

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1455

STATE OF NEW JERSEY
215th LEGISLATURE

ADOPTED JUNE 18, 2012

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator KEVIN J. O'TOOLE

District 40 (Bergen, Essex, Morris and Passaic)

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblyman ALBERT COUTINHO

District 29 (Essex)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Hunterdon and Mercer)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Co-Sponsored by:

**Senators Allen, Stack, Assemblyman O'Donnell, Assemblywoman Vainieri
Huttle, Assemblymen Cryan, McKeon, Assemblywoman Stender,
Assemblyman Giblin, Assemblywomen Caride, Quijano and Assemblyman
Conaway**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 21, 2012, with
amendments.

(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 ¹[13 through 18, 20
29 through 22, and 25] 12 through 17, 19 through 21, and 24¹ of
30 P.L. , c. (C.) (pending before the Legislature as this
31 bill):

32 ¹["Business day" means any day other than Saturday, Sunday, or
33 a nationally or State recognized holiday.]¹

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

42 ¹"Evaluation" means a process based on the individual's job
43 description, professional standards and Statewide evaluation criteria

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ABU committee amendments adopted June 21, 2012.

1 that incorporates analysis of multiple measures of student progress
2 and multiple data sources. Such evaluation shall include formal
3 observations, as well as post conferences, conducted and prepared
4 by an individual employed in the district in a supervisory role and
5 capacity and possessing a school administrator certificate, principal
6 certificate, or supervisor certificate.¹

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

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

26 ¹“Multiple objective measures of student learning” means the
27 results of formal and informal assessments of students. Such
28 measures may include a combination of, but are not limited to:
29 teacher-set goals for student learning; student performance
30 assessments, including portfolio projects, problem-solving
31 protocols, and internships; teacher-developed assessments;
32 standardized assessments; and district-established assessments.

33 “Professional standards” means the New Jersey Professional
34 Standards for Teachers and the New Jersey Professional Standards
35 for School Leaders recommended by the commissioner and adopted
36 by the State Board of Education.¹

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

45
46

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

1 18A:6-9. The commissioner shall have jurisdiction to hear and
2 determine, without cost to the parties, all controversies and disputes
3 arising under the school laws, excepting those governing higher
4 education, or under the rules of the state board or of the
5 commissioner. For the purposes of this Title, controversies and
6 disputes concerning the conduct of school elections shall not be
7 deemed to arise under the school laws.

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

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

14
15 5. N.J.S.18A:6-11 is amended to read as follows:

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

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

44
45 6. N.J.S.18A:6-13 is amended to read as follows:

46 18A:6-13. If the board does not make such a determination
47 within 45 ¹**【**business**】**¹ days after receipt of the written charge **【**, or

1 within 45 days after the expiration of the time for correction of the
2 inefficiency, if the charge is of inefficiency], the charge shall be
3 deemed to be dismissed and no further proceeding or action shall be
4 taken thereon.

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

6

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

8 18A:6-14. Upon certification of any charge to the commissioner,
9 the board may suspend the person against whom such charge is
10 made , with or without pay, but, if the determination of the charge
11 by the [Commissioner of Education] arbitrator is not made within
12 [120 calendar] '[105 business] 120 calendar' days after
13 certification of the charges, excluding all delays which are granted
14 at the request of such person, then the full salary (except for said
15 [120] '[105 business] 120' days) of such person shall be paid
16 beginning on the one hundred [twenty-first] '[sixth business]
17 twenty-first' day until such determination is made. Should the
18 charge be dismissed at any stage of the process, the person shall be
19 reinstated immediately with full pay from the first day of such
20 suspension. Should the charge be dismissed at any stage of the
21 process and the suspension be continued during an appeal
22 therefrom, then the full pay or salary of such person shall continue
23 until the determination of the appeal. However, the board of
24 education shall deduct from said full pay or salary any sums
25 received by such employee or officers by way of pay or salary from
26 any substituted employment assumed during such period of
27 suspension. Should the charge be sustained on the original hearing
28 or an appeal therefrom, and should such person appeal from the
29 same, then the suspension may be continued unless and until such
30 determination is reversed, in which event he shall be reinstated
31 immediately with full pay as of the time of such suspension.

