

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3060

STATE OF NEW JERSEY
215th LEGISLATURE

ADOPTED JUNE 21, 2012

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SYNOPSIS

“Teacher Effectiveness and Accountability for the Children of New Jersey
(TEACHNJ) Act.”

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Budget Committee.

(Sponsorship Updated As Of: 6/26/2012)

1 **AN ACT** concerning school employees, revising various parts of the
2 statutory law, and supplementing chapters 6 and 28 of Title 18A
3 of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) This act shall be known and may be cited as
9 the “Teacher Effectiveness and Accountability for the Children of
10 New Jersey (TEACHNJ) Act.”

11
12 2. (New section) The Legislature finds and declares that:

13 a. The goal of this legislation is to raise student achievement
14 by improving instruction through the adoption of evaluations that
15 provide specific feedback to educators, inform the provision of
16 aligned professional development, and inform personnel decisions;

17 b. The New Jersey Supreme Court has found that a multitude
18 of factors play a vital role in the quality of a child’s education,
19 including effectiveness in teaching methods and evaluations.
20 Changing the current evaluation system to focus on improved
21 student outcomes, including objective measures of student growth,
22 is critical to improving teacher effectiveness, raising student
23 achievement, and meeting the objectives of the federal “No Child
24 Left Behind Act of 2001”; and

25 c. Existing resources from federal, State, and local sources
26 should be used in ways consistent with this law.

27
28 3. (New section) As used in sections 12 through 17, 19
29 through 21, and 24 of P.L. , c. (C.) (pending before the
30 Legislature as this bill):

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

39 “Evaluation” means a process based on the individual’s job
40 description, professional standards and Statewide evaluation criteria
41 that incorporates analysis of multiple measures of student progress
42 and multiple data sources. Such evaluation shall include formal
43 observations, as well as post conferences, conducted and prepared
44 by an individual employed in the district in a supervisory role and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 capacity and possessing a school administrator certificate, principal
2 certificate, or supervisor certificate.

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

17 “Ineffective” or “partially effective” means the employee
18 receives an annual summative evaluation rating of “ineffective” or
19 “partially effective” based on the performance standards for his
20 position established through the evaluation rubric adopted by the
21 board of education and approved by the commissioner.

22 “Multiple objective measures of student learning” means the
23 results of formal and informal assessments of students. Such
24 measures may include a combination of, but are not limited to:
25 teacher-set goals for student learning; student performance
26 assessments, including portfolio projects, problem-solving
27 protocols, and internships; teacher-developed assessments;
28 standardized assessments; and district-established assessments.

29 “Professional standards” means the New Jersey Professional
30 Standards for Teachers and the New Jersey Professional Standards
31 for School Leaders recommended by the commissioner and adopted
32 by the State Board of Education.

33 “Teaching staff member” means a member of the professional
34 staff of any district or regional board of education, or any board of
35 education of a county vocational school, holding office, position or
36 employment of such character that the qualifications, for such
37 office, position or employment, require him to hold a valid and
38 effective standard, provisional or emergency certificate, appropriate
39 to his office, position or employment, issued by the State Board of
40 Examiners and includes a school nurse and a school athletic trainer.

41

42 4. N.J.S.18A:6-9 is amended to read as follows:

43 18A:6-9. The commissioner shall have jurisdiction to hear and
44 determine, without cost to the parties, all controversies and disputes
45 arising under the school laws, excepting those governing higher
46 education, or under the rules of the state board or of the
47 commissioner. For the purposes of this Title, controversies and

1 disputes concerning the conduct of school elections shall not be
2 deemed to arise under the school laws.

3 Notwithstanding the provisions of this section to the contrary, an
4 arbitrator shall hear and make a final determination on a
5 controversy and dispute arising under subarticle B of article 2 of
6 chapter 6 of Title 18A of the New Jersey Statutes (C.18A:6-10 et
7 seq.).

