown in practice and/or research studies. Each scoring guide shall:



- (1) Clearly define the expectations for each rating category;
  - (2) Provide a conversion to the four rating categories: ineffective, partially effective, effective, and highly effective;
  - (3) Be applicable to all grades and subjects; or to specific grades and/or subjects if designed explicitly for the grades and/or subjects; and
  - (4) Use clear and precise language that facilitates common understanding among teachers and administrators.
- c. Rely, to the extent possible, on specific, discrete, observable, and/or measurable behaviors of students and teachers in the classroom with direct evidence of student engagement and learning; and
  - d. Include descriptions of specific training and implementation details required for the instrument to be effective.
2. For Commissioner-approval of a teacher practice instrument in 2015 or any year thereafter, the instrument shall include a process to assess competency on the evaluation instrument which the school district may choose to use as a measure of competency.

Adopted: 31 March 2009

Revised: 23 August 2011, 18 February 2014, 17 May 2016





EVALUATION OF TEACHING STAFF MEMBERS, EXCLUDING TEACHERS AND  
ADMINISTRATORS (M)

3222 EVALUATION OF TEACHING STAFF MEMBERS, EXCLUDING  
TEACHERS AND ADMINISTRATORS

## M

The Board of Education recognizes the importance of teaching staff member effectiveness to further the development of a professional corps of educators and to increase student achievement. The Board of Education adopts Policy and Regulation 3222 for the evaluation of teaching staff members consistent with the Teacher Effectiveness and Accountability for the Children of New Jersey Act (TEACHNJ) and the AchieveNJ administrative codes. This Policy and Regulation provides the provisions and requirements for teaching staff member evaluations consistent with TEACHNJ and AchieveNJ.

For the purposes of Policy and Regulation 3222, “teaching staff member” includes, but is not limited to, educational services staff members, guidance counselors, school nurses, library/media specialists, occupational therapists, and other teaching staff members working under an educational services certificate. For the purposes of Policy and Regulation 3222, “teaching staff member” does not include teachers, Principals, Vice Principals, Assistant Principals, and administrators, including, but not limited to, directors and/or supervisors.

The rules in N.J.A.C. 6A:10 – Educator Effectiveness shall not override any conflicting provision(s) of collective bargaining agreements or other employment contracts in effect on July 1, 2013 and no collective bargaining agreement entered into after July 1, 2013, shall conflict with the educator evaluation system established pursuant to N.J.A.C. 6A:10-1.1 et seq. or any other specific statute or regulation, nor shall topics subject to bargaining involve matters of educational policy or managerial prerogatives. All information contained in written performance reports and all information collected, compiled, and/or maintained by employees for the evaluation process pursuant to N.J.A.C. 6A:10-1.1 et seq. shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

The Board shall annually adopt evaluation rubrics for teaching staff members which shall be submitted to the Commissioner by June 1 for approval by August 1 of each year. The evaluation rubrics shall have four defined annual ratings: ineffective, partially effective, effective, and highly effective. The Board shall meet the requirements as



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outlined in N.J.A.C. 6A:10-2.2(a) for the annual evaluation of teaching staff members and shall ensure the training procedures as outlined in N.J.A.C. 6A:10-2.2(b) are followed when implementing the evaluation rubrics for all teaching staff members. A District Evaluation Advisory Committee shall be established in accordance with the requirements of N.J.A.C. 6A:10-2.3.

The minimum requirements for the evaluation procedures for teaching staff members as outlined in N.J.A.C. 6A:10-2.4 shall be followed. For each teaching staff member rated ineffective or partially effective on the annual summative evaluation rating, as measured by the evaluation rubrics, a corrective action plan shall be developed in accordance with the provisions of N.J.A.C. 6A:10-2.5.

Observations and evaluations for non-tenured teaching staff members shall be in accordance with the provisions of N.J.S.A. 18A:27-3.1. Evaluations for non-tenured teaching staff members shall **take place before April 30 each year** ~~be completed~~ prior to the May 15 notice requirement date for continued employment. Evaluations for tenured teaching staff members shall be completed prior to June 30.

The Superintendent shall annually notify all teaching staff members of the adopted evaluation policies and procedures/regulations no later than October 1. If a teaching staff member is hired after October 1, the Superintendent shall notify the teaching staff member of the policies and procedures/regulations at the beginning of his or her employment. All teaching staff members shall be notified of amendments to the policy and procedures/regulations within ten teaching staff member working days of adoption.

N.J.S.A. 18A:6-117 et seq.; N.J.S.A. 18A:27-3.1

N.J.A.C. 6A:10-1.1 through 1.4; 6A:10-2.1 through 2.5; **6A:10-6.2**

Adopted: 18 February 2014

Revised: 17 May 2016



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#### R 3222 EVALUATION EXCLUDING TEACHERS AND ADMINISTRATORS

##### M

##### A. Definitions – N.J.A.C. 6A:10-1.2

The following words and terms shall have the following meanings when used in Policy and Regulation 3222 unless the context clearly indicates otherwise:

~~“Announced observation” means the person conducting an evaluation for the purpose of evaluation will notify the teaching staff member of the date and the time period the observation will be conducted.~~

“Annual performance report” means a written appraisal of the teaching staff member's performance prepared by the teaching staff member's **designated** supervisor based on the evaluation rubric for his or her position.

“Annual summative evaluation rating” means an annual evaluation rating that is based on appraisals of educator practice and student performance, if applicable, and includes all measures captured in a teaching staff member's evaluation rubric. The four summative performance categories are ineffective, partially effective, effective, and highly effective.

“Chief School Administrator” means the Superintendent of Schools or the Administrative Principal if there is no Superintendent.

“Commissioner” means Commissioner of the New Jersey Department of Education.

“Corrective Action Plan” means a written plan developed by a teaching staff member serving in a supervisory capacity in collaboration with the teaching staff member to address deficiencies as outlined in an evaluation. The corrective action plan shall include timelines for corrective action, responsibilities of the individual teaching staff member and the school district for implementing the plan, and specific support that the district shall provide.

“Department” means the New Jersey Department of Education.



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**“Designated supervisor” means the supervisor designated by the Superintendent of Schools or designee as the teaching staff member’s supervisor**

“District Evaluation Advisory Committee” means a group created to oversee and guide the planning and implementation of the Board of Education’s evaluation policies and procedures as set forth in N.J.A.C. 6A:10-2.3.

“Educator practice instrument” means an assessment tool that provides: scales or dimensions that capture competencies of professional performance; and differentiation of a range of professional performance as described by the scales, which must be shown in practice and/or research studies. ~~The scores from the educator practice instrument may be components of the teaching staff member’s evaluation rubrics and the scores may be included in the summative evaluation rating for the individual.~~ **The scores from educator practice instruments for teaching staff members other than teachers, Principals, Vice Principals, and Assistant Principals may be applied to the teaching staff member’s summative evaluation rating in a manner determined by the school district.**

“Evaluation” means an appraisal of an individual’s professional performance in relation to his or her job description, professional standards, and Statewide evaluation criteria that incorporates analysis of multiple measures of student achievement or growth, as applicable, and multiple data sources.

“Evaluation rubrics” means a set of criteria, measures, and processes used to evaluate all teaching staff members in a specific school district or local education agency. Evaluation rubrics consist of measures of professional practice, based on educator practice instruments and student outcomes. Each Board of Education will have an evaluation rubric specifically for teachers, another specifically for Principals, Vice Principals, and Assistant Principals, and evaluation rubrics for other categories of teaching staff members.

“Indicators of student progress and growth” means the results of assessment(s) of students as defined in N.J.A.C. 6A:8, Standards and Assessment.





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~~“Individual professional development plan” is means a written statement of goals developed by a teaching staff member serving in a supervisory capacity in collaboration with a teaching staff member, that aligns with professional standards for teachers set forth in N.J.A.C. 6A:9-3.3 and the New Jersey Professional Development Standards; derives from the annual evaluation process; identifies professional goals that address specific individual, district or school needs, or both; and grounds professional development activities in objectives related to improving teaching, learning, and student achievement. The individual professional development plan shall include timelines for implementation, responsibilities of the employee and the school district for implementing the plan, and specific support and periodic feedback that the district shall provide as defined in N.J.S.A. 18A:6-119.~~

“Job description” means a written specification of the function of a position, duties and responsibilities, the extent and limits of authority, and work relationships within and outside the school and school district.

**“Model evaluation rubric” means district educator evaluation rubrics that have been reviewed and accepted by the Commissioner. A model teaching or principal evaluation rubric includes a teacher or principal practice instrument that appears on the Department’s list of approved educator practice instruments.**

“Observation” means a method of collecting data on the performance of a teaching staff member's assigned duties and responsibilities. An observation for the purpose of evaluation will be included in the determination of the annual summative evaluation rating and shall be conducted by an individual employed in the school district in a supervisory role and capacity and possessing a school administrator, Principal, or supervisor endorsement as defined in N.J.A.C. 6A:9-1.1.

“Post-observation conference” means a meeting, either in-person or remotely, between ~~the~~ a supervisor who conducted the observation and the teaching staff member for the purpose of evaluation to discuss the data collected in the observation.

“Scoring guide” means a set of rules or criteria used to evaluate a performance, product, or project. The purpose of a scoring guide is to provide a transparent and reliable evaluation process. Educator practice



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instruments include a scoring guide that an evaluator uses to structure his or her assessments and ratings of professional practice.

**“Semester” means half of the school year.**

“Signed” means the name of one physically written by oneself or an electronic code, sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

“Student growth objective” is an academic goal that teaching staff members and evaluators may set for groups of students.

“Superintendent” means Superintendent of Schools or Chief School Administrator.

“Supervisor” means an appropriately certified teaching staff member, as defined in N.J.S.A. 18A:1-1, **or Superintendent** employed in the school district in a supervisory role and capacity, and possessing a school administrator, Principal, or supervisor endorsement as defined in N.J.A.C. **6A:9B-11** ~~6A:9-1.1~~.

~~“Teaching staff member” means a member of the professional staff of any district or regional Board of Education, or any county vocational school district Board of Education, holding office, position, or employment of such character that the qualifications for such office, position, or employment require him or her to hold a valid, effective, and appropriate standard, provisional, or emergency certificate issued by the State Board of Examiners. Teaching staff members include the positions of school nurse and school athletic trainer. There are three different types of certificates that teaching staff members work under:~~

- ~~1. An instructional certificate (holders of this certificate are referred to in N.J.A.C. 6A:10-1.1 et seq. as “teachers”);~~
- ~~2. Administrative certificate; and~~
- ~~3. Educational services certificate.~~

**“Teaching staff member”** ~~For~~ For the purposes of Policy 3222 and this Regulation, ~~“teaching staff member”~~ includes, but is not limited to,



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educational services staff members, guidance counselors, school nurses, library/media specialists, occupational therapists, and other teaching staff members working under an educational services certificate and does not include teachers, Principals, Vice Principals, Assistant Principals, and administrators, including, but not limited to, Directors and/or Supervisors.

~~“Unannounced observation” means the person conducting an observation for the purpose of evaluation will not notify the teaching staff member of the date or time the observation will be conducted.~~

#### B. Applicability of Rules on Collective Bargaining Agreements – N.J.A.C. 6A:10-1.3

The rules in N.J.A.C. 6A:10-1.1 et seq. shall 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. No collective bargaining agreement entered into after July 1, 2013, shall conflict with the educator evaluation system established pursuant to N.J.A.C. 6A:10-1.1 et seq. or any other specific statute or regulation, nor shall topics subject to bargaining involve matters of educational policy or managerial prerogatives.

#### C Educator Evaluation Data, Information, and Written Reports – N.J.A.C. 6A:10-1.4

All information contained in written performance reports and all information collected, compiled, and/or maintained by employees of the Board of Education for the purposes of conducting the educator evaluation process pursuant to N.J.A.C. 6A:10-1.1 et seq. shall be confidential. Such information shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Nothing contained in N.J.A.C. 6A:10-1.1 et seq. shall be construed to prohibit the Department **or a school district** from, at its discretion, collecting evaluation data pursuant to N.J.S.A. 18A:6-123.e or distributing aggregate statistics regarding evaluation data.

#### D. Evaluation of Teaching Staff Members – N.J.A.C. 6A:10-2.1

1. The Board of Education annually shall adopt evaluation rubrics for all teaching staff members. The evaluation rubrics shall have four defined annual ratings: ineffective, partially effective, effective, and highly effective.



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2. Evaluation rubrics shall be submitted to the Commissioner by June 1 for approval by August 1 of each year

#### E. Duties of the Board of Education – N.J.A.C. 6A:10-2.2

1. The Board of Education shall meet the following requirements for the annual evaluation of teaching staff members, unless otherwise specified:

- a. Establish a District Evaluation Advisory Committee to oversee and guide the planning and implementation of the Board of Education's evaluation policies and procedures as set forth in N.J.A.C. 6A: 10-2 ~~4.4~~ et seq.
- b. Annually adopt policies and procedures developed by the Superintendent pursuant to N.J.A.C. 6A:10-2.4, including the evaluation rubrics approved by the Commissioner pursuant to N.J.A.C. 6A:10-2.1(c);
- c. Ensure the Superintendent annually notifies all teaching staff members of the adopted evaluation policies and procedures no later than October 1. If a teaching staff member is hired after October 1, the Board/Superintendent shall notify the teaching staff member of the policies and procedures at the beginning of his or her employment. All teaching staff members shall be notified of amendments to the policy and procedures within ten teaching staff member working days of adoption.
- d. Annually adopt by June 1, any Commissioner-approved educator practice instruments and, as part of the process described at N.J.A.C. 6A:10-2.1(c), notify the Department which instruments will be used as part of the school district's evaluation rubrics.
- e. Ensure the Principal of each school within the school district has established a School Improvement Panel pursuant to N.J.A.C. 6A:10-3.1. The panel shall be established annually by August 31 and shall carry out the duties and functions described in N.J.A.C. 6A:10-3.2.



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- f. Ensure data elements are collected ~~from the implementation of the educator practice instrument~~ and stored ~~the data~~ in an accessible and usable format. Data elements shall include, but not be limited to, scores or evidence from observations for the purpose of evaluation **and student growth objective data; and**
  - g. Ensure **the Superintendent or designee certifies to the Department that each Principal in the district** certifies any observer who conducts an observation of a teaching staff member for the purpose of evaluation as described in N.J.A.C. ~~6A:10-2.4(h)~~; N.J.A.C. 6A:10-4.4; ~~and~~ N.J.A.C. 6A:10-5.4, **and 6A:10-6.2**, shall meet the statutory observation requirements of N.J.S.A. 18A:6-119; 18A:6-123.b(8); and N.J.S.A. 18A:27-3.1 and the teacher member of the School Improvement Panel requirements of N.J.A.C. 6A:10-3.2.
2. The Board of Education shall ensure the following training procedures are followed when implementing the evaluation rubric for all teaching staff members and, when applicable, applying the Commissioner-approved educator practice instruments:
- a. Annually provide training on and descriptions of each component of the evaluation rubric for all teaching staff members who are being evaluated in the school district and provide more thorough training for any teaching staff member who is being evaluated for the first time. Training shall include detailed descriptions of all evaluation rubric components including, when applicable, detailed descriptions of student achievement measures and all aspects of the educator practice instruments;
  - b. **Provide training on the teaching staff member practice instruments for any supervisor who will conduct observations for the purpose of evaluation of teaching staff members. Training shall be provided before the observer conducts his or her first observation for the purpose of evaluation;**



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- c. **Annually provide updates and refresher training on the teaching staff member practice instruments for any supervisor who will observe teaching staff member practice for the purpose of increasing accuracy and consistency among observers; and**
- db. The Superintendent ~~shall may be required to~~ annually certify to the Department that all supervisors of teaching staff members in the school district who are utilizing educator practice instruments have completed training on the instrument and its application and have demonstrated competency in applying the educator practice instruments.

#### F. District Evaluation Advisory Committee – N.J.A.C.6A:10-2.3

1. Members of the District Evaluation Advisory Committee shall include representation from the following groups: teachers from each school level represented in the school district; central office administrators overseeing the teacher evaluation process; supervisors involved in teacher evaluation, when available or appropriate; and administrators conducting evaluations, including a minimum of one administrator conducting evaluations who participates on a School Improvement Panel. Members also shall include the Superintendent, a special education administrator, a parent, and a member of the Board of Education.
2. The Superintendent may extend membership on the District Evaluation Advisory Committee to representatives of other groups **and to individuals.**
3. Beginning in 2017-2018, the District Evaluation Advisory Committees shall no longer be required and the Board of Education shall have the discretion to continue the District's Evaluation Advisory Committee.

#### G. Evaluation Procedures for Teaching Staff Members – N.J.A.C. 6A:10-2.4

1. The provisions outlined in Policy and Regulation 3222 and N.J.A.C. 6A:10-2.4 shall be the minimum requirements for the evaluation ~~procedures for~~ of teaching staff members.



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2. Evaluation policies and procedures requiring the annual evaluation of all teaching staff members shall be developed under the direction of the Superintendent, who may consult with the District Evaluation Advisory Committee or representatives from School Improvement Panels, and shall include, but not be limited to, a description of:
  - a. ~~Evaluation rubrics for all teaching staff members;~~
  - ab. Roles and responsibilities for implementation of evaluation policies and procedures;
  - be. Job descriptions, **evaluation rubrics for all teaching staff members, the process for calculating the summative ratings and each component**, and ~~applicable evaluation criteria based upon school district goals, student achievement, instructional priorities, and the evaluation regulations set forth in N.J.A.C. 6A:10 et seq.;~~
  - cd. Methods of data collection and reporting appropriate to each job description, including, but not limited to, the processes for **student attribution to teachers, Principals, Assistant Principals, and Vice Principals for calculating the median and school-wide student growth percentile observations for the purpose of evaluation and post-observation conference(s) by the teaching staff member's supervisor, or his or her designee;**
  - d. **Processes for observations for the purpose of evaluation and post-observation conference(s) by a supervisor;**
  - e. The process for preparation of individual professional development plans; and
  - f. The process for preparation of an annual written performance report by the teaching staff member's **designated** supervisor ~~or designee~~, and an annual summary conference between the teaching staff member and his or her **designated** supervisor, ~~or the supervisor's designee.~~



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3. The annual summary conference between the **designated** supervisor and the teaching staff member shall be held before the written performance report is filed. The conference shall **occur on or before June 30 of each school year and shall** include, but not be limited to, a review of the following:
  - a. The performance of the teaching staff member based upon the job description and, when applicable, the scores or evidence compiled using the teaching staff member's evaluation rubric, **including, whenever applicable, which may include the teaching staff member's educator practice instrument;**
  - b. The progress of the teaching staff member toward meeting the **goals objectives** of the individual professional development plan or, when applicable, the corrective action plan;
  - c. Available indicators or scores of student achievement or growth, when applicable, such as student growth objective scores and student growth percentile scores; and
  - d. The preliminary annual written performance report.
4. If any scores for the teaching staff member's evaluation rubric are not available at the time of the annual summary conference due to pending assessment results, the annual summative evaluation rating shall be calculated once all component ratings are available.
5. The annual written performance report shall be prepared by the teaching staff member's **designated** supervisor and shall include, but not be limited to:
  - a. A summative rating based on the evaluation rubric;
  - b. Performance area(s) of strength and area(s) needing improvement based upon the job description, observations for the purpose of evaluation and, when applicable, the **teaching staff member educator practice instrument; and**
  - c. An individual professional development plan developed by the **designated** supervisor and the teaching staff member





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or, when applicable, a corrective action plan from the evaluation year being reviewed in the report;~~and~~

d. ~~A summary of student achievement or growth indicators, when applicable.~~

6. The teaching staff member and the **designated supervisor** ~~preparer of the annual written performance report~~ shall sign the report within five teaching staff member working days of the review.