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

33

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

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

1 If, following receipt of the written response to the charges, the
2 commissioner is of the opinion that they are not sufficient to
3 warrant dismissal or reduction in salary of the person charged, he
4 shall dismiss the same and notify said person accordingly. If,
5 however, he shall determine that such charge is sufficient to warrant
6 dismissal or reduction in salary of the person charged, he shall
7 **【within 10 days of making that determination】** refer the case to **【the**
8 **Office of Administrative Law】** an arbitrator pursuant to section
9 '**【23】 22'** of P.L. , c. (C.) (pending before the Legislature as
10 this bill) for further proceedings, except that when a motion for
11 summary decision has been made prior to that time, the
12 commissioner may retain the matter for purposes of deciding the
13 motion.

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

15

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

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

36 **【(a)】** (1) Three consecutive calendar years, or any shorter period
37 which may be fixed by the employing board for such purpose; or

38 **【(b)】** (2) Three consecutive academic years, together with
39 employment at the beginning of the next succeeding academic year;
40 or

41 **【(c)】** (3) The equivalent of more than three academic years
42 within a period of any four consecutive academic years.

43 b. The services of all teaching staff members employed on or
44 after the effective date of P.L. , c. (C.) (pending before the
45 Legislature as this bill) in the position of teacher, principal, other
46 than administrative principal, assistant principal, vice-principal,
47 assistant superintendent, and all school nurses, including school

1 nurse supervisors, head school nurses, chief school nurses, school
2 nurse coordinators, and any other nurse performing school nursing
3 services, school athletic trainer and such other employees as are in
4 positions which require them to hold appropriate certificates issued
5 by the board of examiners, serving in any school district or under
6 any board of education, excepting those who are not the holders of
7 proper certificates in full force and effect, and school business
8 administrators shared by two or more school districts, shall be
9 under tenure during good behavior and efficiency and they shall not
10 be dismissed or reduced in compensation except for inefficiency,
11 incapacity, or conduct unbecoming such a teaching staff member or
12 other just cause and then only in the manner prescribed by
13 subarticle B of article 2 of chapter 6 of this Title, after employment
14 in such district or by such board for:

15 (1) Four consecutive calendar years; or

16 (2) Four consecutive academic years, together with employment
17 at the beginning of the next succeeding academic year; or

18 (3) The equivalent of more than four academic years within a
19 period of any five consecutive academic years.

20 In order to achieve tenure pursuant to this subsection, a teacher
21 shall also complete a district mentorship program during the initial
22 year of employment and receive a rating of effective or highly
23 effective in two annual summative evaluations within the first three
24 years of employment after the initial year of employment in which
25 the teacher completes the district mentorship program. In order to
26 achieve tenure pursuant to this subsection, a principal, assistant
27 principal, and vice-principal shall also receive a rating of effective
28 or highly effective in two annual summative evaluations within the
29 first three years of employment with the first effective rating being
30 received on or after the completion of the second year of
31 employment.

32 For purposes of this subsection, “effective” or “highly effective”
33 means the employee has received an annual summative evaluation
34 rating of “effective” or “highly effective” based on the performance
35 standards for his position established through the evaluation rubric
36 adopted by the board of education and approved by the
37 commissioner.

38 c. For purposes of this chapter, tenure in any of the
39 administrative or supervisory positions enumerated herein shall
40 accrue only by employment in that administrative or supervisory
41 position. Tenure so accrued shall not extend to any other
42 administrative or supervisory position and nothing herein shall limit
43 or restrict tenure rights which were or may be acquired pursuant to
44 N.J.S.18A:28-6 in a position in which the individual actually
45 served.