8 (cf: P.L.1995, c.278, s.24)

9

10 5. N.J.S.18A:6-11 is amended to read as follows:

11 18A:6-11. Any charge made against any employee of a board of
12 education under tenure during good behavior and efficiency shall be
13 filed with the secretary of the board in writing, and a written
14 statement of evidence under oath to support such charge shall be
15 presented to the board. The board of education shall forthwith
16 provide such employee with a copy of the charge, a copy of the
17 statement of the evidence and an opportunity to submit a written
18 statement of position and a written statement of evidence under oath
19 with respect thereto. After consideration of the charge, statement of
20 position and statements of evidence presented to it, the board shall
21 determine by majority vote of its full membership whether there is
22 probable cause to credit the evidence in support of the charge and
23 whether such charge, if credited, is sufficient to warrant a dismissal
24 or reduction of salary. The board of education shall forthwith
25 notify the employee against whom the charge has been made of its
26 determination, personally or by certified mail directed to his last
27 known address. In the event the board finds that such probable
28 cause exists and that the charge, if credited, is sufficient to warrant
29 a dismissal or reduction of salary, then it shall forward such written
30 charge to the commissioner for a hearing pursuant to N.J.S. 18A:6-
31 16, together with a certificate of such determination. **【**Provided,
32 however, that if the charge is inefficiency, prior to making its
33 determination as to certification, the board shall provide the
34 employee with written notice of the alleged inefficiency, specifying
35 the nature thereto, and allow at least 90 days in which to correct and
36 overcome the inefficiency.**】** The consideration and actions of the
37 board as to any charge shall not take place at a public meeting.

38 (cf: P.L.1975, c. 304, s. 1)

39

40 6. N.J.S.18A:6-13 is amended to read as follows:

41 18A:6-13. If the board does not make such a determination
42 within 45 days after receipt of the written charge **【**, or within 45
43 days after the expiration of the time for correction of the
44 inefficiency, if the charge is of inefficiency**】**, the charge shall be
45 deemed to be dismissed and no further proceeding or action shall be
46 taken thereon.

47 (cf: N.J.S.18A:6-13)

1 7. N.J.S.18A:6-14 is amended to read as follows:

2 18A:6-14. Upon certification of any charge to the commissioner,
3 the board may suspend the person against whom such charge is
4 made, with or without pay, but, if the determination of the charge
5 by the **[Commissioner of Education]** arbitrator is not made within
6 120 calendar days after certification of the charges, excluding all
7 delays which are granted at the request of such person, then the full
8 salary (except for said 120 days) of such person shall be paid
9 beginning on the one hundred twenty-first day until such
10 determination is made. Should the charge be dismissed at any stage
11 of the process, the person shall be reinstated immediately with full
12 pay from the first day of such suspension. Should the charge be
13 dismissed at any stage of the process and the suspension be
14 continued during an appeal therefrom, then the full pay or salary of
15 such person shall continue until the determination of the appeal.
16 However, the board of education shall deduct from said full pay or
17 salary any sums received by such employee or officers by way of
18 pay or salary from any substituted employment assumed during
19 such period of suspension. Should the charge be sustained on the
20 original hearing or an appeal therefrom, and should such person
21 appeal from the same, then the suspension may be continued unless
22 and until such determination is reversed, in which event he shall be
23 reinstated immediately with full pay as of the time of such
24 suspension.

25 (cf: P.L.1971, c.435, s.2)

26

27 8. N.J.S.18A:6-16 is amended to read as follows:

28 18A:6-16. Upon receipt of such a charge and certification, or of
29 a charge lawfully made to the commissioner, the commissioner or
30 the person appointed to act in the commissioner's behalf in the
31 proceedings shall examine the charges and certification. The
32 individual against whom the charges are certified shall have 15 days
33 to submit a written response to the charges to the commissioner.
34 Upon a showing of good cause, the commissioner may grant an
35 extension of time. The commissioner shall render a determination
36 on the sufficiency of charges **[and shall refer the case to the Office**
37 **of Administrative Law, if appropriate,]** as set forth below within
38 **[15]** 10 days immediately following the period provided for a
39 written response to the charges.

40 If, following receipt of the written response to the charges, the
41 commissioner is of the opinion that they are not sufficient to
42 warrant dismissal or reduction in salary of the person charged, he
43 shall dismiss the same and notify said person accordingly. If,
44 however, he shall determine that such charge is sufficient to warrant
45 dismissal or reduction in salary of the person charged, he shall
46 **[within 10 days of making that determination]** refer the case to **[the**
47 **Office of Administrative Law]** an arbitrator pursuant to section 22

1 of P.L. , c. (C.) (pending before the Legislature as this bill) for
2 further proceedings, except that when a motion for summary
3 decision has been made prior to that time, the commissioner may
4 retain the matter for purposes of deciding the motion.