7. ~~The annual summary conference and annual written performance report shall be completed prior to June 30.~~

78. The Board of Education shall **include** add all written performance reports and supporting data, including, but not limited to, **written observation reports and additional components of the summative evaluation rating** ~~indicators of student progress and growth for a teaching staff member, if applicable as part of the teaching staff member's his or her personnel file or in an alternative, confidential location. If reports and data are stored in an alternative location, the personnel file shall clearly indicate the report's location and how it can be easily accessed.~~ The records shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

H. Corrective Action Plans for Teaching Staff Members – N.J.A.C. 6A:10-2.5

1. 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 Superintendent or the teaching staff member's **designated** supervisor.

2. If the summative evaluation rating is calculated before the end of the school year, then 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 prior to



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September 15 of the following school year. The conference to develop and discuss the corrective action plan may be combined with the teaching staff member's annual summary conference that occurs at the end of the year of evaluation.

3. If the ineffective or partially effective summative evaluation rating is received after the start of the school year following the year of evaluation, then a corrective action plan must be developed, and the teaching staff member and his or her **designated** supervisor shall meet to discuss the corrective action plan within fifteen teaching staff member working days following the school district's receipt of the teaching staff member's summative rating.
4. The content of the corrective action plan shall replace the content of the individual professional development plan required in N.J.A.C. ~~6A:9-15.4(e) and 15.7(e)~~ **6A:9C-3.4(c) and 3.7(c)** until the next annual summary conference.
5. The content of the corrective action plan shall:
  - a. Address areas in need of improvement identified in the teaching staff member evaluation rubric;
  - b. Include specific, demonstrable goals for improvement;
  - c. Include responsibilities of the evaluated employee and the school district for the plan's implementation; and
  - d. Include timelines for meeting the goal(s).
6. The teaching staff member's **designated** supervisor, ~~or his or her designee~~, and the teaching staff member on a corrective action plan shall discuss the teaching staff member's progress toward the goals outlined in the corrective action plan during each post-observation conference.
7. Progress toward the teaching staff member's goals outlined in the corrective action plan, ~~and data and evidence collected by the supervisor and/or the teaching staff member to determine progress between the time the corrective action plan began and the next annual summary conference~~, shall be documented in the teaching staff member's personnel file and reviewed at the annual summary



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conference or the mid-year evaluation, when applicable. Both the teaching staff member on a corrective action plan and his or her designated supervisor may collect data and evidence to demonstrate the teaching staff member's progress toward his or her corrective action plan goals.

8. Progress toward the teaching staff member's goals outlined in the corrective action plan may be used as evidence in the teaching staff member's next annual summative evaluation; however, such progress shall not guarantee an effective rating on the next summative evaluation.
9. Responsibilities of the evaluated teaching staff member on a corrective action plan shall not be exclusionary of other plans for improvement determined to be necessary by the teaching staff member's **designated** supervisor.
10. **The corrective action plan shall remain in effect until the teaching staff member receives his or her next summative evaluation rating.**

#### I. Teaching Staff Member Observations and Evaluations– **N.J.A.C. 6A:10-6.2**

1. The Superintendent shall determine the duration of observations required **pursuant to N.J.S.A. 18A:27-3.1** for nontenured teaching staff members, **except teachers, Principals, Vice Principals, and Assistant Principals** pursuant to ~~N.J.S.A. 18A:27-3.1~~.
2. Each non-tenured teaching staff member shall be observed and evaluated in the performance of his or her duties at least three times during each school year, but not less than once during each semester.
3. Each tenured teaching staff member shall be observed and evaluated in the performance of his or her duties at least once each school year. The Superintendent shall determine the duration of observations.



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4. Observations include, but are not limited to, observations of meetings, student instruction, parent conferences, and a case-study analysis of a significant student issue.
5. Each observation shall be followed within fifteen teaching staff member working days by a conference between the **Superintendent or designated supervisor** ~~administrator or supervisor staff member~~ who made the observation and written **or electronic** evaluation, and the teaching staff member. **Both parties to such a conference shall sign the written evaluation report and each shall retain a copy for his or her records. The purpose of this procedure is to recommend as to reemployment, identify any deficiencies, extend assistance for correction, and improve professional competence.**
6. **The teaching staff member may submit his or her written objection(s) of the evaluation within ten teaching staff member working days following the conference. The objection(s) shall be attached to each party's copy of the annual written performance report.**
76. ~~The required observations for the purposes of the annual and evaluations for non-tenured teaching staff members shall take place before April 30 each year. These observations and evaluations may cover that period between April 30 of one year and April 30 of the succeeding year excepting in the case of the first year of employment where the three observations and evaluations must have been completed prior to April 30.~~
87. ~~The number of required observations and the annual evaluations for nontenured teaching staff members may be reduced proportionately when an individual teaching staff member's term of service is less than one academic year.~~
8. ~~Evaluations for nontenured teaching staff members shall be completed prior to May 15.~~
9. Evaluations for tenured teaching staff shall be completed prior to June 30.



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- ~~10. — Each evaluation of nontenured and tenured teaching staff members shall be followed by a conference between that teaching staff member and the administrative or supervisory staff member who has made the observation and written evaluation. Both parties to such a conference shall sign the written evaluation report and each shall retain a copy for his or her records. The purpose of this procedure is to recommend as to reemployment, identify any deficiencies, extend assistance for correction, and improve professional competence.~~
- ~~11. — The teaching staff member may submit his or her written objection(s) of the evaluation within ten teaching staff member working days following the conference. The objection(s) shall be attached to each party's copy of the annual written performance report.~~

Adopted: 31 March 2009

Revised: 23 August 2011, 18 February 2014, 17 May 2016



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### EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS (M)

#### 3223 EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS

M

The Board of Education recognizes the importance of administrator effectiveness to further the development of a professional corps of educators and to increase student achievement. The Board of Education adopts Policy and Regulation 3223 for the evaluation of administrators consistent with the Teacher Effectiveness and Accountability for the Children of New Jersey Act (TEACHNJ) and the AchieveNJ administrative codes. This Policy and Regulation provides the provisions and requirements for administrator evaluations consistent with TEACHNJ and AchieveNJ.

For the purposes of Policy and Regulation 3223, "administrator" means an appropriately certified staff member, as defined in N.J.S.A. 18A-1.1, employed in the school district in an administrative and/or supervisory role and capacity, and holding a valid and effective standard, provisional, or emergency administrative certificate. An "administrator" may be a director, supervisor, or any other administrative or supervisory position in the district. For the purposes of Policy and Regulation 3223 and N.J.A.C. 6A:10-1.1 et seq., "administrator" is not a Principal, Vice Principal, or Assistant Principal.

The rules in N.J.A.C. 6A:10 – Educator Effectiveness shall not override any conflicting provision(s) of collective bargaining agreements or other employment contracts in effect on July 1, 2013 and no collective bargaining agreement entered into after July 1, 2013, shall conflict with the educator evaluation system established pursuant to N.J.A.C. 6A:10-1.1 et seq. or any other specific statute or regulation, nor shall topics subject to bargaining involve matters of educational policy or managerial prerogatives. All information contained in written performance reports and all information collected, compiled, and/or maintained by employees for the evaluation process pursuant to N.J.A.C. 6A:10-1.1 et seq. shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

The Board shall annually adopt evaluation rubrics for administrators which shall be submitted to the Commissioner by June 1 for approval by August 1 of each year. The evaluation rubrics shall have four defined annual ratings: ineffective, partially effective, effective, and highly effective. The Board shall meet the requirements as outlined in N.J.A.C. 6A:10-2.2(a) for the annual evaluation of



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administrators and shall ensure the training procedures as outlined in N.J.A.C. 6A:10-2.2(b) are followed when implementing the evaluation rubrics for all administrators. A District Evaluation Advisory Committee shall be established in accordance with the requirements of N.J.A.C. 6A:10-2.3.

The minimum requirements for the evaluation procedures for administrators as outlined in N.J.A.C. 6A:10-2.4 shall be followed. For each administrator rated ineffective or partially effective on the annual summative evaluation rating, as measured by the evaluation rubrics, a corrective action plan shall be developed in accordance with the provisions of N.J.A.C. 6A:10-2.5.

Observations and evaluations for non-tenured administrators shall be in accordance with the provisions of N.J.S.A. 18A:27-3.1. Evaluations for non-tenured administrators shall **take place before April 30 each year** ~~be completed~~ prior to the May 15 notice requirement date for continued employment. Evaluations for tenured administrators shall be completed prior to June 30.

The Superintendent annually shall notify all administrators of the adopted evaluation policies and procedures/regulations no later than October 1. If an administrator is hired after October 1, the Superintendent shall notify the administrator of the policies and procedures/regulations at the beginning of his or her employment. All administrators shall be notified of amendments to the policy and procedures/regulations within ten administrator working days of adoption.

N.J.S.A. 18A:6-117 et seq.; N.J.S.A. 18A:27-3.1  
~~N.J.C.A. 6:3-1.19, 6:3-1.21, 6:8-4.3(a)6v~~  
N.J.A.C. 6A:10-1.1 through 1.4; 6A:10-2.1 through 2.5

Adopted: 15 June 1982

Revised: 17 July 1990, 18 February 2014, 17 May 2016



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### EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS ( M)

#### R 3223 EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS ( M)

#### M

##### A. Definitions – N.J.A.C. 6A:10-1.2

The following words and terms shall have the following meanings when used in Policy and Regulation 3223 unless the context clearly indicates otherwise:

“Administrator” means an appropriately certified staff member, as defined in N.J.S.A. 18A-1.1, employed in the school district in an administrative and/or supervisory role and capacity, and holding a valid and effective standard, provisional, or emergency administrative certificate. An “administrator” may be a director, supervisor or any other administrative or supervisory position in the district. For the purposes of Policy and Regulation 3223 and N.J.A.C. 6A:10-1.1 et seq., “administrator” is not a Principal, Vice Principal, or Assistant Principal.

~~“Announced observation” means the person conducting an evaluation for the purpose of evaluation will notify the administrator of the date and the time period the observation will be conducted.~~

“Annual performance report” means a written appraisal of the administrator’s performance prepared by the administrator’s **designated** supervisor based on the evaluation rubric for his or her position.

“Annual summative evaluation rating” means an annual evaluation rating that is based on appraisals of educator practice and student performance, and includes all measures captured in an administrator’s evaluation rubric. The four summative performance categories are ineffective, partially effective, effective, and highly effective.

“Chief School Administrator” means the Superintendent of Schools or the Administrative Principal if there is no Superintendent.

“Commissioner” means Commissioner of the New Jersey Department of Education.





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“Corrective Action Plan” means a written plan developed by the administrator’s supervisor in collaboration with the administrator to address deficiencies as outlined in an evaluation. The corrective action plan shall include timelines for corrective action, responsibilities of the individual administrator and the school district for implementing the plan, and specific support that the district shall provide.

“Department” means the New Jersey Department of Education.

**“Designated supervisor” means the supervisor designated by the Superintendent of Schools or designee as the administrator’s supervisor.**

“District Evaluation Advisory Committee” means a group created to oversee and guide the planning and implementation of the Board of Education’s evaluation policies and procedures as set forth in N.J.A.C. 6A:10-2.3.

“Educator practice instrument” means an assessment tool that provides: scales or dimensions that capture competencies of professional performance; and differentiation of a range of professional performance as described by the scales, which must be shown in practice and/or research studies. ~~The scores from the educator practice instrument may be components of the administrator’s evaluation rubrics and the scores may be included in the summative evaluation rating for the individual.~~ **The scores from educator practice instruments for teaching staff members other than teachers, Principals, Vice Principals, and Assistant Principals may be applied to the administrator’s summative evaluation rating in a manner determined by the school district.**

“Evaluation” means an appraisal of an individual’s professional performance in relation to his or her job description, professional standards, and Statewide evaluation criteria that incorporates analysis of multiple measures of student achievement or growth, if applicable, and multiple data sources.

“Evaluation rubrics” means a set of criteria, measures, and processes used to evaluate all administrators in a specific school district or local education agency. Evaluation rubrics consist of measures of professional practice, based on educator practice instruments and student outcomes. Each Board of Education will have an evaluation rubric specifically for teachers, another specifically for Principals,



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Vice Principals, and Assistant Principals, and evaluation rubrics for other categories of staff members.

“Indicators of student progress and growth” means the results of assessment(s) of students as defined in N.J.A.C. 6A:8, Standards and Assessment.

~~“Individual professional development plan” is means a written statement of goals developed by a teaching staff member serving in a supervisory capacity in collaboration with a teaching staff member, that aligns with professional standards for teachers set forth in N.J.A.C. 6A:9-3.3 and the New Jersey Professional Development Standards; derives from the annual evaluation process; identifies professional goals that address specific individual, district or school needs, or both; and grounds professional development activities in objectives related to improving teaching, learning, and student achievement. The individual professional development plan shall include timelines for implementation, responsibilities of the employee and the school district for implementing the plan, and specific support and periodic feedback that the district shall provide as defined in N.J.S.A. 18A:6-119.~~

“Job description” means a written specification of the function of a position, duties and responsibilities, the extent and limits of authority, and work relationships within and outside the school and school district.

**“Model evaluation rubric” means district educator evaluation rubrics that have been reviewed and accepted by the Commissioner. A model teaching or principal evaluation rubric includes a teacher or principal practice instrument that appears on the Department’s list of approved educator practice instruments.**

“Observation” means a method of collecting data on the performance of an administrator's assigned duties and responsibilities. An observation for the purpose of evaluation will be included in the determination of the annual summative evaluation rating and shall be conducted by the Superintendent or designee.

“Post-observation conference” means a meeting, either in-person or remotely, between a Superintendent or **designated supervisor** ~~designee~~ who conducted the observation and the administrator for the purpose of evaluation to discuss the data collected in the observation.



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“Scoring guide” means a set of rules or criteria used to evaluate a performance, product, or project. The purpose of a scoring guide is to provide a transparent and reliable evaluation process. Educator practice instruments include a scoring guide that an evaluator uses to structure his or her assessments and ratings of professional practice.

“Semester” means half of the school year.

“Signed” means the name of one physically written by oneself or an electronic code, sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

“Student growth objective” means is an academic goal that administrators and evaluators may set for groups of students.

“Superintendent” means Superintendent of Schools or Chief School Administrator.

~~“Superintendent or designee” means the Superintendent or the authorized and appropriately certified staff member as defined in 18A:1-1, employed in the school district in a supervisory role and capacity to evaluate the administrator.~~

“Supervisor” means an appropriately certified staff member, as defined in N.J.S.A. 18A:1-1, **or Superintendent** employed in the school district in a supervisory role and capacity, and possessing a school administrator, Principal, or supervisor endorsement, as defined in N.J.A.C. **6A:9B-11** ~~6A:9-1.1, designated by the Superintendent of Schools to evaluate the administrator.~~

~~“Teaching staff member” means a member of the professional staff of any district or regional Board of Education, or any county vocational school district Board of Education, holding office, position, or employment of such character that the qualifications for such office, position, or employment require him or her to hold a valid, effective, and appropriate standard, provisional, or emergency certificate issued by the State Board of Examiners. Teaching staff members include the positions of school nurse and school athletic trainer. There are three different types of certificates that teaching staff members work under:~~

- ~~1. — An instructional certificate (holders of this certificate are referred to in N.J.A.C. 6A:10-1.1 et seq. as “teachers”);~~



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### EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS ( M)

-  
2. ~~Administrative certificate; and~~

-  
3. ~~Educational services certificate.~~

-  
“Unannounced observation” means the person conducting an observation for the purpose of evaluation will not notify the administrator of the date or time the observation will be conducted.

B. Applicability of Rules on Collective Bargaining Agreements – N.J.A.C. 6A:10-1.3

The rules in N.J.A.C. 6A:10-1.1 et seq. shall 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. No collective bargaining agreement entered into after July 1, 2013, shall conflict with the educator evaluation system established pursuant to N.J.A.C. 6A:10-1.1 et seq. or any other specific statute or regulation, nor shall topics subject to bargaining involve matters of educational policy or managerial prerogatives.

C. Educator Evaluation Data, Information, and Written Reports – N.J.A.C. 6A:10-1.4

All information contained in written performance reports and all information collected, compiled, and/or maintained by employees of the Board of Education for the purposes of conducting the educator evaluation process pursuant to N.J.A.C. 6A:10-1.1 et seq. shall be confidential. Such information shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Nothing contained in N.J.A.C. 6A:10-1.1 et seq. shall be construed to prohibit the Department or a school district from, at its discretion, collecting evaluation data pursuant to N.J.S.A. 18A:6-123.e or distributing aggregate statistics regarding evaluation data.

D. Evaluation of Administrators – N.J.A.C. 6A:10-2.1

1. The Board of Education shall annually adopt evaluation rubrics for all administrators. The evaluation rubrics shall have four defined annual ratings: ineffective, partially effective, effective, and highly effective.



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2. Evaluation rubrics shall be submitted to the Commissioner by June 1 for approval by August 1 of each year.

#### E. Duties of the Board of Education – N.J.A.C. 6A:10-2.2

1. The Board of Education shall meet the following requirements for the annual evaluation of administrators, unless otherwise specified:
  - a. Establish a District Evaluation Advisory Committee to oversee and guide the planning and implementation of the Board of Education's evaluation policies and procedures as set forth in N.J.A.C. 6A:10-1.1 et seq.
  - b. Annually adopt policies and procedures developed by the Superintendent pursuant to N.J.A.C. 6A:10-2.4, including the evaluation rubrics approved by the Commissioner pursuant to N.J.A.C. 6A:10-2.1(c).
  - c. Ensure the Superintendent annually notifies all administrators of the adopted evaluation policies and procedures no later than October 1. If an administrator is hired after October 1, the Board/Superintendent shall notify the administrator of the policies and procedures at the beginning of his or her employment. All administrators shall be notified of amendments to the policy and procedures within ten administrator working days of adoption.
  - d. Annually adopt by June 1, any Commissioner-approved educator practice instruments and, as part of the process described at N.J.A.C. 6A:10-2.1(c), notify the Department which instruments will be used as part of the school district's evaluation rubrics.
  - e. Ensure the Principal of each school within the school district has established a School Improvement Panel pursuant to N.J.A.C. 6A:10-3.1. The panel shall be established annually by August 31 and shall carry out the duties and functions described in N.J.A.C. 6A:10-3.2.



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### EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS ( M)

- f. Ensure data elements are collected from ~~the implementation of the educator practice instrument~~ and stored ~~the data~~ in an accessible and usable format. Data elements shall include, but not be limited to, scores or evidence from observations for the purpose of evaluation **and student growth objective data; and**
  - g. Ensure **the Superintendent or designee certifies to the Department that** ~~each Principal in the district or the Superintendent certifies~~ any observer who conducts an observation of an administrator for the purpose of evaluation as described in N.J.A.C. 6A:10-2.4(h); N.J.A.C. 6A:10-4.4; ~~and N.J.A.C. 6A:10-5.4; and N.J.A.C. 6A:10-6.2~~ shall meet the statutory observation requirements of N.J.S.A. 18A:6-119; 18A:6-123.b(8); and N.J.S.A. 18A:27-3.1 and the teacher member of the School Improvement Panel requirements of N.J.A.C. 6A:10-3.2.
2. The Board of Education shall ensure the following training procedures are followed when implementing the evaluation rubric for all administrators and, when applicable, applying the Commissioner-approved educator practice instruments:
- a. Annually provide training on and descriptions of each component of the evaluation rubric for all administrators who are being evaluated in the school district and provide more thorough training for any administrator who is being evaluated for the first time. Training shall include detailed descriptions of all evaluation rubric components including, when applicable, detailed descriptions of student achievement measures and all aspects of the educator practice instruments;
  - b. **Provide training on the educator practice instruments for any supervisor who will conduct observations for the purpose of evaluation of administrators. Training shall be provided before the observer conducts his or her first observation for the purpose of evaluation;**
  - c. **Annually provide updates and refresher training on the educator practice instruments for any supervisor who will observe educator practice for the purpose of increasing accuracy and consistency among observers; and**



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### EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS ( M)

- db.** The Superintendent **shall annually** ~~may be required to annually~~ certify to the Department that all supervisors of administrators in the school district who are utilizing educator practice instruments have completed training on the instrument and its application and have demonstrated competency in applying the educator practice instruments.