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

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

2 18A:28-6. a. Any such teaching staff member under tenure or
3 eligible to obtain tenure under this chapter, who is transferred or
4 promoted with his consent to another position covered by this
5 chapter on or after July 1, 1962, shall not obtain tenure in the new
6 position until after:

7 ~~[(a)]~~ (1) the expiration of a period of employment of two
8 consecutive calendar years in the new position unless a shorter
9 period is fixed by the employing board for such purpose; or

10 ~~[(b)]~~ (2) employment for two academic years in the new
11 position together with employment in the new position at the
12 beginning of the next succeeding academic year; or

13 ~~[(c)]~~ (3) employment in the new position within a period of any
14 three consecutive academic years, for the equivalent of more than
15 two academic years;

16 provided that the period of employment in such new position
17 shall be included in determining the tenure and seniority rights in
18 the former position held by such teaching staff member, and in the
19 event the employment in such new position is terminated before
20 tenure is obtained therein, if he then has tenure in the district or
21 under said board of education, such teaching staff member shall be
22 returned to his former position at the salary which he would have
23 received had the transfer or promotion not occurred together with
24 any increase to which he would have been entitled during the period
25 of such transfer or promotion.

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

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

34 (2) employment for two academic years in the new position
35 together with employment in the new position at the beginning of
36 the next succeeding academic year; or

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

40 provided that the period of employment in such new position
41 shall be included in determining the tenure and seniority rights in
42 the former position held by such teaching staff member, and in the
43 event the employment in such new position is terminated before
44 tenure is obtained therein, if he then has tenure in the district or
45 under said board of education, such teaching staff member shall be
46 returned to his former position at the salary which he would have
47 received had the transfer or promotion not occurred together with

1 any increase to which he would have been entitled during the period
2 of such transfer or promotion.

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

7 For purposes of this subsection, “effective” or “highly effective”
8 means the employee has received an annual summative evaluation
9 rating of “effective” or “highly effective” based on the performance
10 standards for his position established through the evaluation rubric
11 adopted by the board of education and approved by the
12 commissioner.

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

14

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

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

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

37

38 ¹[12. (New section) a. If the decision of the arbitrator is in
39 support of the tenure charges, the Commissioner of Education shall
40 notify the State Board of Examiners, in writing, of the decision.

41 b. The State Board of Examiners shall only review a tenure
42 charge case referred to an arbitrator pursuant to N.J.S.18A:6-16 if it
43 has received notification pursuant to subsection a. of this section.]¹

44

45 ¹[13.] 12.¹ (New section) a. In order to ensure the
46 effectiveness of its teachers, each school shall convene a school
47 improvement panel. A panel shall include the principal, or his

1 designee ¹‘[who is serving in a supervisory capacity]’, an assistant
2 or vice-principal, and a teacher. ¹The principal’s designee shall be
3 an individual employed in the district in a supervisory role and
4 capacity who possesses a school administrator certificate, principal
5 certificate, or supervisor certificate.¹ The teacher shall be a person
6 with a demonstrated record of success in the classroom who shall be
7 selected in consultation with the majority representative. An
8 individual teacher shall not serve more than three consecutive years
9 on any one school improvement panel. In the event that an assistant
10 or vice-principal is not available to serve on the panel, the principal
11 shall appoint an additional member to the panel, ¹‘[who is serving in
12 a supervisory capacity] who is employed in the district in a
13 supervisory role and capacity and who possesses a school
14 administrator certificate, principal certificate, or supervisor
15 certificate¹.

16 Nothing in this section shall prevent a district that has entered a
17 shared services agreement for the functions of the school
18 improvement panel from providing services under that shared
19 services agreement.

20 b. The panel shall oversee the mentoring of teachers and
21 conduct evaluations of teachers, including an annual summative
22 evaluation, provided that the teacher on the school improvement
23 panel shall not be included in the evaluation process, except in
24 those instances in which the majority representative has agreed to
25 the contrary. The panel shall also identify professional
26 development opportunities for all instructional staff members that
27 are tailored to meet the unique needs of the students and staff of the
28 school.

29 c. The panel shall conduct a mid-year evaluation of any
30 employee in the position of teacher who is evaluated as ineffective
31 or partially effective in his most recent annual summative
32 evaluation, provided that the teacher on the school improvement
33 panel shall not be included in the mid-year evaluation process,
34 except in those instances in which the majority representative has
35 agreed to the contrary .