5 (cf: P.L.1998, c.42, s.2)

6

7 9. N.J.S.18A:28-5 is amended to read as follows:

8 18A:28-5. a. The services of all teaching staff members
9 employed prior to the effective date of P.L. , c. (C.) (pending
10 before the Legislature as this bill) in the positions of teacher,
11 principal, other than administrative principal, assistant principal,
12 vice-principal, assistant superintendent, and all school nurses
13 including school nurse supervisors, head school nurses, chief school
14 nurses, school nurse coordinators, and any other nurse performing
15 school nursing services, school athletic trainer and such other
16 employees as are in positions which require them to hold
17 appropriate certificates issued by the board of examiners, serving in
18 any school district or under any board of education, excepting those
19 who are not the holders of proper certificates in full force and effect
20 and school business administrators shared by two or more school
21 districts, shall be under tenure during good behavior and efficiency
22 and they shall not be dismissed or reduced in compensation except
23 for inefficiency, incapacity, or conduct unbecoming such a teaching
24 staff member or other just cause and then only in the manner
25 prescribed by subarticle B of article 2 of chapter 6 of this Title,
26 after employment in such district or by such board for:

27 **[(a)]** (1) Three consecutive calendar years, or any shorter period
28 which may be fixed by the employing board for such purpose; or

29 **[(b)]** (2) Three consecutive academic years, together with
30 employment at the beginning of the next succeeding academic year;
31 or

32 **[(c)]** (3) The equivalent of more than three academic years
33 within a period of any four consecutive academic years.

34 b. The services of all teaching staff members employed on or
35 after the effective date of P.L. , c. (C.) (pending before the
36 Legislature as this bill) in the position of teacher, principal, other
37 than administrative principal, assistant principal, vice-principal,
38 assistant superintendent, and all school nurses, including school
39 nurse supervisors, head school nurses, chief school nurses, school
40 nurse coordinators, and any other nurse performing school nursing
41 services, school athletic trainer and such other employees as are in
42 positions which require them to hold appropriate certificates issued
43 by the board of examiners, serving in any school district or under
44 any board of education, excepting those who are not the holders of
45 proper certificates in full force and effect, and school business
46 administrators shared by two or more school districts, shall be
47 under tenure during good behavior and efficiency and they shall not

1 be dismissed or reduced in compensation except for inefficiency,
2 incapacity, or conduct unbecoming such a teaching staff member or
3 other just cause and then only in the manner prescribed by
4 subarticle B of article 2 of chapter 6 of this Title, after employment
5 in such district or by such board for:

- 6 (1) Four consecutive calendar years; or
7 (2) Four consecutive academic years, together with employment
8 at the beginning of the next succeeding academic year; or
9 (3) The equivalent of more than four academic years within a
10 period of any five consecutive academic years.

11 In order to achieve tenure pursuant to this subsection, a teacher
12 shall also complete a district mentorship program during the initial
13 year of employment and receive a rating of effective or highly
14 effective in two annual summative evaluations within the first three
15 years of employment after the initial year of employment in which
16 the teacher completes the district mentorship program. In order to
17 achieve tenure pursuant to this subsection, a principal, assistant
18 principal, and vice-principal shall also receive a rating of effective
19 or highly effective in two annual summative evaluations within the
20 first three years of employment with the first effective rating being
21 received on or after the completion of the second year of
22 employment.

23 For purposes of this subsection, “effective” or “highly effective”
24 means the employee has received an annual summative evaluation
25 rating of “effective” or “highly effective” based on the performance
26 standards for his position established through the evaluation rubric
27 adopted by the board of education and approved by the
28 commissioner.

29 c. For purposes of this chapter, tenure in any of the
30 administrative or supervisory positions enumerated herein shall
31 accrue only by employment in that administrative or supervisory
32 position. Tenure so accrued shall not extend to any other
33 administrative or supervisory position and nothing herein shall limit
34 or restrict tenure rights which were or may be acquired pursuant to
35 N.J.S.18A:28-6 in a position in which the individual actually
36 served.

37 (cf: P.L.1999, c.87, s.3)

38

39 10. N.J.S.18A:28-6 is amended to read as follows:

40 18A:28-6. a. Any such teaching staff member under tenure or
41 eligible to obtain tenure under this chapter, who is transferred or
42 promoted with his consent to another position covered by this
43 chapter on or after July 1, 1962, shall not obtain tenure in the new
44 position until after:

- 45 **[(a)]** (1) the expiration of a period of employment of two
46 consecutive calendar years in the new position unless a shorter
47 period is fixed by the employing board for such purpose; or

1 **[(b)]** (2) employment for two academic years in the new
2 position together with employment in the new position at the
3 beginning of the next succeeding academic year; or

4 **[(c)]** (3) employment in the new position within a period of any
5 three consecutive academic years, for the equivalent of more than
6 two academic years;

7 provided that the period of employment in such new position
8 shall be included in determining the tenure and seniority rights in
9 the former position held by such teaching staff member, and in the
10 event the employment in such new position is terminated before
11 tenure is obtained therein, if he then has tenure in the district or
12 under said board of education, such teaching staff member shall be
13 returned to his former position at the salary which he would have
14 received had the transfer or promotion not occurred together with
15 any increase to which he would have been entitled during the period
16 of such transfer or promotion.