#### F. District Evaluation Advisory Committee – N.J.A.C. 6A:10-2.3

1. Members of the District Evaluation Advisory Committee shall include representation from the following groups: teachers from each school level represented in the school district; central office administrators overseeing the teacher evaluation process; supervisors involved in teacher evaluation, when available or appropriate; and administrators conducting evaluations, including a minimum of one administrator conducting evaluations who participates on a School Improvement Panel. Members also shall include the Superintendent, a special education administrator, a parent, and a member of the Board of Education.
2. The Superintendent may extend membership on the District Evaluation Advisory Committee to representatives of other groups **and to individuals.**
3. Beginning in 2017-2018, the District Evaluation Advisory Committees shall no longer be required and the Board of Education shall have the discretion to continue the District's Evaluation Advisory Committee.

#### G. Evaluation Procedures for Administrators – N.J.A.C. 6A:10-2.4

1. The provisions outlined in Policy and Regulation 3223 and N.J.A.C. 6A:10-2.4 shall be the minimum requirements for the evaluation ~~procedures for~~ of administrators.
2. Evaluation policies and procedures requiring the annual evaluation of all administrators shall be developed under the direction of the Superintendent, who may consult with the District Evaluation Advisory Committee or representatives from School Improvement Panels, and shall include, but not be limited to, a description of:



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### EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS ( M)

- a. ~~———— Evaluation rubrics for all administrators;~~
  - ab. Roles and responsibilities for implementation of evaluation policies and procedures;
  - be. Job descriptions, **evaluation rubrics for administrators, the process for calculating the summative ratings and each component** and ~~applicable evaluation criteria based upon school district goals, student achievement, instructional priorities, and the evaluation regulations set forth in N.J.A.C. 6A:10 et seq.;~~
  - cd. Methods of data collection and reporting appropriate to each job description, including, but not limited to, the processes for **student attribution to teachers, Principals, Vice Principals, and Assistant Principals for calculating the median and school-wide student growth percentile** ~~observations for the purpose of evaluation and post-observation conference(s) by the Superintendent or designee;~~
  - d. **Processes for observations for the purpose of evaluation and post-observation conference(s) by a supervisor;**
  - e. The process for preparation of individual professional development plans; and
  - f. The process for preparation of an annual written performance report by the Superintendent or **designated supervisor designee**, and an annual summary conference between the administrator and the Superintendent or **designated supervisor designee**.
3. The annual summary conference between the Superintendent or **designated supervisor designee** and the administrator shall be held before the written performance report is filed. The conference shall **occur on or before June 30 of each year and shall** include, but not be limited to, a review of the following:





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### EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS ( M)

- a. The performance of the administrator based upon the job description and, ~~when applicable~~, the scores or evidence compiled using the administrator's evaluation rubric, **including, whenever applicable, which may include** the educator's practice instrument;
  - b. The progress of the administrator toward meeting the **goals** ~~objectives~~ of the individual professional development plan or, when applicable, the corrective action plan;
  - c. Available indicators or scores of student achievement or growth, when applicable, such as student growth objective scores and student growth percentile scores; and
  - d. The preliminary annual written performance report.
4. If any scores for the administrator's evaluation rubric are not available at the time of the annual summary conference due to pending assessment results, the annual summative evaluation rating shall be calculated once all component ratings are available.
  5. The annual written performance report for the administrator shall be prepared by the Superintendent or **designated supervisor** ~~designee~~ and shall include, but not be limited to:
    - a. A summative rating based on the evaluation rubric;
    - b. Performance area(s) of strength and area(s) needing improvement based upon the job description, observations for the purpose of evaluation and, when applicable, the educator practice instrument;  
**and**
    - c. An individual professional development plan developed by the Superintendent or **designated supervisor** ~~designee~~ and the administrator or, when applicable, a corrective action plan from the evaluation year being reviewed in the report;  
**and**
    - d. ~~A summary of student achievement or growth indicators, when applicable.~~



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### EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS ( M)

6. The administrator and the **Superintendent or designated supervisor** ~~preparer of the annual written performance report~~ shall sign the report within five administrator working days of the review.
7. ~~The annual summary conference and annual written performance report shall be completed prior to June 30.~~
78. The Board of Education shall **include** ~~add~~ all written performance reports and supporting data, including, but not limited to, **written observation reports and additional components of the summative evaluation rating** ~~indicators of student progress and growth for an administrator, if applicable as part of his or her personnel file, or in an alternative, confidential location. If reports and data are stored in an alternative, confidential location, the personnel file shall clearly indicate the report's location and how it can easily be accessed.~~ The records shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

#### H. Corrective Action Plans for Administrators – N.J.A.C. 6A:10-2.5

1. For each administrator rated ineffective or partially effective on the annual summative evaluation, as measured by the evaluation rubrics, a corrective action plan shall be developed by administrator and the Superintendent or **the designated supervisor** ~~designee~~.
2. If the summative evaluation rating is calculated before the end of the school year, then the corrective action plan shall be developed and the administrator and the Superintendent or **the designated supervisor** ~~designee~~ shall meet to discuss the corrective action plan prior to September 15 of the following school year. The conference to develop and discuss the corrective action plan may be combined with the administrator's annual summary conference that occurs at the end of the year of evaluation.
3. If the ineffective or partially effective summative evaluation rating is received after the start of the school year following the year of evaluation, then a corrective action plan must be developed, and the administrator and the Superintendent or **the designated supervisor** ~~designee~~ shall meet to discuss the corrective action plan within fifteen administrator working



EVALUATION OF ADMINISTRATORS, EXCLUDING PRINCIPALS, VICE  
PRINCIPALS, AND ASSISTANT PRINCIPALS ( M)

days following the school district's receipt of the administrator's summative rating.

4. The content of the corrective action plan shall replace the content of the individual professional development plan required in N.J.A.C. ~~6A:9-15.4(e) and 15.7(e)~~ **6A:9C-3.4(c) and 3.7(c)** until the next annual summary conference.
5. The content of the corrective action plan shall:
  - a. Address areas in need of improvement identified in the administrator evaluation rubric;
  - b. Include specific, demonstrable goals for improvement;
  - c. Include responsibilities of the evaluated employee and the school district for the plan's implementation; and
  - d. Include timelines for meeting the goal(s).
6. The Superintendent or **designated supervisor** designee, and the administrator on a corrective action plan shall discuss the administrator's progress toward the goals outlined in the corrective action plan during each post-observation conference.
7. Progress toward the administrator's goals outlined in the corrective action plan, ~~and data and evidence collected by the Superintendent or designee and/or the administrator to determine progress between the time the corrective action plan began and the next annual summary conference,~~ shall be documented in the administrator's personnel file and reviewed at the annual summary conference **or the mid-year evaluation, when applicable. Both the administrator on a corrective action plan and the Superintendent or designated supervisor may collect data and evidence to demonstrate the administrator's progress toward his or her corrective action plan goals.**
8. Progress toward the administrator's goals outlined in the corrective action plan may be used as evidence in the administrator's next annual



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summative evaluation; however, such progress shall not guarantee an effective rating on the next summative evaluation.

9. Responsibilities of the evaluated administrator on a corrective action plan shall not be exclusionary of other plans for improvement determined to be necessary by the Superintendent or **designated supervisor** designee.
10. **The corrective action plan shall remain in effect until the administrator receives his or her next summative evaluation rating.**

#### I. Administrator Observations and Evaluations – **N.J.A.C. 6A:10-6.2**

1. The Superintendent shall determine the duration of observations required **pursuant to N.J.S.A. 18A:27-3.1** for non-tenured administrators ~~pursuant to N.J.S.A. 18A:27-3.1.~~
2. Each non tenured administrator shall be observed and evaluated in the performance of his or her duties at least three times during each school year but not less than once during each semester.
3. Each tenured administrator shall be observed and evaluated in the performance of his or her duties at least once each school year. The Superintendent shall determine the duration of the observation.
4. Observations include, but are not limited to: observations of meetings, student instruction, parent conferences, and a case-study analysis of a significant student issue.
5. Each observation shall be followed within fifteen administrator working days by a conference between **the Superintendent or designated supervisor** ~~Superintendent or designee~~ who made the observation and written **or electronic** evaluation and the administrator. **Both parties to such a conference shall sign the written or electronic evaluation report and each shall retain a copy for his or her records. The purpose of this procedure is to recommend as to reemployment, identify any deficiencies, extend assistance for correction, and improve professional competence.**



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6. **The administrator may submit his or her written objection(s) of the evaluation within ten administrator working days following the conference. The objection(s) shall be attached to each party's copy of the annual written performance report.**
76. The required observations ~~for the purposes of the annual~~ and evaluations for non-tenured administrators shall take place before April 30 each year. These observations **and evaluations** may cover that period between April 30 of one year and April 30 of the succeeding year excepting in the case of the first year of employment where the three evaluations **and observations** must have been completed prior to April 30.
87. The number of required observations and ~~the annual~~ evaluations for non-tenured administrators may be reduced proportionately when an individual administrator's term of service is less than one academic year.
8. ~~Evaluations for non-tenured administrators shall be completed prior to May 15.~~
9. Evaluations for tenured administrators shall be completed prior to June 30.
10. ~~Each evaluation of non-tenured and tenured administrator shall be followed by a conference between that administrator and the Superintendent or designee who has made the observation and written evaluation. Both parties to such a conference shall sign the written evaluation report and each shall retain a copy for his or her records. The purpose of this procedure is to recommend as to reemployment, identify any deficiencies, extend assistance for correction and improve professional competence.~~
- 
11. ~~The administrator may submit his or her written objection(s) of the evaluation within ten administrator working days following the conference. The objection(s) shall be attached to each party's copy of the annual written performance report.~~

Adopted: 18 February 2014

Revised: 17 May 2016



## EVALUATION OF PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS (M)

### 3224 EVALUATION OF PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS

#### M

The Board of Education recognizes the importance of Principal, Vice Principal, and Assistant Principal effectiveness to further the development of a professional corps of educators and to increase student achievement. The Board of Education adopts Policy and Regulation 3224 for the evaluation of Principals, Vice Principals, and Assistant Principals consistent with the Teacher Effectiveness and Accountability for the Children of New Jersey Act (TEACHNJ) and the AchieveNJ administrative codes. This Policy and Regulation provides the provisions and requirements for Principal, Vice Principal, and Assistant Principal evaluations consistent with TEACHNJ and AchieveNJ.

The rules in N.J.A.C. 6A:10 – Educator Effectiveness shall not override any conflicting provision(s) of collective bargaining agreements or other employment contracts in effect on July 1, 2013 and no collective bargaining agreement entered into after July 1, 2013, shall conflict with the educator evaluation system established pursuant to N.J.A.C. 6A:10-1.1 et seq. or any other specific statute or regulation, nor shall topics subject to bargaining involve matters of educational policy or managerial prerogatives. All information contained in written performance reports and all information collected, compiled, and/or maintained by employees for the evaluation process pursuant to N.J.A.C. 6A:10-1.1 et seq. shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

The Board shall annually adopt evaluation rubrics for Principals, Vice Principals, and Assistant Principals which shall be submitted to the Commissioner by June 1 for approval by August 1 of each year. The evaluation rubrics shall have four defined annual ratings: ineffective, partially effective, effective, and highly effective. The Board shall meet the requirements as outlined in N.J.A.C. 6A:10-2.2(a) for the annual evaluation of Principals, Vice Principals, and Assistant Principals and shall ensure the training procedures as outlined in N.J.A.C. 6A:10-2.2(b) are followed when implementing the evaluation rubrics for all Principals, Vice Principals, or Assistant Principals. A District Evaluation Advisory Committee shall be established in accordance with the requirements of N.J.A.C. 6A:10-2.3.

The minimum requirements for the evaluation procedures for Principals, Vice Principals, and Assistant Principals as outlined in N.J.A.C. 6A:10-2.4 shall be followed. For each Principal,



## EVALUATION OF PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS (M)

Vice Principal, or Assistant Principal rated ineffective or partially effective on the annual summative evaluation rating, as measured by the evaluation rubrics, a corrective action plan shall be developed in accordance with the provisions of N.J.A.C. 6A:10-2.5.

The components of the principal evaluation rubrics as described in N.J.A.C. 6A:10-5.1 shall apply to Principals, Vice Principals, and Assistant Principals. Measures of student achievement, as outlined in N.J.A.C. 6A:10-5.2, shall be used to determine impact on student learning. Principal, Vice Principal, and Assistant Principal observations shall be conducted in accordance with the provisions of N.J.A.C. 6A:10-5.4. The Superintendent or **designated supervisor designee** shall conduct observations for the evaluation of Principals pursuant to N.J.S.A. 18A:6-121 and he or she shall be trained pursuant to N.J.A.C. 6A:10-2.2(b). A Principal, or the Superintendent or **designated supervisor designee**, shall conduct observations for the evaluation of Vice Principals and Assistant Principals pursuant to N.J.S.A. 18A:6-121.

The principal practice instrument approved by the Department of Education shall meet the criteria as outlined in N.J.A.C. 6A: 10-76.3.

The Superintendent annually shall notify all Principals, Vice Principals, or Assistant Principals of the adopted evaluation policies and procedures/regulations no later than October 1. If a Principal, Vice Principal, or Assistant Principal is hired after October 1, the Superintendent shall notify the Principal, Vice Principal, or Assistant Principal of the policies and procedures/regulations at the beginning of his or her employment. All Principals, Vice Principals, and Assistant Principals shall be notified of amendments to the policy and procedures/regulations within ten Principal, Vice Principal, or Assistant Principal working days of adoption.

N.J.S.A. 18A:6-117 et seq.

N.J.A.C. 6A:10-1.1 through 1.4; 6A:10-2.1 through 2.5

N.J.A.C. 6A:10-5.1 through 5.4

N.J.A.C. 6A:10-76.1 and 76.3

Adopted: 18 February 2014

Revised: 17 May 2016



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#### R 3224 EVALUATION OF PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT PRINCIPALS

##### M

##### A. Definitions – N.J.A.C. 6A:10-1.2

The following words and terms shall have the following meanings when used in Policy and Regulation 3224 unless the context clearly indicates otherwise:

~~“Announced observation” means the person conducting an evaluation for the purpose of evaluation will notify the Principal, Vice Principal, or Assistant Principal of the date and the time period the observation will be conducted.~~

“Annual performance report” means a written appraisal of the Principal’s, Vice Principal’s, or Assistant Principal’s performance prepared by the **designated supervisor** ~~Superintendent or designee~~ based on the evaluation rubric for his or her position.

“Annual summative evaluation rating” means an annual evaluation rating that is based on appraisals of educator practice and student performance, and includes all measures captured in a Principal, Vice Principal, or Assistant Principal evaluation rubric. The four summative performance categories are ineffective, partially effective, effective, and highly effective.

“Calibration” in the context of educator evaluation means a process to monitor the competency of a trained evaluator to ensure the evaluator continues to apply an educator practice instrument accurately and consistently according to the standards and definitions of the specific instrument.

“Chief School Administrator” means the Superintendent of Schools or the Administrative Principal if there is no Superintendent.

“Commissioner” means Commissioner of the New Jersey Department of Education.

“Corrective Action Plan” means a written plan developed by the Superintendent or designee in collaboration with the Principal, Vice Principal, and Assistant





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Principal to address deficiencies as outlined in an evaluation. The corrective action plan shall include timelines for corrective action, responsibilities of the individual Principal, Vice Principal, and Assistant Principal and the school district for implementing the plan, and specific support that the district shall provide.

“Department” means the New Jersey Department of Education.

**“Designated supervisor” means the supervisor designated by the Superintendent of Schools as the Principal’s, Vice Principal’s, or Assistant Principal’s supervisor.**

“District Evaluation Advisory Committee” means a group created to oversee and guide the planning and implementation of the Board of Education's evaluation policies and procedures as set forth in N.J.A.C. 6A:10-2.3.

“Educator practice instrument” means an assessment tool that provides: scales or dimensions that capture competencies of professional performance; and differentiation of a range of professional performance as described by the scales, which must be shown in practice and/or research studies. ~~The scores from the principal practice instrument are components of the evaluation rubrics and the scores are included in the summative evaluation rating for the individual.~~

“Evaluation” means an appraisal of an individual’s professional performance in relation to his or her job description, professional standards, and Statewide evaluation criteria that incorporates analysis of multiple measures of student achievement or growth and multiple data sources.

“Evaluation rubrics” means a set of criteria, measures, and processes used to evaluate all Principals, Vice Principals, and Assistant Principals in a specific school district or local education agency. Evaluation rubrics consist of measures of professional practice, based on educator practice instruments and student outcomes. Each Board of Education will have an evaluation rubric specifically for teachers, another specifically for Principals, Vice Principals, and Assistant Principals, and evaluation rubrics for other categories of teaching staff members.

“Indicators of student progress and growth” means the results of assessment(s) of students as defined in N.J.A.C. 6A:8, Standards and Assessment.



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~~“Individual professional development plan” is means a written statement of goals developed by a teaching staff member serving in a supervisory capacity in collaboration with a teaching staff member, that: aligns with professional standards for teachers set forth in N.J.A.C. 6A:9-3.3 and the New Jersey Professional Development Standards; derives from the annual evaluation process; identifies professional goals that address specific individual, district or school needs, or both; and grounds professional development activities in objectives related to improving teaching, learning, and student achievement. The individual professional development plan shall include timelines for implementation, responsibilities of the employee and the school district for implementing the plan; and specific support and periodic feedback that the district shall provide as defined in N.J.S.A. 18A:6-119.~~

“Job description” means a written specification of the function of a position, duties and responsibilities, the extent and limits of authority, and work relationships within and outside the school and school district.

**“Model evaluation rubric” means district educator evaluation rubrics that have been reviewed and accepted by the Commissioner. A model teaching or principal evaluation rubric includes a teacher or principal practice instrument that appears on the Department’s list of approved educator practice instruments.**

“Observation” means a method of collecting data on the performance of a Principal’s, Vice Principal’s, and Assistant Principal’s assigned duties and responsibilities. An observation for the purpose of evaluation will be included in the determination of the annual summative evaluation rating and shall be conducted by the Superintendent or designee.

“Post-observation conference” means a meeting, either in-person or remotely, between the Superintendent or **the designated supervisor** designee who conducted the observation and the Principal, Vice Principal, and Assistant Principal for the purpose of evaluation to discuss the data collected in the observation.

**“Principal practice instrument” means an assessment tool that provides scales or dimensions that capture competencies of professional performance; and differentiation of a range of professional performance as described by the scales, which must be shown in practice and/or research studies. The scores from the principal practice instrument are components of the**



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**evaluation rubrics and the scores are included in the summative evaluation rating for the individual.**

“Scoring guide” means a set of rules or criteria used to evaluate a performance, product, or project. The purpose of a scoring guide is to provide a transparent and reliable evaluation process. Educator practice instruments include a scoring guide that an evaluator uses to structure his or her assessments and ratings of professional practice.

**“Semester” means half of the school year.**

“Signed” means the name of one physically written by oneself or an electronic code, sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

“Student growth objective” is an academic goal that teachers and evaluators set for groups of students.

“Student growth percentile” means a specific metric for measuring individual student progress on Statewide assessments by tracking how much a student’s test scores have changed relative to other students Statewide with similar scores in previous years.

“Superintendent” means Superintendent of Schools or Chief School Administrator.