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

40
41 ¹‘[14.] 13.’ (New section) a. In order to ensure the
42 effectiveness of the schools in the district, the superintendent of
43 schools or his designee shall conduct evaluations of each principal
44 employed by the school district, including an annual summative
45 evaluation.

46 b. The principal, in conjunction with the superintendent or his
47 designee, shall conduct evaluations of each assistant principal and

1 vice-principal employed in his school, including an annual
2 summative evaluation.

3 c. The superintendent or his designee and the principal, as
4 appropriate, shall conduct a mid-year evaluation of any principal,
5 assistant principal, or vice-principal who is evaluated as ineffective
6 or partially effective in his most recent annual summative
7 evaluation.

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

12
13 ^{'[15.] 14.'} (New section) a. A board of education shall
14 implement a researched-based mentoring program that pairs
15 effective, experienced teachers with first-year teachers to provide
16 observation and feedback, opportunities for modeling, and
17 confidential support and guidance in accordance with the
18 Professional Standards for Teachers and the evaluation rubric.

19 b. The mentoring program shall: enhance teacher knowledge
20 of, and strategies related to, the core curriculum content standards
21 in order to facilitate student achievement and growth; identify
22 exemplary teaching skills and educational practices necessary to
23 acquire and maintain excellence in teaching; and assist first-year
24 teachers in the performance of their duties and adjustment to the
25 challenges of teaching. To the greatest extent feasible, mentoring
26 activities shall be developed in consultation with the school
27 improvement panels established pursuant to section ^{'[13] 12'} of
28 P.L. , c. (C.) (pending before the Legislature as this bill) in
29 order to be responsive to the unique needs of different teachers in
30 different instructional settings.

31
32 ^{'[16.] 15.'} (New section) a. A board of education, principal, or
33 superintendent shall provide its teaching staff members with
34 ongoing professional development that supports student
35 achievement and with an individual professional development plan.
36 To the greatest extent feasible, professional development
37 opportunities shall be developed in consultation with the school
38 improvement panels established pursuant to section ^{'[13] 12'} of
39 P.L. , c. (C.) (pending before the Legislature as this bill) in
40 order to be responsive to the unique needs of different instructional
41 staff members in different instructional settings.

42 b. A board of education, principal, or superintendent shall
43 provide additional professional development for any teaching staff
44 member who fails or is struggling to meet the performance
45 standards established by the board, as documented in the teaching
46 staff member's annual summative evaluation. The additional

1 professional development shall be designed to correct the needs
2 identified in the annual summative evaluation.

3 A corrective action plan shall be developed by the teaching staff
4 member and a teaching staff member serving in a supervisory
5 capacity to address deficiencies outlined in the evaluation when the
6 employee is rated ineffective or partially effective. The corrective
7 action plan shall include timelines for corrective action and
8 responsibilities of the teaching staff member and the school district
9 for implementation of the plan.

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

14
15 **'[17.] 16.'** (New section) a. A school district shall annually
16 submit to the Commissioner of Education, for review and approval,
17 the evaluation rubrics that the district will use to assess the
18 effectiveness of its teachers, principals, assistant principals, and
19 vice-principals and all other teaching staff members. The board
20 shall ensure that an approved rubric meets the minimum standards
21 established by the State Board of Education.

22 b. Notwithstanding the provisions of subsection a. of this
23 section, a school district may choose to use the model evaluation
24 rubric established by the commissioner pursuant to subsection f. of
25 section **'[18] 17'** of P.L. , c. (C.) (pending before the
26 Legislature as this bill) to assess the effectiveness of its teachers,
27 principals, assistant principals, and vice-principals and all other
28 teaching staff members. In the case in which the district fails to
29 submit a rubric for review and approval, the model rubric shall be
30 used by the district to assess the effectiveness of its teachers,
31 principals, assistant principals, and vice-principals and all other
32 teaching staff members.

33
34 **'[18.] 17.'** (New section) a. The Commissioner of Education
35 shall review and approve evaluation rubrics submitted by school
36 districts pursuant to section **'[17] 16'** of P.L. , c. (C.)
37 (pending before the Legislature as this bill). The board of education
38 shall adopt a rubric approved by the commissioner.