17 b. Any such teaching staff member under tenure or eligible to
18 obtain tenure under this chapter, who is transferred or promoted
19 with his consent to another position covered by this chapter on or
20 after the effective date of P.L. , c. (C.) (pending the
21 Legislature as this bill), shall not obtain tenure in the new position
22 until after:

23 (1) the expiration of a period of employment of two consecutive
24 calendar years in the new position; or

25 (2) employment for two academic years in the new position
26 together with employment in the new position at the beginning of
27 the next succeeding academic year; or

28 (3) employment in the new position within a period of any three
29 consecutive academic years, for the equivalent of more than two
30 academic years;

31 provided that the period of employment in such new position
32 shall be included in determining the tenure and seniority rights in
33 the former position held by such teaching staff member, and in the
34 event the employment in such new position is terminated before
35 tenure is obtained therein, if he then has tenure in the district or
36 under said board of education, such teaching staff member shall be
37 returned to his former position at the salary which he would have
38 received had the transfer or promotion not occurred together with
39 any increase to which he would have been entitled during the period
40 of such transfer or promotion.

41 In order to receive tenure pursuant to this subsection, a teacher,
42 principal, assistant principal, and vice-principal shall be evaluated
43 as effective or highly effective in two annual summative evaluations
44 within the first three years of employment in the new position.

45 For purposes of this subsection, “effective” or “highly effective”
46 means the employee has received an annual summative evaluation
47 rating of “effective” or “highly effective” based on the performance

1 standards for his position established through the evaluation rubric
2 adopted by the board of education and approved by the
3 commissioner.

4 (cf: N.J.S.18A:28-6)

5
6 11. (New section) A tenured teaching staff member who has
7 been rated effective or highly effective on his most recent annual
8 summative evaluation, and who accepts employment in the same
9 position in an underperforming school shall be under tenure in that
10 position in the new district during good behavior and efficiency and
11 shall not be dismissed or reduced in compensation except for
12 inefficiency, incapacity, or conduct unbecoming such a teaching
13 staff member or other just cause and then only in the manner
14 prescribed by subarticle B of article 2 of chapter 6 of this Title,
15 after the employee receives a rating of effective or highly effective
16 in at least one of the annual summative evaluations within the first
17 two years of employment in the new school.

18 For purposes of this subsection, “effective” or “highly effective”
19 means the employee has received an annual summative evaluation
20 rating of “effective” or “highly effective” based on the performance
21 standards for his position established through the evaluation rubric
22 adopted by the board of education and approved by the
23 commissioner.

24 As used in this section, “underperforming school” means a
25 school which has been identified by the Department of Education as
26 a “focus school” or a “priority school” for any year within a two
27 year period.

28
29 12. (New section) a. In order to ensure the effectiveness of its
30 teachers, each school shall convene a school improvement panel. A
31 panel shall include the principal, or his designee, an assistant or
32 vice-principal, and a teacher. The principal’s designee shall be an
33 individual employed in the district in a supervisory role and
34 capacity who possesses a school administrator certificate, principal
35 certificate, or supervisor certificate. The teacher shall be a person
36 with a demonstrated record of success in the classroom who shall be
37 selected in consultation with the majority representative. An
38 individual teacher shall not serve more than three consecutive years
39 on any one school improvement panel. In the event that an assistant
40 or vice-principal is not available to serve on the panel, the principal
41 shall appoint an additional member to the panel, who is employed in
42 the district in a supervisory role and capacity and who possesses a
43 school administrator certificate, principal certificate, or supervisor
44 certificate.

45 Nothing in this section shall prevent a district that has entered a
46 shared services agreement for the functions of the school

1 improvement panel from providing services under that shared
2 services agreement.

3 b. The panel shall oversee the mentoring of teachers and
4 conduct evaluations of teachers, including an annual summative
5 evaluation, provided that the teacher on the school improvement
6 panel shall not be included in the evaluation process, except in
7 those instances in which the majority representative has agreed to
8 the contrary. The panel shall also identify professional
9 development opportunities for all instructional staff members that
10 are tailored to meet the unique needs of the students and staff of the
11 school.