~~“Superintendent or designee” means the Superintendent or the authorized and appropriately certified teaching staff member as defined in 18A:1-1, employed in the school district in a supervisory role and capacity to evaluate a Principal, Vice Principal, or Assistant Principal.~~

**“Supervisor” means an appropriately certified teaching staff member as defined in N.J.S.A. 18A:1-1, or Superintendent employed in the district in a supervisory role and capacity, and possessing a school administrator, Principal, or supervisor endorsement as defined in N.J.A.C. 6A:9B-11 and certified to evaluate a Principal, Vice Principal, or Assistant Principal.**

~~“Teaching staff member” means a member of the professional staff of any district or regional Board of Education, or any county vocational school district Board of~~



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~~Education, holding office, position, or employment of such character that the qualifications for such office, position, or employment require him or her to hold a valid, effective, and appropriate standard, provisional, or emergency certificate issued by the State Board of Examiners. Teaching staff members include the positions of school nurse and school athletic trainer. There are three different types of certificates that teaching staff members work under:~~

- ~~1. — An instructional certificate (holders of this certificate are referred to in N.J.A.C. 6A:10-1.1 et seq. as “teachers”);~~
- ~~2. — Administrative certificate; and~~
- ~~3. — Educational services certificate.~~

~~“Unannounced observation” means the person conducting an observation for the purpose of evaluation will not notify the Principal, Vice Principal, or Assistant Principal of the date or time the observation will be conducted.~~

~~“Validity” means the extent to which evidence and theory support an interpretation of scores from a measurement instrument for a particular use of the instrument. In the context of evaluating educator practice, this means the evidence gathered using the instrument supports correct and useful inferences and decisions about the effectiveness of the practice observed.~~

#### B. Applicability of Rules on Collective Bargaining Agreements – N.J.A.C. 6A:10-1.3

The rules in N.J.A.C. 6A:10-1.1 et seq. shall 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. No collective bargaining agreement entered into after July 1, 2013, shall conflict with the educator evaluation system established pursuant to N.J.A.C. 6A:10-1.1 et seq. or any other specific statute or regulation, nor shall topics subject to bargaining involve matters of educational policy or managerial prerogatives.

#### C. Educator Evaluation Data, Information, and Written Reports – N.J.A.C. 6A:10-1.4



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All information contained in written performance reports and all information collected, compiled, and/or maintained by employees of the Board of Education for the purposes of conducting the educator evaluation process pursuant to N.J.A.C. 6A:10-1.1 et seq. shall be confidential. Such information shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Nothing contained in N.J.A.C. 6A:10-1.1 et seq. shall be construed to prohibit the Department **or a school district** from, at its discretion, collecting evaluation data pursuant to N.J.S.A. 18A:6-123.e or distributing aggregate statistics regarding evaluation data.

#### D. Evaluation of Principals, Vice Principals, and Assistant Principals – N.J.A.C. 6A:10-2.1

1. The Board of Education shall annually adopt evaluation rubrics for all Principals, Vice Principals, and Assistant Principals. The evaluation rubrics shall have four defined annual ratings: ineffective, partially effective, effective, and highly effective.
2. The evaluation rubrics for Principals, Vice Principals, and Assistant Principals shall include all other relevant minimum standards set forth in N.J.S.A. 18A:6-123 (P.L. 2012, c. 26, § 17c).
3. Evaluation rubrics shall be submitted to the Commissioner by June 1 for approval by August 1 of each year.

#### E. Duties of the Board of Education – N.J.A.C. 6A:10-2.2

1. The Board of Education shall meet the following requirements for the annual evaluation of Principals, Vice Principals, and Assistant Principals, unless otherwise specified:
  - a. Establish a District Evaluation Advisory Committee to oversee and guide the planning and implementation of the Board of Education's



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evaluation policies and procedures as set forth in N.J.A.C. 6A:10-1.1 et seq.

- b. Annually adopt policies and procedures developed by the Superintendent pursuant to N.J.A.C. 6A:10-2.4, including the evaluation rubrics approved by the Commissioner pursuant to N.J.A.C. 6A:10-2.1(c).
- c. Ensure the Superintendent annually notifies all Principals, Vice Principals, and Assistant Principals of the adopted evaluation policies and procedures no later than October 1. If a Principal, Vice Principal, or Assistant Principal is hired after October 1, the Board/Superintendent shall notify all Principals, Vice Principals, and Assistant Principals of the policies and procedures at the beginning of his or her employment. All Principals, Vice Principals, and Assistant Principals shall be notified of amendments to the policy and procedures within ten Principal, Vice Principal, or Assistant Principal working days of adoption.
- d. Annually adopt by June 1, any Commissioner-approved educator practice instruments and, as part of the process described at N.J.A.C. 6A:10-2.1(c), notify the Department which instruments will be used as part of the school district's evaluation rubrics.
- e. Ensure the Principal of each school within the school district has established a School Improvement Panel pursuant to N.J.A.C. 6A:10-3.1. The panel shall be established annually by August 31 and shall carry out the duties and functions described in N.J.A.C. 6A:10-3.2.
- f. Ensure data elements are collected ~~from the implementation of the principal practice instrument~~ and stored the data in an accessible and usable format. Data elements shall include, but not be limited to, scores or evidence from observations for the purpose of evaluation **and student growth objective data;** and
- g. ~~Ensure each Principal in the district or the Superintendent or designee certifies to the Department that~~ certifies any observer who conducts an observation of a ~~teaching staff member~~



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PRINCIPALS (M)

**Principal, Vice Principal, or Assistant Principal** for the purpose of evaluation as described in N.J.A.C. ~~6A:10-2.4(h)~~; N.J.A.C. 6A:10-4.4; and N.J.A.C. 6A:10-5.4; **and 6A:10-6.2** shall meet the statutory observation requirements of N.J.S.A. 18A:6-119; 18A:6-123.b(8); and N.J.S.A. 18A:27-3.1 and the teacher member of the School Improvement Panel requirements of N.J.A.C. 6A:10-3.2.

2. The Board of Education shall ensure the following training procedures are followed when implementing the evaluation rubric for all Principals, Vice Principals, and Assistant Principals and, when applicable, applying the Commissioner-approved principal practice instrument:
  - a. Annually provide training on and descriptions of each component of the evaluation rubric for all Principals, Vice Principals, and Assistant Principals who are being evaluated in the school district and provide more thorough training for any Principals, Vice Principals, and Assistant Principals who **are** is being evaluated for the first time. Training shall include detailed descriptions of all evaluation rubric components including, when applicable, detailed descriptions of student achievement measures and all aspects of the principal practice instrument;
  - b. Provide training on the principal practice instrument for the Superintendent or **designated supervisor designee** who will conduct observations for the purpose of evaluation of Principals, Vice Principals, or Assistant Principals. Training shall be provided before the observer conducts his or her first observation for the purpose of evaluation; ~~except the Superintendent or designee using the principal practice instrument for the first time in 2013-2014 shall be provided training before October 31, 2013;~~
  - c. Annually provide updates and refresher training on the principal practice instrument for any supervisor who will observe principal practice for the purpose of increasing accuracy and consistency among observers;
  - d. The Superintendent shall annually certify to the Department that all evaluators of Principals, Vice Principals, and Assistant Principals in the school district who are utilizing principal practice



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instruments have completed training on the instrument and its application and have demonstrated competency in applying the principal practice instrument.

#### F. District Evaluation Advisory Committee – N.J.A.C. 6A:10-2.3

1. Members of the District Evaluation Advisory Committee shall include representation from the following groups: teachers from each school level represented in the school district; central office administrators overseeing the teacher evaluation process; supervisors involved in teacher evaluation, when available or appropriate; and administrators conducting evaluations, including a minimum of one administrator conducting evaluations who participates on a School Improvement Panel. Members also shall include the Superintendent, a special education administrator, a parent, and a member of the Board of Education.
2. The Superintendent may extend membership on the District Evaluation Advisory Committee to representatives of other groups **and to individuals.**
3. Beginning in 2017-2018, the District Evaluation Advisory Committees shall no longer be required and the Board of Education shall have the discretion to continue the District's Evaluation Advisory Committee.

#### G. Evaluation Procedures for Principals, Vice Principals, and Assistant Principals - N.J.A.C. 6A:10-2.4

1. The provisions outlined in Policy and Regulation 3224 and N.J.A.C. 6A:10-2.4 shall be the minimum requirements for the evaluation procedures of Principals, Vice Principals, and Assistant Principals.
2. Evaluation policies and procedures requiring the annual evaluation of Principals, Vice Principals, and Assistant Principals shall be developed under the direction of the Superintendent, who may consult with the District Evaluation Advisory Committee or representatives from School Improvement Panels, and shall include, but not be limited to, a description of:





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- a. ~~Evaluation rubrics for Principals, Vice Principals, and Assistant Principals;~~
  - ab. Roles and responsibilities for implementation of evaluation policies and procedures;
  - be. Job descriptions, **evaluation rubrics for Principals, Vice Principals, and Assistant Principals, the process for calculating the summative ratings and each component** and ~~evaluation criteria based upon school district goals, student achievement, instructional priorities, and the evaluation regulations set forth in N.J.A.C. 6A:10-1.1 et seq.;~~
  - cd. Methods of data collection and reporting appropriate to each job description, including, but not limited to, the processes **for student attribution to teachers, Principals, Vice Principals, Assistant Principals for calculating the median and school-wide student growth percentile** and ~~observations for the purpose of evaluation and post-observation conference(s) by the Superintendent or designee;~~
  - d. **Processes for observations for the purpose of evaluation and post-observation conference(s) by a supervisor;**
  - e. The process for preparation of individual professional development plans; and
  - f. The process for preparation of an annual written performance report by the Superintendent or **designated supervisor designee**, and an annual summary conference between the Principal, Vice Principal, or Assistant Principal and the Superintendent or **designated supervisor designee**.
3. The annual summary conference between the Superintendent or **designated supervisor designee** and the Principal, Vice Principal, or Assistant Principal shall be held before the written performance report is filed. The conference shall **occur on or before June 30 of each year and shall** include, but not be limited to, a review of the following:
- a. The performance of the Principal, Vice Principal, or Assistant Principal based upon the job description and, when applicable, the



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scores or evidence compiled using the evaluation rubric, including **when applicable**, the principal practice instrument;

- b. The progress of the Principal, Vice Principal, or Assistant Principal toward meeting the **goals objectives** of the individual professional development plan or, when applicable, the corrective action plan;
  - c. Available indicators or scores of student achievement or growth, **when applicable**, such as student growth objective scores and student growth percentile scores, ~~as applicable~~; and
  - d. The preliminary annual written performance report.
4. If any scores for the Principal's, Vice Principal's, or Assistant Principal's evaluation rubric are not available at the time of the annual summary conference due to pending assessment results, the annual summative evaluation rating shall be calculated once all component ratings are available.
  5. The annual written performance report for the Principal, Vice Principal, or Assistant Principal shall be prepared by the Superintendent or **designated supervisor** ~~designee~~ and shall include, but not be limited to:
    - a. A summative rating based on the evaluation rubric, including, **when applicable**, a total score for each component as described in N.J.A.C. 6A:10-5;
    - b. Performance area(s) of strength and area(s) needing improvement based upon the job description, observations for the purpose of evaluation and, **when applicable**, the principal practice instrument; **and**
    - c. An individual professional development plan developed by the Superintendent or **designated supervisor** ~~designee~~ and the Principal, Vice Principal, or Assistant Principal or, when applicable, a corrective action plan from the evaluation year being reviewed in the report; ~~and~~.
    - d. ~~A summary of student achievement scores or growth indicators.~~



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6. The Principal, Vice Principal, or Assistant Principal and the **Superintendent or designated supervisor** ~~preparer of the annual written performance report~~ shall sign the report within five Principal, Vice Principal, or Assistant Principal working days of the review.
  7. ~~The annual summary conference and the annual written performance report shall be completed by June 30.~~
  78. The Board of Education shall **include** ~~add~~ all written performance reports and supporting data, including, but not limited to, **written observation reports and additional components of the summative evaluation rating indicators of student progress and growth for a Principal, Vice Principal, or Assistant Principal as part of the Principal's, Vice Principal's, or Assistant Principal's** ~~his or her~~ personnel file, **or in an alternative, confidential location. If reports and data are stored in an alternate location, the personnel file shall clearly indicate the report's location and how it can be easily accessed.** The records shall be confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.
- H. Corrective Action Plans for Principals, Vice Principals and Assistant Principals – N.J.A.C. 6A:10-2.5
1. For each Principal, Vice Principal, and Assistant Principal 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 Principal, Vice Principal, or Assistant Principal and the Superintendent or **designated supervisor** ~~designee~~.
  2. If the summative evaluation rating is calculated before the end of the school year, then the corrective action plan shall be developed and the Principal, Vice Principal, or Assistant Principal and the Superintendent or **designated supervisor** ~~designee~~ shall meet to discuss the corrective action plan prior to September 15 of the following school year. The conference to develop and discuss the corrective action plan may be combined with the Principal's, Vice Principal's, or Assistant Principal's annual summary conference that occurs at the end of the year of evaluation.
  3. If the ineffective or partially effective summative evaluation rating is received after the start of the school year following the year of evaluation,



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then a corrective action plan must be developed, and the Principal, Vice Principal, or Assistant Principal and the Superintendent or **designated supervisor** ~~designee~~ shall meet to discuss the corrective action plan within fifteen Principal, Vice Principal, or Assistant Principal working days following the school district's receipt of the Principal's, Vice Principal's, or Assistant Principal's summative rating.

4. The content of the corrective action plan shall replace the content of the individual professional development plan required in N.J.A.C. ~~6A:9-15.4(e) and 15.7(e)~~ **6A:9C-3.4(c) and 3.7(c)** until the next annual summary conference.
5. The content of the corrective action plan shall:
  - a. Address areas in need of improvement identified in the principal evaluation rubric;
  - b. Include specific, demonstrable goals for improvement;
  - c. Include responsibilities of the evaluated employee and the school district for the plan's implementation; and
  - d. Include timelines for meeting the goal(s).
6. The Superintendent or **designated supervisor** ~~designee~~ and the Principal, Vice Principal, or Assistant Principal on a corrective action plan shall discuss the employee's progress toward the goals outlined in the corrective action plan during each post-observation conference, when required by N.J.S.A. 18A:27-3.1 or N.J.A.C. 6A:10-5.4.
7. Progress toward the Principal's, Vice Principal's, or Assistant Principal's goals outlined in the corrective action plan, ~~and data and evidence collected by the Superintendent or designee and/or the employee to determine progress between the time the corrective action plan began and the next annual summary conference,~~ shall be documented in the Principal's, Vice Principal's, or Assistant Principal's personnel file and reviewed at the annual summary conference or the mid-year evaluation, **when applicable. Both the Principal, Vice Principal, or Assistant Principal on a corrective action plan and the Superintendent or designated supervisor may collect data and evidence to demonstrate**



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**the Principal's, Vice Principal's, or Assistant Principal's progress toward his or her corrective action plan goals.**

8. Progress toward the goals outlined in the corrective action plan may be used as evidence in the Principal's, Vice Principal's, or Assistant Principal's next annual summative evaluation; however, such progress shall not guarantee an effective rating on the next summative evaluation.
9. Responsibilities of the evaluated Principal, Vice Principal, or Assistant Principal on a corrective action plan shall not be exclusionary of other plans for improvement determined to be necessary by the Superintendent or **designated supervisor** designee.
10. The Superintendent; or **designated supervisor** ~~his or her designee~~, and the Principal, as appropriate, shall conduct a mid-year evaluation of any Principal, Vice Principal, or Assistant Principal pursuant to N.J.S.A. 18A:6-121.c. If the corrective action plan was created before the start of the year, the mid-year evaluation shall occur **midway between the development of the corrective action plan and the annual summary conference.** ~~before February 15; if the corrective action plan was created after the start of the academic year, the mid-year evaluation shall occur before the annual summary conference. The mid-year evaluation shall include, at a minimum: a conference to discuss progress toward the Principal's, Vice Principal's, or Assistant Principal's goals outlined in the corrective action plan. The mid-year evaluation conference may be combined with a post-observation conference.~~
  - a. ~~One observation in addition to the observations required in N.J.A.C. 6A:10-5.4 for the purpose of evaluation as defined in N.J.A.C. 6A:10-1.2 and described in N.J.A.C. 6A:10-5.4; and~~
  - b. ~~One post-observation conference in addition to the observations required in N.J.A.C. 6A:10-5.4 as defined in N.J.A.C. 6A:10-1.2, during which progress toward the Principal, Vice Principal, or Assistant Principal's goals outlined in the corrective action plan shall be reviewed.~~
11. **The Superintendent shall ensure Principals, Vice Principals, and Assistant Principals with a corrective action plan receive one**



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observation and a post-observation in addition to the observations required in N.J.A.C. 6A:10-5.4 for the purpose of evaluation as described in N.J.A.C. 6A:10-1.2 and 5.4. The Superintendent or Principal shall determine the length of the observation.

12. The corrective action plan shall remain in effect until the Principal, Vice Principal, or Assistant Principal receives his or her next summative evaluation rating.

☐ I. Components of Principal Evaluation Rubrics – N.J.A.C. 6A:10-5.1

1. Unless otherwise noted, the components of the principal evaluation rubrics shall apply to teaching staff members holding the position of Principal, Vice Principal, or Assistant Principal and holding a valid and effective standard, provisional, or emergency administrative certificate.
2. The principal evaluation rubric shall meet the standards provided in N.J.S.A. 18A:6-123, including, but not limited to:
  - a. Measures of student achievement pursuant to N.J.A.C. 6A:10-5.2; and
  - b. Measures of principal practice pursuant to N.J.A.C. 6A:10-5.3. and 5.4.
3. To earn a summative rating, the Principal, Vice Principal, or Assistant Principal shall have a student achievement score, pursuant to N.J.A.C. 6A:10-5.2 and a principal practice score pursuant to N.J.A.C. 6A:10-5.3 and 5.4.
43. Each score measure shall be converted to a percentage weight so all measures make up 100 percent of the evaluation rubric. By ~~August 31 April 15~~ prior to the academic year in which the evaluation rubric applies, each school year the evaluation rubric applies, the Department shall provide on its website the required percentage weight of each component and the required summative rating scale measure. All components shall be worth the following percentage weights or fall within the following ranges:



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- a. If, according to N.J.A.C. 6A:10-5.2(b), the Principal, Vice Principal, or Assistant Principal receives a **school-wide median** student growth percentile **score measure** as described in N.J.A.C. 6A:10-5.2(c), the **score measure** shall be at least **ten twenty** percent and no greater than forty percent of evaluation rubric rating as determined by the Department.
  - b. Measure of average student growth objective for all teachers, as described in N.J.A.C. 6A:10-5.2(d), shall be at least ten percent and no greater than twenty percent of evaluation rubric rating as determined by the Department.
  - c. Measure of administrator goal, as described in N.J.A.C. 6A:10-5.2(e), shall be no less than ten percent and no greater than forty percent of evaluation rubric rating as determined by the Department.
  - d. Measure of principal practice, as described in N.J.A.C. 6A:10-5.3(b), shall be thirty percent of evaluation rubric rating.
  - e. Measure of leadership practice, as described in N.J.A.C. 6A:10-5.3(c), shall be twenty percent of evaluation rubric rating.
  - f. **Notwithstanding the provisions of a. through e. above, if an appeal of the administrator goal is approved, according to N.J.A.C. 6A:10-5.2(e)5, the administrator goal weight and the principal practice weight shall be adjusted by the Superintendent or the Commissioner, as applicable according to N.J.A.C. 6A:10-5.2(e)5.**
54. Standardized assessments, used as a measure of student progress, shall not be the predominant factor in determining a Principal's annual summative rating.
65. The Department shall periodically collect principal evaluation rubric data that shall include, but are not limited to, component-level scores and annual summative ratings.