39 b. The State Board of Education shall promulgate regulations
40 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
41 (C.52:14B-1 et seq.), to set standards for the approval of evaluation
42 rubrics for teachers, principals, assistant principals, and vice-
43 principals. The standards at a minimum shall include:

44 (1) four defined annual rating categories for teachers, principals,
45 assistant principals, and vice-principals: ineffective, partially
46 effective, effective, and highly effective;

- 1 (2) a provision requiring that the rubric be partially based on
2 multiple objective measures of student learning that use student
3 growth from one year's measure to the next year's measure;
- 4 (3) a provision that allows the district, in grades in which a
5 standardized test is not required, to determine the methods for
6 measuring student growth;
- 7 (4) ¹[a provision that multiple measures of practice and student
8 learning be used in rating effectiveness with specific measures and
9 implementation processes] a provision that multiple measures of
10 practice and student learning be used in conjunction with
11 professional standards of practice using a comprehensive evaluation
12 process in rating effectiveness with specific measures and
13 implementation processes. Standardized assessments shall be used
14 as a measure of student progress but shall not be the predominant
15 factor in the overall evaluation of a teacher¹;
- 16 (5) a provision that the rubric be based on the professional
17 standards for that employee;
- 18 (6) a provision ensuring that performance measures used in the
19 rubric are linked to student achievement;
- 20 (7) a requirement that the employee receive multiple
21 observations during the school year which shall be used in
22 evaluating the employee¹[, at least one annual summative
23 evaluation for the school year, and a conference with his superior or
24 superiors following this evaluation]¹;
- 25 (8) a provision that requires that at each observation of a
26 teacher, either the principal, his designee who ¹[is serving in a
27 supervisory capacity] shall be an individual employed in the district
28 in a supervisory role and capacity and who possesses a school
29 administrator certificate, principal certificate, or supervisor
30 certificate¹, the vice-principal, or the assistant principal shall be
31 present;
- 32 (9) an opportunity for the employee to improve his effectiveness
33 from ¹[routine]¹ evaluation feedback;
- 34 (10) guidelines for school districts regarding training and the
35 demonstration of competence on the evaluation system to support
36 its implementation;
- 37 (11) a process for ongoing monitoring and calibration of the
38 observations to ensure that the observation protocols are being
39 implemented correctly and consistently;
- 40 (12) a performance framework, associated evaluation tools, and
41 observation protocols, including training and observer calibration
42 resources;
- 43 (13) a process for a school district to obtain the approval of the
44 commissioner to utilize other evaluation tools; and
- 45 (14) a process for ensuring that the results of the evaluation help
46 to inform instructional development.

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

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

6 e. Beginning with the 2013-2014 school year, a board of
7 education shall ensure implementation of the approved, adopted
8 evaluation rubric for all educators in all elementary, middle, and
9 high schools in the district. Results of evaluations shall be used to
10 identify and provide professional development to teaching staff
11 members. Results of evaluations shall be provided to the
12 commissioner, as requested, on a regular basis.

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

16

17 ¹~~19.~~ 18. (New section) Any tenure charge transmitted to the
18 Office of Administrative Law pursuant to N.J.S.18A:6-16 prior to
19 the effective date of P.L. , c. (C.) (pending before the
20 Legislature as this bill) shall be determined in accordance with the
21 provisions of subarticle B of Article 2 of chapter 6 of Title 18A of
22 the New Jersey Statutes, N.J.S.18A:6-10 et seq., as the same read
23 prior to the effective date of P.L. , c. (C.) (pending before the
24 Legislature as this bill).

25

26 ¹~~20.~~ 19. (New section) A school district's evaluation rubric
27 approved by the commissioner pursuant to section ¹~~17.~~ 16. of
28 P.L. , c. (C.) (pending before the Legislature as this bill)
29 shall not be subject to collective negotiations.

30

31 ¹~~21.~~ 20. (New section) The Department of Education shall
32 provide the funds necessary to effectuate the provisions of this act.