12 c. The panel shall conduct a mid-year evaluation of any
13 employee in the position of teacher who is evaluated as ineffective
14 or partially effective in his most recent annual summative
15 evaluation, provided that the teacher on the school improvement
16 panel shall not be included in the mid-year evaluation process,
17 except in those instances in which the majority representative has
18 agreed to the contrary.

19 d. Information related to the evaluation of a particular
20 employee shall be maintained by the school district, shall be
21 confidential, and shall not be accessible to the public pursuant to
22 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.
23

24 13. (New section) a. In order to ensure the effectiveness of the
25 schools in the district, the superintendent of schools or his designee
26 shall conduct evaluations of each principal employed by the school
27 district, including an annual summative evaluation.

28 b. The principal, in conjunction with the superintendent or his
29 designee, shall conduct evaluations of each assistant principal and
30 vice-principal employed in his school, including an annual
31 summative evaluation.

32 c. The superintendent or his designee and the principal, as
33 appropriate, shall conduct a mid-year evaluation of any principal,
34 assistant principal, or vice-principal who is evaluated as ineffective
35 or partially effective in his most recent annual summative
36 evaluation.

37 d. Information related to the evaluation of a particular
38 employee shall be maintained by the school district, shall be
39 confidential, and shall not be accessible to the public pursuant to
40 P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.
41

42 14. (New section) a. A board of education shall implement a
43 researched-based mentoring program that pairs effective,
44 experienced teachers with first-year teachers to provide observation
45 and feedback, opportunities for modeling, and confidential support
46 and guidance in accordance with the Professional Standards for
47 Teachers and the evaluation rubric.

1 b. The mentoring program shall: enhance teacher knowledge
2 of, and strategies related to, the core curriculum content standards
3 in order to facilitate student achievement and growth; identify
4 exemplary teaching skills and educational practices necessary to
5 acquire and maintain excellence in teaching; and assist first-year
6 teachers in the performance of their duties and adjustment to the
7 challenges of teaching. To the greatest extent feasible, mentoring
8 activities shall be developed in consultation with the school
9 improvement panels established pursuant to section 12 of P.L. , c.
10 (C.) (pending before the Legislature as this bill) in order to be
11 responsive to the unique needs of different teachers in different
12 instructional settings.

13

14 15. (New section) a. A board of education, principal, or
15 superintendent shall provide its teaching staff members with
16 ongoing professional development that supports student
17 achievement and with an individual professional development plan.
18 To the greatest extent feasible, professional development
19 opportunities shall be developed in consultation with the school
20 improvement panels established pursuant to section 12 of P.L. , c.
21 (C.) (pending before the Legislature as this bill) in order to be
22 responsive to the unique needs of different instructional staff
23 members in different instructional settings.

24 b. A board of education, principal, or superintendent shall
25 provide additional professional development for any teaching staff
26 member who fails or is struggling to meet the performance
27 standards established by the board, as documented in the teaching
28 staff member's annual summative evaluation. The additional
29 professional development shall be designed to correct the needs
30 identified in the annual summative evaluation.

31 A corrective action plan shall be developed by the teaching staff
32 member and a teaching staff member serving in a supervisory
33 capacity to address deficiencies outlined in the evaluation when the
34 employee is rated ineffective or partially effective. The corrective
35 action plan shall include timelines for corrective action and
36 responsibilities of the teaching staff member and the school district
37 for implementation of the plan.

38 c. All funds budgeted by a school district for professional
39 development shall be used primarily to provide the professional
40 development required pursuant to the provisions of P.L. , c. (C.)
41 (pending before the Legislature as this bill).

42

43 16. (New section) a. A school district shall annually submit to
44 the Commissioner of Education, for review and approval, the
45 evaluation rubrics that the district will use to assess the
46 effectiveness of its teachers, principals, assistant principals, and
47 vice-principals and all other teaching staff members. The board

1 shall ensure that an approved rubric meets the minimum standards
2 established by the State Board of Education.

3 b. Notwithstanding the provisions of subsection a. of this
4 section, a school district may choose to use the model evaluation
5 rubric established by the commissioner pursuant to subsection f. of
6 section 17 of P.L. , c. (C.) (pending before the Legislature as
7 this bill) to assess the effectiveness of its teachers, principals,
8 assistant principals, and vice-principals and all other teaching staff
9 members. In the case in which the district fails to submit a rubric
10 for review and approval, the model rubric shall be used by the
11 district to assess the effectiveness of its teachers, principals,
12 assistant principals, and vice-principals and all other teaching staff
13 members.