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#### J. Student Achievement Components of Principal Evaluation Rubrics – N.J.A.C. 6A:10-5.2

1. Measures of student achievement shall be used to determine impact on student learning and shall include the following components:
  - a. The school-wide student growth percentile of all students assigned to the Principal;
  - b. Average student growth objective scores of every teacher, as described in N.J.A.C. 6A:10-4.2(e), assigned to the Principal; and
  - c. Administrator goals set by Principals, Vice Principals, and Assistant Principals in consultation with the Superintendent or **designated supervisor designee** pursuant to N.J.A.C. 6A:10-5.2(e), which shall be specific and measurable, based on student growth and/or achievement data.
2. The school-wide student growth percentile score shall be included in the annual summative rating of Principals, Vice Principals, and Assistant Principals who are assigned to a school as of October 15 and who are employed in schools where student growth percentiles are available for students in one or more grades. **If the Principal, Vice Principal, or Assistant Principal is employed in more than one school, the Superintendent shall assign to the Principal, Vice Principal, or Assistant Principal, as appropriate, the school-wide student growth percentile from one school and shall notify the Principal, Vice Principal, or Assistant Principal at the beginning of the school year of the student growth percentile assignment** ~~The school district may assign Vice Principals and Assistant Principals who are employed in more than one school to the school or schools as appropriate for the percentage of time spent in each school.~~
3. The Department shall calculate the school-wide student growth percentile for Principals, Vice Principals, and Assistant Principals, ~~which includes school-wide mathematics and school-wide English Language Arts scores~~





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4. The average student growth objective scores of all teachers, as described in N.J.A.C. 6A:10-4.2(e), shall be a component of the Principal's annual summative rating. The average student growth objective scores for Vice Principals or Assistant Principals shall be determined according to the following procedures:
  - a. The Principal, in consultation with the Vice Principal or Assistant Principal, shall determine prior to the start of the year, which teachers, if not all teachers in the school, shall be linked to the Vice Principal's and Assistant Principal's average student growth objective score.
  - b. If the Vice Principal or Assistant Principal does not agree with the list of teachers linked to his or her name for the purposes of this measurement, the Principal shall make the final determination.
5. Administrator goals for Principals, Vice Principals, or Assistant Principals shall be developed and measured according to the following procedures:
  - a. The Superintendent shall determine for all Principals, Vice Principals, or Assistant Principals, the number of required administrator goals which shall reflect the achievement of a significant number of students within the school. By **August 31** ~~April 15~~ prior to the **academic school year in which** the evaluation rubric applies, the Department shall provide on the Department's website the minimum and maximum number of required goals, which will be at least one goal and no more than four goals.
  - b. Principals, Vice Principals, or Assistant Principals shall develop, in consultation with the Superintendent or **designated supervisor designee**, each administrator goal. Vice Principals and Assistant Principals shall set goals specific to his or her job description or adopt the same goals as his or her Principal. If the Principal, Vice Principal, or Assistant Principal and Superintendent or **designated supervisor designee** do not agree upon the goal



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~~score student growth objectives, the Principal's, Vice Principal's, or Assistant Principal's Superintendent or designated supervisor designee shall make the final determination~~

- c. Administrator goals and the criteria for assessing performance based on those objectives shall be determined, ~~and recorded, and retained by in the Principal's, Vice Principal's, or Assistant Principal's and the Superintendent or designated supervisor by October 31 of each academic year, or within twenty work days of the Principal's, Vice Principal's, or Assistant Principal's start date if he or she begins work after October 1~~ **personnel file by November 15, 2013, and by October 15 for all subsequent school years.**
  - d. The administrator goal score shall be calculated by the Superintendent or **designated supervisor designee** of the Principal, Vice Principal, or Assistant Principal. The Principal's, Vice Principal's, or Assistant Principal's administrator goal score, if available, shall be discussed at his or her annual summary conference **and recorded in his or her personnel file.**
6. **The Superintendent shall remove a teacher's student growth objective score from the Principal's, Vice Principal's, or Assistant Principal's final average student growth objective score for the 2013-2014 academic year and adjust the annual summative rating accordingly if:**
- a. **A Principal's, Vice Principal's, or Assistant Principal's average student growth objective for the 2013-2014 academic year included a teacher's student growth objective that was successfully appealed according to N.J.A.C. 6A:10-4.2(f); and**
  - b. **Failure to remove the score would cause the Principal's, Vice Principal's, or Assistant Principal's annual summative rating to be ineffective or partially effective.**

#### K. Principal Practice Component of Evaluation Rubric – N.J.A.C. 6A:10-5.3

- 1. Measures of principal practice shall include the following components:



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- a. A measure determined through a Commissioner-approved principal practice instrument; and
    - b. A leadership measure determined through the Department-created leadership rubric.
  2. Principal practice component rating shall be based on the measurement of the Principal's, Vice Principal's, or Assistant Principal's performance according to the school district's Commissioner-approved principal practice instrument. Observations pursuant to N.J.A.C. 6A:10-5.4 shall be used as one form of evidence for this measurement.
  3. Leadership practice shall be determined by a score on a leadership rubric, which will assess the Principal's, Vice Principal's, or Assistant Principal's ability to improve student achievement and teaching staff member effectiveness through identified leader behaviors. The rubric will be posted on the Department's website and annually maintained.
- L. Principal, Vice Principal, and Assistant Principal Observations – N.J.A.C. 6A:10-5.4
1. The Superintendent or **designated supervisor** ~~designee~~ shall conduct observations for the evaluation of Principals pursuant to N.J.S.A. 18A:6-121 and he or she shall be trained pursuant to N.J.A.C. 6A:10-2.2(b).
  2. A Principal, or the Superintendent or **designated supervisor** ~~designee~~, shall conduct observations for the evaluation of Vice Principals and Assistant Principals pursuant to N.J.S.A. 18A:6-121.
  3. For the purpose of collecting data for the evaluation of a Principal, Vice Principal, or Assistant Principal, an observation, as described in N.J.S.A. 18A:6-119 and N.J.A.C. 6A:10-1.2, may include, but is not limited to: building walk-through, staff meeting observation, parent conference observation, or case study analysis of a significant student issue.
  4. Post-observation conferences shall include the following procedures:



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- a. A Superintendent or **designated supervisor** ~~designee~~ who was present at the observation shall conduct a post-observation conference with the Principal, Vice Principal, or Assistant Principal being observed. A post-observation conference shall occur no more than fifteen ~~Principal, Vice Principal, or Assistant Principal~~ working days following each observation.
- b. The post-observation conference shall be for the purpose of reviewing the data collected at the observation, connecting the data to the principal practice instrument and the Principal's, Vice Principal's, or Assistant Principal's individual professional development plan, collecting additional information needed for the evaluation, and offering areas to improve effectiveness.
- c. With the consent of the observed Principal, Vice Principal, or Assistant Principal, post-observation conferences for individuals who are not on a corrective action plan may be conducted via written communication, including electronic communication.
- d. One post-observation conference may be combined with the Principal's, Vice Principal's, or Assistant Principal's annual summary conference as long as it occurs within the required fifteen ~~Principal, Vice Principal, or Assistant Principal~~ working days following the observation.
- e. A written or **electronic** evaluation report shall be signed by the Superintendent or **designated supervisor** ~~designee~~ who conducted the observation and post-observation **conference** and the Principal, Vice Principal, or Assistant Principal who was observed.
- f. The Principal, Vice Principal, or Assistant Principal shall submit his or her written objection(s) of the evaluation within ten ~~Principal, Vice Principal, or Assistant Principal~~ working days following the conference. The objection(s) shall be attached to each party's copy of the annual written performance report.



EVALUATION OF PRINCIPALS, VICE PRINCIPALS, AND ASSISTANT  
PRINCIPALS (M)

5. Each tenured Principal, Vice Principal, and Assistant Principal shall be observed as described in N.J.A.C. 6A:10-5.4, at least two times during each school year. Each non-tenured Principal, Vice Principal, and Assistant Principal shall be observed as described in N.J.A.C. 6A:10-5.4 at least three times during each school year, as required by N.J.S.A. 18A:27-3.1. An additional observation shall be conducted pursuant to N.J.A.C. 6A:10-2.5(l) for Principals, Vice Principals, and Assistant Principals who are on a corrective action plan.

M. Principal Practice Instrument – N.J.A.C. 6A: 10-6.3 7.3

1. The principal practice instrument approved by the Department shall meet the following criteria:
  - a. Incorporate domains of practice and/or performance criteria that align to the 2008 ISLLC Professional Standards for School Leaders developed by the Interstate School Leadership Licensure Consortium incorporated herein by reference, available at:  
  
[http://www.ccsso.org/documents/2008/educational\\_leadership\\_policy\\_standards\\_2008.pdf](http://www.ccsso.org/documents/2008/educational_leadership_policy_standards_2008.pdf);
  - b. Include scoring guides for assessing principal practice that differentiate among a minimum of four levels of performance, and the differentiation has been shown in practice and/or research studies. Each scoring guide shall clearly define the expectations for each category and provide a conversion for the four categories: ineffective, partially effective, effective, and highly effective;
  - c. Be based on multiple sources of evidence collected throughout the year;
  - d. Incorporate an assessment of the Principal's leadership for implementing a rigorous curriculum and assessments aligned to the Core Curriculum Content Standards;



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- e. Incorporate an assessment of the Principal's leadership for high-quality instruction;
  - f. Include an assessment of the Principal's performance in evaluating teachers; and
  - g. Include an assessment of the Principal's support for teachers' professional growth.
2. For Commissioner-approval of a principal practice instrument in 2015 or any year thereafter, the instrument shall include a process to assess competency on the evaluation instrument which the school district may choose to use as a measure of competency.

Adopted: 18 February 2014

Revised: 17 May 2016



## 3431.1 FAMILY LEAVE

### **M**

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# POLICY

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**A. Introduction**

**The Board will provide family leave in accordance with the Federal Family and Medical Leave Act (FMLA) and the New Jersey Family Leave Act (NJFLA).**





FMLA leave for eligible staff members shall be up to twelve weeks leave of absence in ~~a any~~ twelve month period upon advance notice to the district for the birth of a son or daughter of the staff member and in order to care for such son or daughter; for the placement of a son or daughter with the staff member for adoption or foster care; in order to care for the spouse, son, daughter, or parent of the staff member if such spouse, son, daughter, or parent has a serious health condition; or for a serious health condition that makes the staff member unable to perform the functions of the position of such staff member, **or because of any qualifying exigency arising out of the fact that the staff member's spouse, son, daughter, or parent is a military member on active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty).** In addition, eligible staff members may take up to a combined total of twenty-six workweeks in a single twelve month period to care for a covered service member with a serious injury or illness.

NJFLA leave for teaching staff members shall be up to twelve weeks leave of absence in any twenty-four month period upon advance notice to the district so that a staff member may provide care made necessary by the birth of a child of the staff member, the placement of a child with the staff member in connection with adoption of such child by the staff member, and the serious health condition of a spouse, parent, or child.

B. Applicability

The Board will comply with requirements of the New Jersey and Federal Family Leave laws. The laws have similar and different provisions that may provide different rights and obligations for the staff member and/or the Board. The staff member shall be afforded the most favorable rights if there is a conflict in the rights afforded to the staff member under the two laws.

1. If the staff member is eligible for leave for reasons provided under the FMLA and NJFLA, then the time taken shall be concurrent and be applied to both laws.
2. The NJFLA provides twelve weeks leave in a twenty-four month period while the FMLA provides twelve weeks leave in a twelve-month period. A staff member is eligible for up to twelve weeks leave in the first twelve months of the twenty-four month period under the NJFLA. A staff member is eligible for up to twelve weeks leave in the second twelve-month period under the FMLA.



3. In the event the reason for the family leave is recognized under one law and not the other law, the staff member is eligible for each law's leave entitlements within one twelve-month period. (Example: A staff member may use their FMLA leave for a twelve week family leave for their own pregnancy, which is considered a "serious health condition" under FMLA, and upon conclusion of the twelve week FMLA leave, the staff member would be eligible for a twelve week NJFLA leave to care for their newborn or any other reasons pursuant to the NJFLA.)

C. Definitions

1. Federal Family and Medical Leave Act (FMLA)

**"Contingency operation" means a military operation that results in the call or order to, or retention on, active duty of members of the uniformed services during a war or during a national emergency declared by the President or Congress.**

**"Covered active duty" or "call to covered active duty" means duty during deployment of a member with the Armed Forces to a foreign country and, in the case of a member of the Reserve components of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation.**

**"Covered service member" means a current member of the Armed Forces (including National Guard or Reserves), who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness; or a covered veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness.**

**"Covered veteran" means an individual who was a member of the Armed Forces (including National Guard or Reserves), discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible staff member takes FMLA leave to care for the covered veteran. For a veteran discharged prior to March 8, 2013, the effective date of the FMLA Final Rule, the period between October 28, 2009 and March 8, 2013 will not count towards the determination of the five-year period. 29 CFR §825.127(b)(2)**



**“Military caregiver leave” means leave taken to care for a covered service member with a serious injury or illness under FMLA. 29 CFR §825.127**

**“Next of kin of a covered service member” means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin. For example, if a covered service member has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered service member's next of kin. Alternatively, where a covered service member has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered service member's next of kin. An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered service member pursuant to 29 CFR §825.122(k). 29 CFR §825.127(d)(3)**

**“Outpatient status” means, with respect to a covered service member who is a current member of the Armed Forces, the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. 29 CFR §825.127(b)(1)**

~~“Son” or “daughter” means a biological, adopted or foster child, stepchild, legal ward, or a child of a person standing in loco parentis, who is under eighteen years of age or eighteen years of age or older but incapable of self-care because of a mental or physical impairment.~~

**“Parent” means a the biological, adoptive, step or foster father or mother,**



~~or any other parent of a staff member or an individual who stood in loco parentis to the employee a staff member~~ when the ~~employee staff member~~ was a son or daughter **as defined below**. This term does not include parents "in law."

**"Parent of a covered service member"** means a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents "in law."

**"Serious health condition"** means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical facility or continuing treatment by a health care provider. .  
**"Serious health condition"** may include treatment of substance abuse pursuant to 29 CFR §825.119.

**"Serious injury or illness," only in the case of a veteran or current member of the Armed Forces, means:**

- a. In the case of a current member of the Armed Forces, including a member of the National Guard or Reserves, an injury or illness that was incurred by the covered service member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
- b. In the case of a covered veteran, an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:
  - (1) A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; or



- (2) A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of fifty percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- (3) A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- (4) An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for

**"Single twelve-month period"** means that a military caregiver's leave begins on the first day the staff member takes FMLA leave and ends twelve months after that date, regardless of the twelve-month period established by the district for other FMLA leave reasons. 29 CFR §825.127(e)(1)

**"Son" or "daughter"** means a biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age eighteen or age eighteen or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

**"Son or daughter of the covered service member"** means a covered service member's biological, adopted or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age. 29 CFR §825.127(d)(1)

**"Son or daughter on covered active duty or call to covered active duty status"** means the staff member's biological, adopted or foster child, stepchild, legal ward, or a child for whom the staff member stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age. 29 CFR §825.126(a)(5)

**"Spouse"** means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under State law in the



**State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex marriage or common law marriage. 29 CFR §825.122**

~~“Week” is the number of days an employee normally works each calendar week.~~

“Staff member” means an employee eligible for family and medical leave in accordance with the Federal Family and Medical Leave Act (FMLA).

**“Week” or “Workweek” means the number of days a staff member normally works each calendar week.**

## 2. New Jersey Family Leave Act (NJFLA)

“Child” means a biological, adopted or foster child, stepchild, legal ward, child of a parent who is under eighteen years of age or a child eighteen years of age or older but incapable of self-care because of a mental or physical impairment.

**“Continuing medical treatment” or “continuing supervision by a health care provider” means a period of incapacity or a period of absence in accordance with N.J.A.C. 13:14.**

“Parent” **means** is a biological, adoptive, or foster parent; step-parent; parent-in-law; a legal guardian having a “parent-child relationship” with a child as defined by law; or a person who has sole or joint legal or physical custody, care, guardianship, or visitation with a child.

“Serious health condition” **means** is an illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical facility or continuing medical treatment or continuing supervision by a health care provider.

**“Spouse” means a person to whom a staff member is lawfully married as defined by New Jersey law.**

~~“Week” is the number of days an employee normally works each calendar week.~~



“Staff member” **means** is an employee eligible for family leave in accordance with the New Jersey Family Leave Act.

“Week” or “Workweek” **means the number of days a staff member normally works each calendar week.**

D. Eligibility

1. Federal Family and Medical Leave Act (FMLA)

A staff member shall become eligible for FMLA leave after he/she has been employed at least twelve months in this district and employed for at least 1250 hours of service during the twelve-month period immediately preceding the commencement of the leave. The twelve months the staff member must have been employed need not be consecutive months pursuant to 29 CFR Part §825 Section.110(b). The minimum 1250 hours of service shall be determined according to the principles established under the Fair Labor Standards Act (FLSA) for determining compensable hours of work pursuant to 29 CFR Part §785. Entitlement to FMLA leave taken for the birth of a son or daughter or placement of a son or daughter with the staff member for adoption or foster care shall expire at the end of the twelve-month period beginning on the date of such birth or placement.

Pursuant to 29 CFR Part §825-~~Section 202.201~~, a husband and wife both employed by the district are limited to a combined total of twelve weeks of leave during the twelve-month period if the leave is taken for the birth of a son or daughter of the staff member or to care for such son or daughter after birth; for placement of a son or daughter with the staff member for adoption or foster care or in order to care for the spouse, son, or daughter **after placement; or to care for parent** of the staff member's **parent** with a serious health condition.

The method to determine the twelve-month period in which the twelve weeks of FMLA leave entitlement occurs will be the calendar year.

A staff member during any period of FMLA leave is prohibited from performing any services on a full-time basis for any person for whom the staff member did not provide services immediately prior to commencement of the leave. A staff member using FMLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part-time employment



that commenced prior to the FMLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

## 2. New Jersey Family Leave Act (NJFLA)

A staff member shall become eligible for NJFLA leave after he/she has been employed at least twelve months in this district for not less than 1,000 base hours, excluding overtime, during the immediate preceding twelve month period. The calculation of the twelve-month period to determine eligibility shall commence with the commencement of the NJFLA leave. NJFLA leave taken for the birth or adoption of a healthy child may commence at any time within a year after the date of the birth or placement for adoption.

**The district shall grant a family leave under NJFLA to more than one staff member from the same family (for example, a husband and a wife, or a brother and a sister) at the same time, provided such staff members are otherwise eligible for the leave. N.J.A.C. 13:14-1.12.**

A staff member during any period of the NJFLA leave is prohibited from performing any services on a full-time basis for any person for whom the staff member did not provide services immediately prior to commencement of the leave. A staff member on NJFLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part-time employment that commenced prior to the NJFLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

The method to determine the twenty-four month period in which the twelve weeks of NJFLA leave entitlement occurs will be the calendar year.

## E. Types of Leave

### 1. Federal Family and Medical Leave Act (FMLA)

A staff member may take FMLA leave to **include service member qualifying exigency leave or military caregiver leave** in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave shall make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional/educational program.





- a. Leave for the birth of a son or daughter or placement of a son or daughter with the staff member for adoption or foster care may not be taken by a staff member intermittently or on a reduced leave schedule.
- b. Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition.
- c. Intermittent leave means leave scheduled for periods of time from one hour or more to several weeks; however, the total time within which the leave is taken cannot exceed a twelve month period for each serious health condition episode. Intermittent leave may be taken for a serious health condition that requires periodic treatment by a health care provider, rather than one continuous period of time. Intermittent leave may also be taken for absences where the staff member is incapacitated or unable to perform the essential functions of the position because of a serious health condition even if the staff member does not receive treatment by a health care provider. The staff member shall make a reasonable effort to schedule intermittent leave so as not to unduly disrupt the operations of the instructional/educational program.
- d. Reduced leave means leave scheduled for fewer than the staff member's usual number of hours worked per workweek, but not fewer than a staff member's usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule not exceeding twenty-four consecutive weeks. The staff member shall make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational program. The staff member shall provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave to which a staff member is entitled.



- e. The fact that a holiday may occur within the week taken by a staff member as Family Leave has no effect and the week is counted as a week of Family Leave. However, if the staff member is out on Family Leave and the school district is closed and the staff member would not be expected to report for work for one or more weeks, the weeks the school district is closed for this staff member do not count against the staff member's family leave entitlement.
- f. Any leave time remaining after a staff member has exhausted his/her entitlement to intermittent leave in any twelve month period may be taken as consecutive leave or reduced leave, and any leave time remaining after a staff member has exhausted his/her entitlement to reduced leave in any twelve month period may be taken as consecutive leave or intermittent leave.
- fg. "Instructional employees" as defined in 29 CFR §825-~~Section.600(c)~~ are those staff members whose principle function is to teach and instruct pupils in class, a small group, or in an individual setting. This term includes teachers, athletic coaches, driving instructors, and special education assistants, such as signers for the hearing impaired. Teacher assistants or aides who do not have as their principal job actual teaching or instructing, guidance counselors, child study team members, curriculum specialists, cafeteria workers, maintenance workers and/or bus drivers are not considered instructional employees for the purposes of this policy. Semester as defined in 29 CFR §825 ~~Section.600(a)(3)(b)~~ means the school semester that typically ends near the end of the calendar year and the end of the spring each school year. A school district can have no more than two semesters in a school year.
- fi.(1) Leave taken at the end of the school year and continues into the beginning of the next school year is considered consecutive leave.
- ii.(2) In accordance with 29 CFR §825-~~Section.601(a)(1)~~, eligible instructional staff members that need intermittent or reduced leave to care for a family member, or for the staff member's own serious health condition which is foreseeable based on planned medical treatment and the staff member would be on leave more than twenty percent of the total number of working days over the period the leave would extend, the district:



- (a) May require the staff member to take the leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- (b) Transfer the staff member temporarily to an available alternative position for which the staff member is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the staff member's regular position.

~~iii.~~(3) **In accordance with 29 CFR §825.601**, if the instructional staff member does not give the required notice for leave that is foreseeable and desires the leave to be taken intermittently or on a reduced leave schedule, the district may require the staff member to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the district may require the staff member to delay taking the leave until the notice provision is met.

~~iv.~~(4) In accordance with 29 CFR §825—Section.602, if an instructional staff member begins leave more than five weeks before the end of the school year, the district may require the staff member to continue taking leave until the end of the semester if:

- (a) The leave will last three weeks, and
- (b) The staff member would return to work during the three-week period before the end of the semester.

~~v.~~(5) In accordance with 29 CFR §825—Section.602, if an instructional staff member begins leave for a purpose other than the staff member's own serious health condition during the five-week period before the end of the semester, the district may require the staff member to continue taking leave until the end of the semester if:

- (a) The leave will last more than two weeks; and



- (b) The ~~employee~~ **staff member** would return to work during the two-week period before the end of the semester.

(Example of leave falling within these provisions: If a staff member plans two weeks of leave to care for a family member which will begin three weeks before the end of the term, the district could require the staff member to stay out on leave until the end of the term.)

- ~~vi.~~(6) In accordance with 29 CFR §825—~~Section.602~~, if an instructional staff member begins leave for a purpose other than the staff member's own serious health condition during the three week period before the end of a semester, the district may require the staff member to continue taking leave until the end of the semester if the leave will last more than five working days.

- ~~vii.~~(7) In the event the district requires the instructional staff member to take additional leave to the end of the semester in accordance with (4) ~~iv.~~, (5) ~~v.~~, or (6) ~~vi.~~ above, the additional leave days shall not be counted as FMLA leave.

- g. **Service member qualifying exigency leave may arise out of the foreign deployment of the staff member's spouse, child, or parent 29 CFR §825.122 and 126:**

- (1) **The district must grant an eligible staff member up to twelve work weeks of unpaid, job-protected leave during any twelve-month period for qualifying exigencies that arise when the staff member's spouse, child, or parent is on covered active duty, or has been notified of an impending call or order to covered active duty.**
- (2) **The military member must be the spouse, son, daughter, or parent of the staff member taking FMLA exigency leave.**
- (3) **FMLA leave can be granted for one or more of the following exigencies:**

- (a) **Short-notice deployment:**



- i. Notification of duty seven or less calendar days prior to date of deployment;
  - ii. Leave can be used for a period of seven calendar days beginning on the date the military member is notified.
- (b) Military events and related activities, including official ceremonies, programs, or events sponsored by the military and related to the covered active duty or call to covered active duty status of the military member; and to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross.
- (c) Childcare and school activities including arranging for alternative childcare; providing childcare on an urgent, immediate need basis (not routine, regular, or everyday basis); to enroll in or transfer to a new school or day care facility; or to attend meetings with staff staff at a school or day care facility:
  - i. The son or daughter must be the son or daughter of the covered service member.
- (d) Financial and legal arrangements made to address the military member's absence while on covered active duty or call to covered active duty status.
- (e) Counseling, provided by someone other than a health care provider for oneself, for the military member, or qualified child, if the need arises from the covered active duty or call to covered active duty status of the military member.
- (f) Rest and Recuperation (R&R) to spend time with the military member on short-term, temporary R&R leave during a term of deployment:



- i. Can be used for a period of fifteen calendar days beginning on the date the military member commences each instance of R&R leave.
  - (g) Post-deployment activities such as ceremonies or briefings including any that arise from the death of the military member while on covered active duty.
  - (h) Parental care for one meeting the definition of a “parent” and incapable of self-care including: arranging alternative care; providing care on an immediate need basis; and to attend meetings or arrange services at a care facility.
  - (i) Additional activities in accordance with 29 CFR §825.126(b)(9).
- h. Military caregiver leave provides care for a covered service member with a serious injury or illness 29 CFR §825.122 and 127:
  - (1) The district must grant up to a total of twenty-six workweeks of unpaid, job-protected leave during a “single twelve-month period” to care for a covered service member with a serious injury or illness.
    - (a) The eligible staff member must be the spouse, son, daughter, parent, or next of kin of the covered service member.
    - (b) The staff member is limited to a combined total of twenty-six workweeks for any FMLA-qualifying reasons during the single twelve-month period. Up to twelve of the twenty-six weeks may be for an FMLA-qualifying reason other than military caregiver leave.
    - (c) Spouses who are eligible for FMLA leave and are employed by the same covered employer may be limited to a combined total of twenty-six workweeks of leave during a single twelve-month period if the leave is taken for birth of the employee's son or



daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement, to care for the employee's parent with a serious health condition, or to care for a covered service member with a serious injury or illness. If one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full twenty-six workweeks of FMLA leave.

- (2) Leave entitlement is applied on a per-covered-service member, per-injury basis.
  - (a) The staff member may take an additional twenty-six weeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness, except that no more than twenty-six weeks of leave may be taken within any single twelve-month period.
  - (b) An eligible staff member may take military caregiver leave to care for more than one current service member or covered veteran at the same time or for the same family member with the same serious injury or illness both when the family member is a current service member and when the family member is a veteran.
  - (c) Military caregiver leave may be taken by eligible staff members whose family members are recent veterans with serious injuries or illnesses incurred or aggravated in the line of duty on active duty, and that manifested before or after the veteran left active duty.

## 2. New Jersey Family Leave Act (NJFLA)

A staff member may take NJFLA leave in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave shall make a reasonable effort to schedule such leave so as not



to unduly disrupt the instructional/educational program. **The district shall not require a staff member to take a leave of absence beyond the period of time the staff member requests family leave. N.J.A.C. 13:14-1.5(f)**

- a. In the case of a family member who has a serious health condition, leave may be taken intermittently when medically necessary. The total time within which the leave is taken, cannot exceed a twelve-month period for each serious health condition episode. The staff member will provide the district with prior notice of the leave in a manner which is reasonable and practicable; and the staff member shall make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the instructional/educational program. In the case of the birth or adoption of a healthy child, the leave may be taken intermittently only if agreed to by the staff member and the district.
- b. Reduced leave means leave scheduled for fewer than the staff member's usual number of hours worked per workweek, but not fewer than a staff member's usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule for a period not exceeding twenty-four consecutive weeks. The staff member is not entitled to take the leave on a reduced leave schedule without an agreement between the staff member and the district if the leave is taken for the birth or adoption of a healthy child. The staff member shall make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational program. The staff member shall provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave to which a staff member is entitled.
- c. The fact that a holiday may occur within the week taken by a staff member as family leave has no effect and the week is counted as a week of family leave. However, if the staff member is out on family leave and the school district is closed and the staff member would not be expected to report for work for one or more weeks, the weeks the school district is closed for this staff member do not count against the staff member's family leave entitlement.





Any leave time remaining after a staff member has exhausted his/her entitlement to intermittent leave in any twelve month period may be taken as consecutive leave or reduced leave, and any leave time remaining after a staff member has exhausted his/her entitlement to reduced leave in any twelve month period may be taken as consecutive leave or intermittent leave.

F. Notice

1. Federal Family and Medical Leave Act (FMLA)

- a. Foreseeable Leave - A staff member eligible for FMLA leave must give at least a thirty day written advance notice to the Superintendent if the need for the leave is foreseeable based on an expected birth, placement for adoption of foster care, or planned medical treatment for a serious health condition of the staff member or a family member. If thirty days is not practical, the staff member must provide notice "as soon as practicable" which means as soon as both possible and practical, taking into account all the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as thirty days notice "as soon as practical" ordinarily would mean at least verbal notification to the Superintendent within one or two business days or when the need for leave becomes known to the staff member. The written notice shall include the reasons for the leave, the anticipated duration of the leave and the anticipated start of the leave.

When planning medical treatment, the staff member must consult with the Principal/designee and make a reasonable effort to schedule the leave so as not to unduly disrupt the educational program, subject to the approval of the health care provider. Staff members are ordinarily expected to consult with the Superintendent prior to scheduling of treatment that would require leave for a schedule that best suits the needs of the district and the staff member.

The district may delay the staff member taking leave for at least thirty days if the staff member fails to give thirty days notice for foreseeable leave with no reasonable excuse for the delay.



- b. Unforeseeable Leave - When the approximate timing of the need for leave is not foreseeable, a staff member should give notice to the Superintendent for leave as soon as practicable under the facts and circumstances of the particular case. It is expected the staff member will give notice to the Superintendent within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not foreseeable. The staff member should provide notice to the employer either in person or by telephone, telegraph, facsimile machine or other electronic means.

## 2. New Jersey Family Leave Act (NJFLA)

- a. Foreseeable Leave - A staff member eligible for NJFLA leave must give at least a thirty day advance written notice to the Superintendent of the need to take family leave except where the need to take family leave is not foreseeable.

- i.(1) Notice for leave to be taken for the birth or placement of the child for adoption shall be given at least thirty days prior to the commencement of the leave, except that if the date of the birth or adoption requires leave to begin in less than thirty days, the ~~employee~~ **staff member** shall provide such notice that is reasonable and practicable.

- ii.(2) Notice for leave to be taken for the serious health condition of a family member shall be given at least fifteen days prior to the commencement of leave, except that if the date of the treatment or supervision requires leave to begin in less than fifteen days, the staff member shall provide such notice that is reasonable and practicable.

- iii.(3) When the Superintendent is not made aware that a staff member was absent for family leave reasons and the staff member wants to request the leave be counted as family leave, the staff member must provide timely notice within two business days of returning to work to have the time considered for family leave in accordance with the Family Leave Act.

- b. Unforeseeable Leave - When the need for leave is not foreseeable, the staff member must provide notice "as soon as practicable" which shall be at least verbal notice to the Superintendent within one or two



# POLICY

## OCEAN TOWNSHIP BOARD OF EDUCATION

Teaching Staff Members  
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FAMILY LEAVE (M)

business days of the staff member learning of the need to take family leave. Whenever emergent circumstances make written notice impracticable, the staff member may give verbal notice to the Superintendent, but any verbal notice must be followed by written notice delivered within 30 working days.

Xxxx

### G. Leave Designation

An eligible staff member shall designate FMLA or NJFLA leave upon providing notice of the need for the leave or when the need for leave commences. The Superintendent shall provide the staff member with this Policy to assist the staff member in determining the type of leave.

### H. Benefits

**Whether a staff member is required to use sick time or any other accrued leave time concurrent with FMLA or NJFLA leave time will depend upon either the district's practice or a provision in the district's collective bargaining agreement, if applicable.  
29 CFR §825.100**

~~The Federal Family and Medical Leave Act and/or the New Jersey Family Leave Act shall be unpaid leave.~~

The Board will maintain coverage under any group health insurance policy, group subscriber contract, or health care plan at the level and under the conditions coverage would have been provided if the staff member had continued to work instead of taking the leave. If the staff member was paying all or part of the premium payments prior to the leave, the staff member would continue to pay his/her share during the leave time. Any instructional employee who is on leave under NJFLA or FMLA at the end of the school year will be provided with any benefits over the summer that the **employee staff member** would normally receive if they had been working at the end of the school year.

### I. Returning from Leave

The Federal Family and Medical Leave Act and/or the New Jersey Family Leave Act



A staff member returning from leave shall be entitled to the position he/she held when leave commenced or to an equivalent position of like seniority, status, employment benefits, pay and other conditions of employment. If the district experiences a reduction in force or layoff and the staff member would have lost his/her position had the staff member not been on family leave as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system including a system under any collective bargaining agreement, the staff member shall be entitled to reinstatement to the former or an equivalent position in accordance with applicable statutes, codes and laws. The staff member's tenure and seniority rights, if any, and other benefits shall be preserved, but the staff member shall accrue no additional time toward tenure or seniority for the period of the leave, except as may be provided by law.

The return of a staff member prior to the expiration of the requested family leave may be permitted by the Board if the return does not unduly disrupt the instructional program or require the Board to incur the cost of continuing the employment of a substitute under contract.

**The Board may, in accordance with the provisions of 29 CFR §825.312 delay restoration of employment of a staff member using FMLA leave for the staff member's serious health condition until the staff member submits a fitness-for-duty examination from his/her health care provider indicating that the staff member is able to resume work. In the event the Board requires such a fitness-for-duty examination before restoration of the staff member after leave, the Board will provide the staff member specific notice either at the time the staff member gives notice of the need for leave or immediately after the leave commences and the staff member advises the Board of the medical circumstances for the leave.**

If leave is taken under FMLA, and the staff member does not return to work after the leave expires, the Board is entitled to recover health insurance costs paid while the staff member was on FMLA. The Board's right to recover premiums would not apply if the staff member fails to return to work due to:

1. The continuation, onset or recurrence of a serious health condition of the staff member; or
2. Circumstances beyond the staff member's control.



J. Ineligible Staff Members

1. Federal Family and Medical Leave Act (FMLA)

The district may deny job restoration after FMLA leave if the staff member is a “key employee” as defined in 29 CFR 825 ~~Section 217~~ if such denial is necessary to prevent substantial and grievous economic injury to the district or the district may delay restoration to a staff member who fails to provide a fitness for duty certificate to return to work for leave that was the staff member’s own serious health condition. A “key employee” is a salaried, staff member who is among the highest paid ten percent of the school district staff employed by the district within 75 miles of the worksite. No more than ten percent of the school district staff within 75 miles of the worksite may be “key employees.”

In the event the Superintendent believes that reinstatement may be denied to a key employee, the Superintendent must give written notice to the staff member at the time the staff member gives notice of the need for leave, or when the need for leave commences, if earlier, that he/she qualifies as a key employee. The key employee must be fully informed of the potential consequences with respect to reinstatement and maintenance of health benefits if the district should determine that substantial and grievous economic injury to the district’s operations will result if the staff member is reinstated from leave. The district’s notice must explain the basis for the district’s finding that substantial and grievous economic injury will result, and if leave has commenced, must provide the staff member a reasonable time in which to return to work. If the staff member on leave does not return to work in response to the notice of intent to deny restoration, the staff member continues to be entitled to maintenance of health insurance.

A key employee’s rights under the FMLA continue unless and until the staff member either gives notice that he/she no longer wishes to return to work or the district actually denies reinstatement at the conclusion of the leave period. A staff member is still entitled to request reinstatement at the end of the leave period even if the staff member did not return to work in response to the district’s notice. The district will then again determine whether there will be substantial and grievous economic injury from reinstatement based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the district will notify the staff member in writing (in person or by certified mail) of the denial of the restoration.



## 2. New Jersey Family Leave Act

The district may deny family leave to the staff member if the staff member is a salaried employee who is among the highest paid five percent of the school district staff or one of the seven highest paid employees of the district, whichever is greater, if the denial is necessary to prevent substantial and grievous economic injury to the school district's operations. The Superintendent shall notify the staff member of the intent to deny the leave at the time the Superintendent determines the denial is necessary. If the leave has already commenced at the time of the district's notification of denial, the staff member shall be permitted to return to work within ten working days of the date of notification.

## K. Verification of Leave

### 1. Federal Family and Medical Leave Act (FMLA)

The Board requires a staff member's FMLA leave to care for the staff member's seriously ill spouse, son, daughter, or parent; **or for a service member's qualifying exigency or serious injury; or for illness** due to the staff member's own serious health condition, that makes the staff member unable to perform one or more of the essential functions of the staff member's position, be supported by a certification issued by the health care provider of the staff member or the staff member's ill family member. **The medical certification required encompasses both physical and psychological care and includes situations where a family member is unable to care for his/her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself/herself to the doctor. It can also include providing psychological comfort and reassurance beneficial to a child, spouse, or parent with a serious health condition who is receiving inpatient or home care and can include situations where the staff member may be needed to substitute for others who normally care for the family member or covered service member or to make arrangements for changes in care. The staff member need not be the only individual or family member available to care for the family member or covered service member. 29 CFR §825.124**

The certification must meet the requirements of 29 CFR ~~Section~~ §§825.306, 309, and 310 to include: which part of the definition of "serious health



condition” applies; the approximate date the serious health condition commenced and its probable duration; whether it will be necessary for the staff member to take intermittent and/or reduced leave; whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity; if additional treatments will be required for the condition; and/or if the patient’s incapacity will be intermittent or will require reduced leave. The certification of a serious health condition of a family member of the staff member shall be sufficient if it states the date on which the condition commenced, the probable duration of the condition, and the medical facts within the provider’s knowledge regarding the condition. Certification for the birth or placement of a child need only state the date of birth or date of placement.

In the event the Superintendent doubts the validity of the certification, in accordance with 29 CFR ~~Section~~ §825.307, the district may require, at the district’s expense, the staff member obtain an opinion regarding the serious health condition from a second health care provider designated by the district, but not employed on a regular basis by the district. If the second opinion differs from the staff member’s health care provider, the district may require, at the district’s expense, the staff member obtain the opinion of a third health care provider designated by the district or approved jointly, in good faith, by the district and the staff member. The opinion of the third health care provider shall be final and binding on the district and the staff member.

The district may require re-certification pursuant to the requirements of 29 CFR ~~Section~~ §825.308. In accordance with 29 CFR ~~Section~~ §825.309, the staff member on leave must provide a written report to the Superintendent every thirty workdays. The report shall include the staff member’s status and intended date to return to work. In the event the staff member’s circumstances change, the staff member must provide reasonable notice to the Superintendent if the staff member intends to return to work on a date sooner than previously noticed to the district. The staff member is not required to take more leave than necessary to resolve the circumstance that precipitated the need for leave. As a condition of returning to work after the leave for the staff member’s own serious health condition, and in accordance with 29 CFR ~~Section~~ §825.310, the district requires a staff member to provide a certification from their health care provider that the staff member is able to resume work.

In accordance with 29 CFR ~~Section~~ §825.311, the district may delay the taking of FMLA leave to a staff member who fails to provide certification



within fifteen days after being requested to do so by the district. In accordance with 29 CFR Section §825.312, the district may delay the taking of leave until thirty days after the date the staff member provides notice to the district of foreseeable leave or the district may delay continuation of leave if a staff member fails to provide a requested medical certification in a timely manner.