14

15 17. (New section) a. The Commissioner of Education shall
16 review and approve evaluation rubrics submitted by school districts
17 pursuant to section 16 of P.L. , c. (C.) (pending before the
18 Legislature as this bill). The board of education shall adopt a rubric
19 approved by the commissioner.

20 b. The State Board of Education shall promulgate regulations
21 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
22 (C.52:14B-1 et seq.), to set standards for the approval of evaluation
23 rubrics for teachers, principals, assistant principals, and vice-
24 principals. The standards at a minimum shall include:

25 (1) four defined annual rating categories for teachers, principals,
26 assistant principals, and vice-principals: ineffective, partially
27 effective, effective, and highly effective;

28 (2) a provision requiring that the rubric be partially based on
29 multiple objective measures of student learning that use student
30 growth from one year’s measure to the next year’s measure;

31 (3) a provision that allows the district, in grades in which a
32 standardized test is not required, to determine the methods for
33 measuring student growth;

34 (4) a provision that multiple measures of practice and student
35 learning be used in conjunction with professional standards of
36 practice using a comprehensive evaluation process in rating
37 effectiveness with specific measures and implementation processes.
38 Standardized assessments shall be used as a measure of student
39 progress but shall not be the predominant factor in the overall
40 evaluation of a teacher;

41 (5) a provision that the rubric be based on the professional
42 standards for that employee;

43 (6) a provision ensuring that performance measures used in the
44 rubric are linked to student achievement;

45 (7) a requirement that the employee receive multiple
46 observations during the school year which shall be used in
47 evaluating the employee;

1 (8) a provision that requires that at each observation of a
2 teacher, either the principal, his designee who shall be an individual
3 employed in the district in a supervisory role and capacity and who
4 possesses a school administrator certificate, principal certificate, or
5 supervisor certificate, the vice-principal, or the assistant principal
6 shall be present;

7 (9) an opportunity for the employee to improve his effectiveness
8 from evaluation feedback;

9 (10) guidelines for school districts regarding training and the
10 demonstration of competence on the evaluation system to support
11 its implementation;

12 (11) a process for ongoing monitoring and calibration of the
13 observations to ensure that the observation protocols are being
14 implemented correctly and consistently;

15 (12) a performance framework, associated evaluation tools, and
16 observation protocols, including training and observer calibration
17 resources;

18 (13) a process for a school district to obtain the approval of the
19 commissioner to utilize other evaluation tools; and

20 (14) a process for ensuring that the results of the evaluation help
21 to inform instructional development.

22 c. A board of education shall adopt a rubric approved by the
23 commissioner by December 31, 2012.

24 d. Beginning no later than January 31, 2013, a board of
25 education shall implement a pilot program to test and refine the
26 evaluation rubric.

27 e. Beginning with the 2013-2014 school year, a board of
28 education shall ensure implementation of the approved, adopted
29 evaluation rubric for all educators in all elementary, middle, and
30 high schools in the district. Results of evaluations shall be used to
31 identify and provide professional development to teaching staff
32 members. Results of evaluations shall be provided to the
33 commissioner, as requested, on a regular basis.

34 f. The commissioner shall establish a model evaluation rubric
35 that may be utilized by a school district to assess the effectiveness
36 of its teaching staff members.

37
38 18. (New section) Any tenure charge transmitted to the Office
39 of Administrative Law pursuant to N.J.S.18A:6-16 prior to the
40 effective date of P.L. , c. (C.) (pending before the Legislature
41 as this bill) shall be determined in accordance with the provisions of
42 subarticle B of Article 2 of chapter 6 of Title 18A of the New Jersey
43 Statutes, N.J.S.18A:6-10 et seq., as the same read prior to the
44 effective date of P.L. , c. (C.) (pending before the Legislature
45 as this bill).

1 19. (New section) A school district's evaluation rubric
2 approved by the commissioner pursuant to section 16 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill) shall not be
4 subject to collective negotiations.

5
6 20. (New section) The Department of Education shall provide
7 the funds necessary to effectuate the provisions of this act.

8
9 21. (New section) No collective bargaining agreement or other
10 contract entered into by a school district after July 1, 2013 shall
11 conflict with the educator evaluation system established pursuant to
12 P.L. , c. (C.) (pending before the Legislature as this bill). A
13 district with an existing collective bargaining agreement on July 1
14 2013 which conflicts in whole or in part with the educator
15 evaluation system established pursuant to that act, shall implement
16 in accordance with that act those provisions not in conflict with the
17 collective bargaining agreement.

18 Notwithstanding the provisions of this act, aspects of evaluation
19 not superseded by statute or regulation shall continue to be
20 mandatory subjects of collective negotiations.

21
22 22. (New section) a. The Commissioner of Education shall
23 maintain a panel of 25 permanent arbitrators to hear matters
24 pursuant to N.J.S.18A:6-16. Of the 25 arbitrators, eight arbitrators
25 shall be designated by the New Jersey Education Association, three
26 arbitrators shall be designated by the American Federation of
27 Teachers, nine arbitrators shall be designated by the New Jersey
28 School Boards Association, and five arbitrators shall be designated
29 by the New Jersey Principals and Supervisors Association. The
30 commissioner shall inform the appropriate designating entity when
31 a vacancy exists. If the appropriate entity does not designate an
32 arbitrator within 30 days, the commissioner shall designate an
33 arbitrator to fill that vacancy.

34 All arbitrators designated pursuant to this section shall serve on
35 the American Arbitration Association panel of labor arbitrators and
36 shall be members of the National Academy of Arbitrators. The
37 arbitrators shall have knowledge and experience in the school
38 employment sector. Arbitrators on the permanent panel shall be
39 assigned by the commissioner randomly to hear cases.

40 b. The following provisions shall apply to a hearing conducted
41 by an arbitrator pursuant to N.J.S.18A:6-16, except as otherwise
42 provided pursuant to P.L. , c. (C.) (pending before the
43 Legislature as this bill):

44 (1) The hearing shall be held before the arbitrator within 45
45 days of the assignment of the arbitrator to the case;

1 (2) The arbitrator shall receive no more than \$1250 per day and
2 no more than \$7500 per case. The costs and expenses of the
3 arbitrator shall be borne by the State of New Jersey;

4 (3) Upon referral of the case for arbitration, the employing
5 board of education shall provide all evidence including, but not
6 limited to, documents, electronic evidence, statements of witnesses,
7 and a list of witnesses with a complete summary of their testimony,
8 to the employee or the employee's representative. The employing
9 board of education shall be precluded from presenting any
10 additional evidence at the hearing, except for purposes of
11 impeachment of witnesses. At least 10 days prior to the hearing,
12 the employee shall provide all evidence upon which he will rely
13 including, but not limited to, documents, electronic evidence,
14 statements of witnesses, and a list of witnesses with a complete
15 summary of their testimony, to the employing board of education or
16 its representative. The employee shall be precluded from
17 presenting any additional evidence at the hearing except for
18 purposes of impeachment of witnesses.

19 Discovery shall not include depositions, and interrogatories shall
20 be limited to 25 without subparts.

21 c. The arbitrator shall determine the case under the American
22 Arbitration Association labor arbitration rules. In the event of a
23 conflict between the American Arbitration Association labor
24 arbitration rules and the procedures established pursuant to this
25 section, the procedures established pursuant to this section shall
26 govern.

27 d. Notwithstanding the provisions of N.J.S.18A:6-25 or any
28 other section of law to the contrary, the arbitrator shall render a
29 written decision within 45 days of the start of the hearing.

30 e. The arbitrator's determination shall be final and binding and
31 may not be appealable to the commissioner or the State Board of
32 Education. The determination shall be subject to judicial review
33 and enforcement as provided pursuant to N.J.S.2A:24-7 through
34 N.J.S.2A:24-10.

35 f. Timelines set forth herein shall be strictly followed; the
36 arbitrator or any involved party shall inform the commissioner of
37 any timeline that is not adhered to.

38 g. An arbitrator may not extend the timeline of holding a
39 hearing beyond 45 days of the assignment of the arbitrator to the
40 case without approval from the commissioner. An arbitrator may
41 not extend the timeline for rendering a written decision within 45
42 days of the start of the hearing without approval from the
43 commissioner. Extension requests shall occur before the 41st day of
44 the respective timelines set forth herein. The commissioner shall
45 approve or disapprove extension requests within five days of
46 receipt.

1 h. The commissioner may remove any arbitrator from an
2 arbitration case or an arbitration panel if an arbitrator does not
3 adhere to the timelines set forth herein without approval from the
4 commissioner. If the commissioner removes an arbitrator from an
5 arbitration case, the commissioner shall refer the case to a new
6 arbitrator within five days. The newly-assigned arbitrator shall
7 convene a new hearing and then render a written decision within 45
8 days of being referred the case.