## 2. New Jersey Family Leave Act

The Board shall require the certification of a duly licensed health care provider verifying the purpose of requested NJFLA leave. Certification of a serious health condition of a family member of the staff member shall be sufficient if it states the date on which the condition commenced, the probable duration of the condition, and the medical facts within the provider's knowledge regarding the condition. Certification for the birth or placement of a child need only state the date of birth or date of placement, whichever is appropriate.

In the event the Superintendent doubts the validity of the certification for the serious health condition of a family member of the staff member, the district may require, at the district's expense, the staff member to obtain an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the district. If the second opinion differs from the certification the district may require, at the district's expense, that the staff member obtain the opinion of a third health care provider designated or approved jointly by the district and the staff member concerning the serious health condition. The opinion of the third health care provider shall be final and binding on the district and the staff member.

## L. Interference with Family Leave Rights

The Federal Family and Medical Leave Act and the New Jersey Family Leave Act prohibit interference with a staff member's rights under the law, and with legal proceedings or inquiries relating to a staff member's rights. Unless permitted by the law, no staff member shall be required to take family leave or to extend family leave beyond the time requested. A staff member shall not be discriminated against for having exercised his/her rights under the Federal Family and Medical Leave Act or the New Jersey Family Leave Act nor discouraged from the use of family leave.





**M. Non-Tenured Teaching Staff**

Family leave granted to a non-tenured staff member cannot extend the **employee's staff member's** employment beyond the expiration of his/her employment contract.

**N. Record Keeping**

In order that staff member's entitlement to FMLA leave and NJFLA leave can be properly determined, the Superintendent shall ensure the keeping of accurate attendance records that distinguish family leave from other kinds of leave. The Superintendent will publish a notice explaining the Act's provisions and provide information concerning the procedures for filing complaints of violations of the FMLA and NJFLA.

**O. Processing of Complaints**

**1. Federal Family and Medical Leave Act (FMLA) 29 CFR §§825.400-401**

- a. If there is a dispute between the district and a staff member as to whether leave qualifies as FMLA leave, it should be resolved through discussion between the staff member and the district. Such discussions and the decision shall be documented by the school district.**
- b. The staff member also may file, or have another person file on his/her behalf, a complaint with the United States Secretary of Labor. A complaint may be filed in person, by mail, or by telephone with the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, at any local office of the Wage and Hour Division.**

**2. New Jersey Family Leave Act N.J.A.C. 13:14-1.16**

- a. Any complaint alleging a violation of the Act shall be processed in the same manner as a complaint filed under the terms of N.J.S.A. 10:5-1 et seq. and N.J.A.C. 13:4 through the New Jersey Department of Law and Public Safety, Division on Civil Rights.**



# POLICY

## OCEAN TOWNSHIP BOARD OF EDUCATION

Teaching Staff Members  
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FAMILY LEAVE (M)

Implementation of FMLA and NJFLA will be consistent with provisions in collective bargaining agreement(s) in the district.

~~29 U.S.C. 2601 et seq.~~

~~29 CFR §825.200 et seq.~~

**29 CFR §785**

~~N.J.S.A. 34:11B-1 et seq.~~ **10:5-1**

N.J.A.C. 13:14-1 et seq.

Adopted: 21 January 1992

Revised: 19 October 1993, 17 October 1995, 17 December 2002, 21 December 2004,  
17 May 2016



# POLICY

## OCEAN TOWNSHIP BOARD OF EDUCATION

Support Staff  
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FAMILY LEAVE (M)

### 4431.1 FAMILY LEAVE

**M**

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# POLICY

## OCEAN TOWNSHIP BOARD OF EDUCATION

Support Staff  
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FAMILY LEAVE (M)

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#### **A. Introduction**

**The Board will provide family leave in accordance with the Federal Family and Medical Leave Act (FMLA) and the New Jersey Family Leave Act (NJFLA).**



FMLA leave for eligible staff members shall be up to twelve weeks leave of absence in a ~~any~~ twelve month period upon advance notice to the district for the birth of a son or daughter of the staff member and in order to care for such son or daughter; for the placement of a son or daughter with the staff member for adoption or foster care; in order to care for the spouse, son, daughter, or parent of the staff member if such spouse, son, daughter, or parent has a serious health condition; or for a serious health condition that makes the staff member unable to perform the functions of the position of such staff member, **or because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty).** In addition, eligible employees may take up to a combined total of twenty-six workweeks in a single twelve month period to care for a covered service member with a serious injury or illness.

NJFLA leave for eligible staff members shall be up to twelve weeks leave of absence in any twenty-four month period upon advance notice to the district so that a staff member may provide care made necessary by the birth of a child of the staff member, the placement of a child with the staff member in connection with adoption of such child by the staff member, and the serious health condition of a spouse, parent, or child.

## B. Applicability

The Board will comply with requirements of the New Jersey and Federal Family Leave laws. The laws have similar and different provisions that may provide different rights and obligations for the staff member and/or the Board. The staff member shall be afforded the most favorable rights if there is a conflict in the rights afforded to the staff member under the two laws.

1. If the staff member is eligible for leave for reasons provided under the FMLA and NJFLA, then the time taken shall be concurrent and be applied to both laws.
2. The NJFLA provides twelve weeks leave in a twenty-four month period while the FMLA provides twelve weeks leave in a twelve-month period. A staff member is eligible for up to twelve weeks leave in the first twelve months of the twenty-four month period under the NJFLA. A staff member is eligible for up to twelve weeks leave in the second twelve-month period under the FMLA.
3. In the event the reason for the family leave is recognized under one law and not the other law, the staff member is eligible for each law's leave



entitlements within one twelve-month period. (Example: A staff member may use their FMLA leave for a twelve week family leave for their own pregnancy, which is considered a “serious health condition” under FMLA, and upon conclusion of the twelve week FMLA leave, the staff member would be eligible for a twelve week NJFLA leave to care for their newborn or any other reasons pursuant to the NJFLA.)

## C. Definitions

### 1. Federal Family and Medical Leave Act (FMLA)

**“Contingency operation” means a military operation that results in the call or order to, or retention on, active duty of members of the uniformed services during a war or during a national emergency declared by the President or Congress.**

**“Covered active duty” or “call to covered active duty” means duty during deployment of a member with the Armed Forces to a foreign country and, in the case of a member of the Reserve components of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation.**

**“Covered service member” means a current member of the Armed Forces (including National Guard or Reserves), who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness; or a covered veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness.**

**“Covered veteran” means an individual who was a member of the Armed Forces (including National Guard or Reserves), discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible staff member takes FMLA leave to care for the covered veteran. For a veteran discharged prior to March 8, 2013, the effective date of the FMLA Final Rule, the period between October 28, 2009 and March 8, 2013 will not count towards the determination of the five-year period. 29 CFR § 825.127(b)(2)**



**“Military caregiver leave” means leave taken to care for a covered service member with a serious injury or illness under FMLA. 29 CFR §825.127**

**“Next of kin of a covered service member” means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin. For example, if a covered**

**Service member has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered service member's next of kin. Alternatively, where a covered service member has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered service member's next of kin. An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered service member pursuant to 29 CFR §825.122(k). 29 CFR §825.127(d)(3)**

**“Outpatient status” means, with respect to a covered service member who is a current member of the Armed Forces, the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. 29 CFR § 825.127(b)(1)**

**~~“Son” or “daughter” means a biological, adopted or foster child, stepchild, legal ward, or a child of a person standing in loco parentis, who is under~~**



~~eighteen years of age or eighteen years of age or older but incapable of self care because of a mental or physical impairment.~~

**"Parent"** means ~~a the biological, adoptive, step or foster father or mother, or any other parent of a staff member or an individual who stood in loco parentis to the employee a staff member~~ when the **employee** staff member was a son or daughter **as defined below**. This term does not include parents "in law."

**"Parent of a covered service member"** means a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents "in law."

**"Serious health condition"** means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical facility or continuing treatment by a health care provider. **"Serious health condition" may include treatment of substance abuse pursuant to 29 CFR §825.119.**

**"Serious injury or illness," only in the case of a veteran or current member of the Armed Forces, means:**

- a. **In the case of a current member of the Armed Forces, including a member of the National Guard or Reserves, an injury or illness that was incurred by the covered service member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating; and**
- b. **In the case of a covered veteran, an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:**





- (1) A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member's office, grade, rank, or rating; or
- (2) A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of fifty percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- (3) A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- (4) An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers. 29 CFR 825 §127(c)

“Single twelve-month period” means that a military caregiver’s leave begins on the first day the staff member takes FMLA leave and ends twelve months after that date, regardless of the twelve-month period established by the district for other FMLA leave reasons. 29 CFR §825.127(e)(1)

“Son” or “daughter” means a biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age eighteen or age eighteen or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

“Son or daughter of the covered service member” means a covered service member’s biological, adopted or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age. 29 CFR §825.127(d)(1)



**“Son or daughter on covered active duty or call to covered active duty status” means the staff member's biological, adopted or foster child, stepchild, legal ward, or a child for whom the staff member stood in loco parentis, who is on covered active duty or call to covered active duty status, and who is of any age. 29 CFR §825.126(a)(5)**

**“Spouse” means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under State law in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex marriage or common law marriage. 29 CFR §825.122**

~~“Week” is the number of days an employee normally works each calendar week.~~

**“Staff member” means an employee eligible for family and medical leave in accordance with the Federal Family and Medical Leave Act (FMLA).**

**“Week” or “Workweek” means the number of days a staff member normally works each calendar week.**

## 2. New Jersey Family Leave Act (NJFLA)

**“Child” means a biological, adopted or foster child, stepchild, legal ward, child of a parent who is under eighteen years of age or a child eighteen years of age or older but incapable of self-care because of a mental or physical impairment.**

**“Continuing medical treatment” or “continuing supervision by a health care provider” means a period of incapacity or a period of absence in accordance with N.J.A.C. 13:14.**

**“Parent” means is a biological, adoptive, or foster parent; step-parent; parent-in-law; a legal guardian having a “parent-child relationship” with a child as defined by law; or a person who has sole or joint legal or physical custody, care, guardianship, or visitation with a child.**

**“Serious health condition” means is an illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital,**



hospice, or residential medical facility or continuing medical treatment or continuing supervision by a health care provider.

**“Spouse” means a person to whom a staff member is lawfully married as defined by New Jersey law.**

~~“Week” is the number of days an employee normally works each calendar week.~~

**“Staff member” means** is an employee eligible for family leave in accordance with the New Jersey Family Leave

**“Week” or “Workweek” means the number of days a staff member normally works each calendar week.**

## D. Eligibility

### 1. Federal Family and Medical Leave Act (FMLA)

A staff member shall become eligible for FMLA leave after he/she has been employed at least twelve months in this district and employed for at least 1250 hours of service during the twelve-month period immediately preceding the commencement of the leave. The twelve months the staff member must have been employed need not be consecutive months pursuant to 29 CFR §825.110(b). The minimum 1250 hours of service shall be determined according to the principles established under the Fair Labor Standards Act (FSLA) for determining compensable hours of work pursuant to 29 CFR §-785. Entitlement to FMLA leave taken for the birth of a son or daughter or placement of a son or daughter with the staff member for adoption or foster care shall expire at the end of the twelve-month period beginning on the date of such birth or placement.

Pursuant to 29 CFR §825.201, a husband and wife both employed by the district are limited to a combined total of twelve weeks of leave during the twelve-month period if the leave is taken for the birth of a son or daughter of the staff member or to care for such son or daughter after birth; for placement of a son or daughter with the staff member for adoption or foster care or in order to care for the ~~spouse, son, or daughter~~ **after placement; or to care for parent** of the staff member's **parent** with a serious health condition.

The method to determine the twelve-month period in which the twelve weeks of FMLA leave entitlement occurs will be the calendar year.



[Select one option

\_\_\_ - the calendar year.

\_\_\_ - a school year.

\_\_\_ - the staff member's employment anniversary date.

\_\_\_ - the twelve-month period measured forward from when the staff member's first leave begins.

\_\_\_ - a "rolling" twelve-month period measured backward from the date a staff member uses any family leave.]

A staff member during any period of FMLA leave is prohibited from performing any services on a full-time basis for any person for whom the staff member did not provide services immediately prior to commencement of the leave. A staff member using FMLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part-time employment that commenced prior to the FMLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

## 2. New Jersey Family Leave Act (NJFLA)

A staff member shall become eligible for NJFLA leave after he/she has been employed at least twelve months in this district for not less than 1,000 base hours, excluding overtime, during the immediate preceding twelve month period. The calculation of the twelve-month period to determine eligibility shall commence with the commencement of the NJFLA leave. NJFLA leave taken for the birth or adoption of a healthy child may commence at any time within a year after the date of the birth or placement for adoption.

**The district shall grant a family leave under NJFLA to more than one staff member from the same family (for example, a husband and a wife, or a brother and a sister) at the same time, provided such staff members are otherwise eligible for the leave. N.J.A.C. 13:14-1.12**



A staff member during any period of the NJFLA leave is prohibited from performing any services on a full-time basis for any person for whom the staff member did not provide services immediately prior to commencement of the leave. A staff member on NJFLA leave may commence part-time employment that shall not exceed half the regularly scheduled hours worked for the district. The staff member may continue the part-time employment that commenced prior to the NJFLA leave at the same number of hours that the staff member was regularly scheduled prior to such leave.

The method to determine the twenty-four month period in which the twelve weeks of NJFLA leave entitlement occurs will be the calendar year.

**[Select one option**

☐ - **the calendar year.**

☐ - **a school year.**

☐ - **the staff member's employment anniversary date.**

☐ - **the twenty-four month period measured forward from when the staff member's first leave begins.**

☐ - **a "rolling" twenty-four month period measured backward from the date a staff member uses any leave.]**

## E. Types of Leave

### 1. Federal Family and Medical Leave Act (FMLA)

A staff member may take FMLA leave **to include service member qualifying exigency leave or military caregiver leave** in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave shall make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional/educational program.

- a. Leave for the birth of a son or daughter or placement of a son or daughter with the staff member for adoption or foster care may not be taken by a staff member intermittently or on a reduced leave schedule.



- b. Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition.
- c. Intermittent leave means leave scheduled for periods of time from one hour or more to several weeks; however, the total time within which the leave is taken cannot exceed a twelve month period for each serious health condition episode. Intermittent leave may be taken for a serious health condition that requires periodic treatment by a health care provider, rather than one continuous period of time. Intermittent leave may also be taken for absences where the staff member is incapacitated or unable to perform the essential functions of the position because of a serious health condition even if the staff member does not receive treatment by a health care provider. The staff member shall make a reasonable effort to schedule intermittent leave so as not to unduly disrupt the operations of the instructional/educational program.
- d. Reduced leave means leave scheduled for fewer than the staff member's usual number of hours worked per workweek, but not fewer than a staff member's usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule not exceeding twenty-four consecutive weeks. The staff member shall make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational program. The staff member shall provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave to which a staff member is entitled.
- e. The fact that a holiday may occur within the week taken by a staff member as Family Leave has no effect and the week is



counted as a week of Family Leave. However, if the staff member is out on Family Leave and the school district is closed and the staff member would not be expected to report for work for one or more weeks, the weeks the school district is closed for this staff member do not count against the staff member's family leave entitlement.

Any leave time remaining after a staff member has exhausted his/her entitlement to intermittent leave in any twelve month period may be taken as consecutive leave or reduced leave, and any leave time remaining after a staff member has exhausted his/her entitlement to reduced leave in any twelve month period may be taken as consecutive leave or intermittent leave.

- f. Service member qualifying exigency leave may arise out of the foreign deployment of the staff member's spouse, child, or parent 29 CFR §§825.122 and 126:**
  - (1) The district must grant an eligible staff member up to twelve work weeks of unpaid, job-protected leave during a twelve-month period for qualifying exigencies that arise when the staff member's spouse, child, or parent is on covered active duty, or has been notified of an impending call or order to covered active duty.**
  - (2) The military member must be the spouse, son, daughter, or parent, of the staff member taking FMLA exigency leave.**
  - (3) FMLA leave can be granted for one or more of the following exigencies:**
    - (a) Short-notice deployment:**
      - i. Notification of duty seven or less calendar days prior to date of deployment;**
      - ii. Leave can be used for a period of seven calendar days beginning on the date the military member is notified.**



- (b) **Military events and related activities, including official ceremonies, programs, or events sponsored by the military and related to the covered active duty or call to covered active duty status of the military member; and to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross.**
- (c) **Childcare and school activities including arranging for alternative childcare; providing childcare on an urgent, immediate need basis (not routine, regular, or everyday basis); to enroll in or transfer to a new school or day care facility; or to attend meetings with staff at a school or day care facility:**
  - i. **The son or daughter must be the son or daughter of the covered service member.**
- (d) **Financial and legal arrangements made to address the military member's absence while on covered active duty or call to covered active duty status.**
- (e) **Counseling, provided by someone other than a health care provider for oneself, for the military member, or qualified child, if the need arises from the covered active duty or call to covered active duty status of the military member.**
- (f) **Rest and Recuperation (R&R) to spend time with the military member on short-term, temporary R&R leave during a term of deployment:**
  - i. **Can be used for a period of fifteen calendar days beginning on the date the military member commences each instance of R&R leave.**





- (g) Post-deployment activities such as ceremonies or briefings including any that arise from the death of the military member while on covered active duty.
  - (h) Parental care for one meeting the definition of a “parent” and incapable of self-care including: arranging alternative care; providing care on an immediate need basis; and to attend meetings or arrange services at a care facility.
  - (i) Additional activities in accordance with 29 CFR §825.126(b)(9).
- g. Military caregiver leave provides care for a covered service member with a serious injury or illness 29 CFR §§825.122 and 127:
  - (1) The district must grant up to a total of twenty-six workweeks of unpaid, job-protected leave during a “single twelve-month period” to care for a covered service member with a serious injury or illness.
    - (a) The eligible staff member must be the spouse, son, daughter, parent, or next of kin of the covered service member.
    - (b) The staff member is limited to a combined total of twenty-six workweeks for any FMLA-qualifying reasons during the single twelve-month period. Up to twelve of the twenty-six weeks may be for an FMLA-qualifying reason other than military caregiver leave.
    - (c) Spouses who are eligible for FMLA leave and are employed by the same covered employer may be limited to a combined total of twenty-six workweeks of leave during a single twelve-month period if the leave is taken for birth of the employee's son or daughter or to care for the child after birth, for placement of a son or daughter with the employee for adoption or



foster care, or to care for the child after placement, to care for the employee's parent with a serious health condition, or to care for a covered service member with a serious injury or illness. If one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full twenty-six workweeks of FMLA leave.

- (2) Leave entitlement is applied on a per-covered-service member, per-injury basis.
  - (a) The staff member may take an additional twenty-six weeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness, except that no more than twenty-six weeks of leave may be taken within any single twelve-month period.
  - (b) An eligible staff member may take military caregiver leave to care for more than one current service member or covered veteran at the same time or for the same family member with the same serious injury or illness both when the family member is a current service member and when the family member is a veteran.
  - (c) Military caregiver leave may be taken by eligible staff members whose family members are recent veterans with serious injuries or illnesses incurred or aggravated in the line of duty on active duty, and that manifested before or after the veteran left active duty.