9
10 23. (New section) a. In the event that the matter before the
11 arbitrator pursuant to section 22 of this act is employee inefficiency
12 pursuant to section 25 of this act, in rendering a decision the
13 arbitrator shall only consider whether or not:

14 (1) the employee's evaluation failed to adhere substantially to
15 the evaluation process, including, but not limited to providing a
16 corrective action plan;

17 (2) there is a mistake of fact in the evaluation;

18 (3) the charges would not have been brought but for
19 considerations of political affiliation, nepotism, union activity,
20 discrimination as prohibited by State or federal law, or other
21 conduct prohibited by State or federal law; or

22 (4) the district's actions were arbitrary and capricious.

23 b. In the event that the employee is able to demonstrate that
24 any of the provisions of paragraph (1) through (4) of subsection a.
25 of this section are applicable, the arbitrator shall then determine if
26 that fact materially affected the outcome of the evaluation. If the
27 arbitrator determines that it did not materially affect the outcome of
28 the evaluation, the arbitrator shall render a decision in favor of the
29 board and the employee shall be dismissed.

30 c. The evaluator's determination as to the quality of an
31 employee's classroom performance shall not be subject to an
32 arbitrator's review.

33 d. The board of education shall have the ultimate burden of
34 demonstrating to the arbitrator that the statutory criteria for tenure
35 charges have been met.

36 e. The hearing shall be held before the arbitrator within 45
37 days of the assignment of the arbitrator to the case. The arbitrator
38 shall render a written decision within 45 days of the start of the
39 hearing.

40
41 24. (New section) The State Board of Education shall
42 promulgate regulations pursuant to the "Administrative Procedure
43 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in accordance with an
44 expeditious time frame, to set standards for the approval of
45 evaluation rubrics for all teaching staff members, other than those
46 included under the provisions of subsection b. of section 17 of
47 P.L. , c. (C.) (pending before the Legislature as this bill). The

1 standards at a minimum shall include: four defined annual rating
2 categories: ineffective, partially effective, effective, and highly
3 effective.

4

5 25. (New section) a. Notwithstanding the provisions of
6 N.J.S.18A:6-11 or any other section of law to the contrary, in the
7 case of a teacher, principal, assistant principal, and vice-principal:

8 (1) the superintendent shall promptly file with the secretary of
9 the board of education a charge of inefficiency whenever the
10 employee is rated ineffective or partially effective in an annual
11 summative evaluation and the following year is rated ineffective in
12 the annual summative evaluation;

13 (2) if the employee is rated partially effective in two consecutive
14 annual summative evaluations or is rated ineffective in an annual
15 summative evaluation and the following year is rated partially
16 effective in the annual summative evaluation, the superintendent
17 shall promptly file with the secretary of the board of education a
18 charge of inefficiency, except that the superintendent upon a written
19 finding of exceptional circumstances may defer the filing of tenure
20 charges until after the next annual summative evaluation. If the
21 employee is not rated effective or highly effective on this annual
22 summative evaluation, the superintendent shall promptly file a
23 charge of inefficiency.

24 b. Within 30 days of the filing, the board of education shall
25 forward a written charge to the commissioner, unless the board
26 determines that the evaluation process has not been followed.

27 c. Notwithstanding the provisions of N.J.S.18A:6-16 or any
28 other section of law to the contrary, upon receipt of a charge
29 pursuant to subsection a. of this section, the commissioner shall
30 examine the charge. The individual against whom the charges are
31 filed shall have 10 days to submit a written response to the charges
32 to the commissioner. The commissioner shall, within five days
33 immediately following the period provided for a written response to
34 the charges, refer the case to an arbitrator and appoint an arbitrator
35 to hear the case, unless he determines that the evaluation process
36 has not been followed.

37 d. The only evaluations which may be used for purposes of this
38 section are those evaluations conducted in accordance with a rubric
39 adopted by the board and approved by the commissioner pursuant to
40 P.L. , c. (C.) (pending before the Legislature as this bill).

41

42 26. (New section) The commissioner shall have the authority to
43 extend the timelines in the tenure charge process upon a showing of
44 exceptional circumstances.

45

46 27. The following section is repealed:

47 Section 1 of P.L.1998, c. 42 (C.52:14B-10.1).

1 28. This act shall take effect in the 2012-2013 school year,
2 except that section 17 of this act shall take effect immediately. The
3 Department of Education shall take such anticipatory administrative
4 action in advance thereof as shall be necessary for the
5 implementation of this act.