## 2. New Jersey Family Leave Act (NJFLA)

A staff member may take NJFLA leave in consecutive weeks, as intermittent leave, or as reduced leave. A staff member who requests intermittent or reduced leave shall make a reasonable effort to schedule such leave so as not to unduly disrupt the instructional/educational program. **The district shall not require a staff member to take a leave**



**of absence beyond the period of time the staff member requests family leave. N.J.A.C. 13:14-1.5(f)**

- a. In the case of a family member who has a serious health condition, leave may be taken intermittently when medically necessary. The total time within which the leave is taken, can not exceed a twelve-month period for each serious health condition episode. The staff member will provide the district with prior notice of the leave in a manner which is reasonable and practicable; and the staff member shall make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the instructional/educational program. In the case of the birth or adoption of a healthy child, the leave may be taken intermittently only if agreed to by the staff member and the district.
- b. Reduced leave means leave scheduled for fewer than the staff member's usual number of hours worked per workweek, but not fewer than a staff member's usual number of hours worked per workday, unless otherwise agreed to by the staff member and the district. A staff member is entitled, at the option of the staff member, to take leave on a reduced leave schedule for a period not exceeding twenty-four consecutive weeks. The staff member is not entitled to take the leave on a reduced leave schedule without an agreement between the staff member and the district if the leave is taken for the birth or adoption of a healthy child. The staff member shall make a reasonable effort to schedule reduced leave so as not to unduly disrupt the operations of the instructional/educational program. The staff member shall provide the district prior notice of the care, medical treatment or continuing supervision by a health care provider necessary due to a serious health condition of a family member in a manner that is reasonable and practicable. Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of leave to which a staff member is entitled.
- c. The fact that a holiday may occur within the week taken by a staff member as family leave has no effect and the week is counted as a week of family leave. However, if the staff member is out on family leave and the school district is closed



and the staff member would not be expected to report for work for one or more weeks, the weeks the school district is closed for this staff member do not count against the staff member's family leave entitlement.

Any leave time remaining after a staff member has exhausted his/her entitlement to intermittent leave in any twelve month period may be taken as consecutive leave or reduced leave, and any leave time remaining after a staff member has exhausted his/her entitlement to reduced leave in any twelve month period may be taken as consecutive leave or intermittent leave.

## F. Notice

### 1. Federal Family and Medical Leave Act (FMLA)

- a. Foreseeable Leave - A staff member eligible for FMLA leave must give at least a thirty day written advance notice to the Superintendent if the need for the leave is foreseeable based on an expected birth, placement for adoption of foster care, or planned medical treatment for a serious health condition of the staff member or a family member. If thirty days is not practical, the staff member must provide notice "as soon as practicable" which means as soon as both possible and practical, taking into account all the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as thirty days notice "as soon as practical" ordinarily would mean at least verbal notification to the Superintendent within one or two business days or when the need for leave becomes known to the staff member. The written notice shall include the reasons for the leave, the anticipated duration of the leave and the anticipated start of the leave.

When planning medical treatment, the staff member must consult with the Superintendent and make a reasonable effort to schedule the leave so as not to unduly disrupt the educational program, subject to the approval of the health care provider. Staff members are ordinarily expected to consult with the Superintendent prior to scheduling of treatment that



would require leave for a schedule that best suits the needs of the district and the staff member.

The district may delay the staff member taking leave for at least thirty days if the staff member fails to give thirty days notice for foreseeable leave with no reasonable excuse for the delay.

- b. Unforeseeable Leave - When the approximate timing of the need for leave is not foreseeable, a staff member should give notice to the Superintendent for leave as soon as practicable under the facts and circumstances of the particular case. It is expected the staff member will give notice to the Superintendent within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not foreseeable. The staff member should provide notice to the employer either in person or by telephone, telegraph, facsimile machine or other electronic means.

## 2. New Jersey Family Leave Act (NJFLA)

- a. Foreseeable Leave - A staff member eligible for NJFLA leave must give at least a thirty day advance written notice to the Superintendent of the need to take family leave except where the need to take family leave is not foreseeable.
- i.(1) Notice for leave to be taken for the birth or placement of the child for adoption shall be given at least thirty days prior to the commencement of the leave, except that if the date of the birth or adoption requires leave to begin in less than thirty days, the **employee staff member** shall provide such notice that is reasonable and practicable.
- ii.(2) Notice for leave to be taken for the serious health condition of a family member shall be given at least fifteen days prior to the commencement of leave, except that if the date of the treatment or supervision requires leave to begin in less than fifteen days, the staff member shall provide such notice that is reasonable and practicable.



- iii.(3) When the Superintendent is not made aware that a staff member was absent for family leave reasons and the staff member wants to request the leave be counted as family leave, the staff member must provide timely notice within two business days of returning to work to have the time considered for family leave in accordance
- b. Unforeseeable Leave - When the need for leave is not foreseeable, the staff member must provide notice "as soon as practicable" which shall be at least verbal notice to the Superintendent within one or two business days of the staff member learning of the need to take family leave. Whenever emergent circumstances make written notice impracticable, the staff member may give verbal notice to the Superintendent, but any verbal notice must be followed by written notice delivered within 30 working days.

## G. Leave Designation

An eligible staff member shall designate FMLA or NJFLA leave upon providing notice of the need for the leave or when the need for leave commences. The Superintendent shall provide the staff member with this Policy to assist the staff member in determining the type of leave.

## H. Benefits

**Whether a staff member is required to use sick time or any other accrued leave time concurrent with FMLA or NJFLA leave time will depend upon either the district's practice or a provision in the district's collective bargaining agreement, if applicable. 29 CFR §825.100**

~~The Federal Family and Medical Leave Act and/or the New Jersey Family Leave Act shall be unpaid leave.~~

The Board will maintain coverage under any group health insurance policy, group subscriber contract, or health care plan at the level and under the conditions coverage would have been provided if the staff member had continued to work instead of taking the leave. If the staff member was paying all or part of the premium payments prior to the leave, the staff member would continue to pay his/her share during the leave time. Any ten month staff member who is on leave under NJFLA or FMLA at the end of the school year will be provided with any



benefits over the summer that the **employee staff member** would normally receive if they had been working at the end of the school year.

## I. Returning from Leave

The Federal Family and Medical Leave Act and/or the New Jersey Family Leave Act

A staff member returning from leave shall be entitled to the position he/she held when leave commenced or to an equivalent position of like seniority, status, employment benefits, pay and other conditions of employment. If the district experiences a reduction in force or layoff and the staff member would have lost his/her position had the staff member not been on family leave as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system including a system under any collective bargaining agreement, the staff member shall be entitled to reinstatement to the former or an equivalent position in accordance with applicable statutes, codes and laws. The staff member's tenure and seniority rights, if any, and other benefits shall be preserved, but the staff member shall accrue no additional time toward tenure or seniority for the period of the leave, except as may be provided by law.

The return of a staff member prior to the expiration of the requested family leave may be permitted by the Board if the return does not unduly disrupt the instructional program or require the Board to incur the cost of continuing the employment of a substitute under contract.

**The Board may, in accordance with the provisions of 29 CFR §825.312 delay restoration of employment of a staff member using FMLA leave for the staff member's serious health condition until the staff member submits a fitness-for-duty examination from his/her health care provider indicating that the staff member is able to resume work. In the event the Board requires such a fitness-for-duty examination before restoration of the staff member after leave, the Board will provide the staff member specific notice either at the time the staff member gives notice of the need for leave or immediately after the leave commences and the staff member advises the Board of the medical circumstances for the leave.**

If leave is taken under FMLA, and the staff member does not return to work after the leave expires, the Board is entitled to recover health insurance costs paid while the staff member was on FMLA. The Board's right to recover premiums would not apply if the staff member fails to return to work due to:



1. The continuation, onset or recurrence of a serious health condition of the staff member; or
2. Circumstances beyond the staff member's control.

J. Ineligible Staff Members

1. Federal Family and Medical Leave Act (FMLA)

The district may deny job restoration after FMLA leave if the staff member is a "key employee" as defined in 29 CFR 825 Section 217 if such denial is necessary to prevent substantial and grievous economic injury to the district or the district may delay restoration to a staff member who fails to provide a fitness for duty certificate to return to work for leave that was the staff member's own serious health condition. A "key employee" is a salaried, staff member who is among the highest paid ten percent of the school district staff employed by the district within 75 miles of the worksite. No more than ten percent of the school district staff within 75 miles of the worksite may be "key employees."

In the event the Superintendent believes that reinstatement may be denied to a key employee, the Superintendent must give written notice to the staff member at the time the staff member gives notice of the need for leave, or when the need for leave commences, if earlier, that he/she qualifies as a key employee. The key employee must be fully informed of the potential consequences with respect to reinstatement and maintenance of health benefits if the district should determine that substantial and grievous economic injury to the district's operations will result if the staff member is reinstated from leave. The district's notice must explain the basis for the district's finding that substantial and grievous economic injury will result, and if leave has commenced, must provide the staff member a reasonable time in which to return to work. If the staff member on leave does not return to work in response to the notice of intent to deny restoration, the staff member continues to be entitled to maintenance of health insurance.

A key employee's rights under the FMLA continue unless and until the staff member either gives notice that he/she no longer wishes to return to work or the district actually denies reinstatement at the conclusion of the leave period. A staff member is still entitled to





request reinstatement at the end of the leave period even if the staff member did not return to work in response to the district's notice. The district will then again determine whether there will be substantial and grievous economic injury from reinstatement based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the district will notify the staff member in writing (in person or by certified mail) of the denial of the restoration.

## 2. New Jersey Family Leave Act

The district may deny family leave to the staff member if the staff member is a salaried employee who is among the highest paid five percent of the school district staff or one of the seven highest paid employees of the district, whichever is greater, if the denial is necessary to prevent substantial and grievous economic injury to the school district's operations. The Superintendent shall notify the staff member of the intent to deny the leave at the time the Superintendent determines the denial is necessary. If the leave has already commenced at the time of the district's notification of denial, the staff member shall be permitted to return to work within ten working days of the date of notification.

## K. Verification of Leave

### 1. Federal Family and Medical Leave Act (FMLA)

The Board requires a staff member's FMLA leave to care for the staff member's seriously ill spouse, son, daughter, or parent; **or for a service member's qualifying exigency or serious injury; or for illness** due to the staff member's own serious health condition that makes the staff member unable to perform one or more of the essential functions of the staff member's position, be supported by a certification issued by the health care provider of the staff member or the staff member's ill family member. **The medical certification required encompasses both physical and psychological care and includes situations where a family member is unable to care for his/her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself/herself to the doctor. It can also include providing psychological comfort and reassurance beneficial to a child, spouse, or parent with a serious health condition who is receiving inpatient or home care and can include situations where the staff member may be needed to substitute**



**for others who normally care for the family member or covered service member or to make arrangements for changes in care. The staff member need not be the only individual or family member available to care for the family member or covered service member. 29 CFR §825.124**

The certification must meet the requirements of 29 CFR ~~Section~~ §§825.306, 309, and 310 to include: which part of the definition of “serious health condition” applies; the approximate date the serious health condition commenced and its probable duration; whether it will be necessary for the staff member to take intermittent and/or reduced leave; whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity; if additional treatments will be required for the condition; and/or if the patient’s incapacity will be intermittent or will require reduced leave. The certification of a serious health condition of a family member of the staff member shall be sufficient if it states the date on which the condition commenced, the probable duration of the condition, and the medical facts within the provider’s knowledge regarding the condition. Certification for the birth or placement of a child need only state the date of birth or date of placement.

In the event the Superintendent doubts the validity of the certification, in accordance with 29 CFR ~~Section~~ 825.307, the district may require, at the district’s expense, the staff member obtain an opinion regarding the serious health condition from a second health care provider designated by the district, but not employed on a regular basis by the district. If the second opinion differs from the staff member’s health care provider, the district may require, at the district’s expense, the staff member obtain the opinion of a third health care provider designated by the district or approved jointly, in good faith, by the district and the staff member. The opinion of the third health care provider shall be final and binding on the district and the staff member.

The district may require re-certification pursuant to the requirements of 29 CFR ~~Section~~ 825.308. In accordance with 29 CFR ~~Section~~ 825.309, the staff member on leave must provide a written report to the Superintendent every thirty workdays. The report shall include the staff member’s status and intended date to return to work. In the event the staff member’s circumstances change, the staff member must provide reasonable notice to the Superintendent if the staff member intends to return to work on a date



sooner than previously noticed to the district. The staff member is not required to take more leave than necessary to resolve the circumstance that precipitated the need for leave. As a condition of returning to work after the leave for the staff member's own serious health condition, and in accordance with 29 CFR ~~Section~~ 825.310, the district requires a staff member to provide a certification from their health care provider that the staff member is able to resume work.

In accordance with 29 CFR ~~Section~~ 825.311, the district may delay the taking of FMLA leave to a staff member who fails to provide certification within fifteen days after being requested to do so by the district. In accordance with 29 CFR ~~Section~~ 825.312, the district may delay the taking of leave until thirty days after the date the staff member provides notice to the district of foreseeable leave or the district may delay continuation of leave if a staff member fails to provide a requested medical certification in a timely manner.

## 2. New Jersey Family Leave Act

The Board shall require the certification of a duly licensed health care provider verifying the purpose of requested NJFLA leave. Certification of a serious health condition of a family member of the staff member shall be sufficient if it states the date on which the condition commenced, the probable duration of the condition, and the medical facts within the provider's knowledge regarding the condition. Certification for the birth or placement of a child need only state the date of birth or date of placement, whichever is appropriate.

In the event the Superintendent doubts the validity of the certification for the serious health condition of a family member of the staff member, the district may require, at the district's expense, the staff member to obtain an opinion regarding the serious health condition from a second health care provider designated or approved, but not employed on a regular basis, by the district. If the second opinion differs from the certification the district may require, at the district's expense, that the staff member obtain the opinion of a third health care provider designated or approved jointly by the district and the staff member concerning the serious health condition. The opinion of the third health care provider shall be final and binding on the district and the staff member.

## L. Interference with Family Leave Rights



The Federal Family and Medical Leave Act and the New Jersey Family Leave Act prohibit interference with a staff member's rights under the law, and with legal proceedings or inquiries relating to a staff member's rights. Unless permitted by the law, no staff member shall be required to take family leave or to extend family leave beyond the time requested. A staff member shall not be discriminated against for having exercised his/her rights under the Federal Family and Medical Leave Act or the New Jersey Family Leave Act nor discouraged from the use of family leave.

#### M. Non-Tenured Teaching Staff

Family leave granted to a non-tenured staff member cannot extend the ~~employee's~~ **staff member's** employment beyond the expiration of his/her employment contract.

#### N. Record Keeping

In order that staff member's entitlement to FMLA leave and NJFLA leave can be properly determined, the Superintendent shall ensure the keeping of accurate attendance records that distinguish family leave from other kinds of leave. The Superintendent will publish a notice explaining the Act's provisions and provide information concerning the procedures for filing complaints of violations of the FMLA and NJFLA.

#### O. Processing of Complaints

##### 1. Federal Family and Medical Leave Act (FMLA) 29 CFR §§825.400-401

- a. If there is a dispute between the district and a staff member as to whether leave qualifies as FMLA leave, it should be resolved through discussion between the staff member and the district. Such discussions and the decision shall be documented by the school district.
- b. The staff member also may file, or have another person file on his/her behalf, a complaint with the United States Secretary of Labor. A complaint may be filed in person, by mail, or by telephone with the Wage and Hour Division, Employment Standards Administration,



U.S. Department of Labor, at any local office of the  
Wage and Hour Division.

2. New Jersey Family Leave Act N.J.A.C. 13:14-1.16

- a. Any complaint alleging a violation of the Act shall be processed in the same manner as a complaint filed under the terms of N.J.S.A. 10:5-1 et seq. and N.J.A.C. 13:4 through the New Jersey Department of Law and Public Safety, Division on Civil Rights.

Implementation of FMLA and NJFLA will be consistent with provisions in collective bargaining agreement(s) in the district.

~~29 U.S.C. 2601 et seq.~~

~~29 CFR §825.200 et seq.~~

**29 CFR §785**

~~N.J.S.A. 34:11B-1 et seq.~~ **10:5-1**

N.J.A.C. 13:14-1 et seq.

Adopted: 21 January 1992

Revised: 19 October 1993, 17 October 1995, 17 December 2002, 21 December 2004, 17, May 2016



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**NEW**

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**SERVICE ANIMALS**

## **5337 SERVICE ANIMALS**

In compliance with Title II of the Americans with Disabilities Act (ADA) as amended by the ADA Amendments Act of 2008, it is the policy of the Board to permit use of a service animal by an individual with a disability in all areas of the district where the public is normally permitted: in district buildings; on district property; and on vehicles owned, leased, or controlled by the district. (28 CFR §35.136)

### **A. Definitions**

1. “Act” means the Americans with Disabilities Act (ADA) as amended by the ADA Amendments Act of 2008.
2. “Designated administrator” means Principal or person designated by the Principal to coordinate these activities.
3. “District” means this school district.
4. “Handler” means the animal’s owner or a person, such as a trainer, assisting the owner with control of the service animal.
5. “Service animal” means a dog individually trained to do work or perform a specific job or task for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. (28 CFR §36.104)
  - a. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.
  - b. The work or tasks performed by a service animal must be directly related to the individual's disability (e.g. navigation, alerting physical support and assistance, preventing or interrupting impulsive or destructive behaviors).
  - c. Work or tasks for the purposes of this definition do not include the provision of emotional support, well-being, comfort, therapy, companionship, or crime deterrence.

### **B. Generally**



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**SERVICE ANIMALS**

1. The district shall permit the use of a service animal by an individual with a disability unless:
  - a. The animal is out of control and the animal's handler does not take effective action to control it;
  - b. The animal is not housebroken.
2. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g. voice control, signals, or other effective means). (28 CFR §35.136(d))
3. If an animal is properly excluded, the district shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. (28 CFR §35.136(b))
4. If there are places in the district where it is determined to be unsafe for a handler and service animal, reasonable accommodations will be provided to assure the individual equal access to the activity.
5. Unless the need for a service animal is readily apparent, the handler will be required to provide the district with information that:
  - a. The service animal is required because of a disability; and
  - b. What work or task the animal has been trained to perform.
6. The district may not require documentation, including proof that the animal has been certified, trained, or licensed as a service animal; nor that the dog demonstrates its ability to perform the work or task. (28 CFR §35.136(f))





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**SERVICE ANIMALS**

7. Individuals who have service animals are not exempt from local animal control or public health requirements.
8. Service animals must be licensed and registered in accordance with State and local laws.

**C. Delegation of Responsibility**

1. The district is not responsible for the care or supervision of a service animal. (28 CFR §35.136(e))
2. If the district normally charges individuals for damage they cause, an individual with a disability may be charged for damage caused by his or her service animal. (28 CFR §35.136(h))
3. The district will designate relief areas for the service animal which will be included in mobility training and orientation of students and animals new to the school.

**D. Notification and Responsibilities**

1. In the event a service animal will be introduced as part of the school community, the designated administrator will develop a comprehensive implementation plan prior to introduction of the service animal into the school to include:
  - a. Notification to parents of students who may be in contact with the service animal;
  - b. Appropriate etiquette regarding service animals to include:
    - (1) Never pet a service animal while it is working;
    - (2) Never feed a working service animal;
    - (3) Do not deliberately startle, tease, or taunt a service animal;
    - (4) Do not hesitate to ask the handler if he or she would like assistance regarding directions or the facility.
2. The use of a service animal introduced as part of the school community will require inclusion into the student's



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**Individualized Education Plan (IEP) or the student's Section 504 Accommodation Plan.**

3. The district will require that the owner of a service animal introduced as part of the school community and, as included in the student's IEP or Section 504 Accommodation Plan, maintain liability insurance for the service animal in the amount required by the Board of Education.

**E. Miniature Horses**

1. Miniature horses, although not included in the Act under the definition of "service animal," may only be permitted if individually trained to do work or perform tasks for the benefit of the individual with a disability and if they meet the assessment factors outlined in 3. below. (28 CFR §35.136(i))
2. Ponies and full size horses are not considered miniature horses.
3. Assessment factors to determine whether the district can reasonably modify its policies, practices, and procedures to allow for the use of miniature horses on its property, facilities, or vehicles include:
  - a. Type, size, and weight of the miniature horse and whether the facility can accommodate those features;
  - b. Whether the handler has sufficient control of the miniature horse;
  - c. Whether the miniature horse is housebroken; and
  - d. Whether the miniature horse's presence compromises legitimate safety requirements necessary for safe operation.
4. All requirements for the use of service animals also apply to the use of miniature horses.

28 CFR §35.136

28 CFR §36.104

Adopted: 17 May 2016