33

34 ¹~~22.~~ 21. (New section) No collective bargaining agreement
35 or other contract entered into by a school district after July 1, 2013
36 shall conflict with the educator evaluation system established
37 pursuant to P.L. , c. (C.) (pending before the Legislature as
38 this bill). A district with an existing collective bargaining
39 agreement on July 1 2013 which conflicts in whole or in part with
40 the educator evaluation system established pursuant to that act, shall
41 implement in accordance with that act those provisions not in
42 conflict with the collective bargaining agreement.

43 ¹Notwithstanding the provisions of this act, aspects of evaluation
44 not superseded by statute or regulation shall continue to be
45 mandatory subjects of collective negotiations.¹

1 ~~'[23.] 22.'~~¹ (New section) a. The Commissioner of Education
2 shall maintain a panel of 25 permanent arbitrators to hear matters
3 pursuant to N.J.S.18A:6-16. Of the 25 arbitrators, eight arbitrators
4 shall be designated by the New Jersey Education Association, three
5 arbitrators shall be designated by the American Federation of
6 Teachers, nine arbitrators shall be designated by the New Jersey
7 School Boards Association, and five arbitrators shall be designated
8 by the New Jersey Principals and Supervisors Association. The
9 commissioner shall inform the appropriate designating entity when
10 a vacancy exists. If the appropriate entity does not designate an
11 arbitrator within 30 ~~'[business]'~~¹ days, the commissioner shall
12 designate an arbitrator to fill that vacancy.

13 All arbitrators designated pursuant to this section shall serve on
14 the American Arbitration Association panel of labor arbitrators and
15 shall be members of the National Academy of Arbitrators. The
16 arbitrators shall have knowledge and experience in the school
17 employment sector. Arbitrators on the permanent panel shall be
18 assigned by the commissioner randomly to hear cases.

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

23 (1) The hearing shall be held before the arbitrator within ~~'[30~~
24 ~~business] 45'~~¹ days of the assignment of the arbitrator to the case;

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

28 (3) Upon referral of the case for arbitration, the employing
29 board of education shall provide all evidence including, but not
30 limited to, documents, electronic evidence, statements of witnesses,
31 and a list of witnesses with a complete summary of their testimony,
32 to the employee or the employee's representative. The employing
33 board of education shall be precluded from presenting any
34 additional evidence at the hearing, except for purposes of
35 impeachment of witnesses. At least 10 ~~'[business]'~~¹ days prior to
36 the hearing, the employee shall provide all evidence upon which he
37 will rely including, but not limited to, documents, electronic
38 evidence, statements of witnesses, and a list of witnesses with a
39 complete summary of their testimony, to the employing board of
40 education or its representative. The employee shall be precluded
41 from presenting any additional evidence at the hearing except for
42 purposes of impeachment of witnesses.

43 Discovery shall not include depositions, and interrogatories shall
44 be limited to 25 without subparts.

45 c. The arbitrator shall determine the case under the American
46 Arbitration Association labor arbitration rules. In the event of a
47 conflict between the American Arbitration Association labor

1 arbitration rules and the procedures established pursuant to this
2 section, the procedures established pursuant to this section shall
3 govern.

4 d. Notwithstanding the provisions of N.J.S.18A:6-25 or any
5 other section of law to the contrary, the arbitrator shall render a
6 written decision within '~~30 business~~ 45¹' days of the start of the
7 hearing.

8 e. '~~An appeal of the~~ The¹ arbitrator's determination shall be
9 final and binding and may not be appealable to the
10 '~~Commissioner~~ commissioner¹ or the State Board of Education.
11 The determination shall be subject to judicial review and
12 enforcement as provided pursuant to N.J.S.2A:24-7 through
13 N.J.S.2A:24-10.

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

17 g. An arbitrator may not extend the timeline of holding a hearing
18 beyond 45 days of the assignment of the arbitrator to the case
19 without approval from the commissioner. An arbitrator may not
20 extend the timeline for rendering a written decision within 45 days
21 of the start of the hearing without approval from the commissioner.
22 Extension requests shall occur before the 41st day of the respective
23 timelines set forth herein. The commissioner shall approve or
24 disapprove extension requests within five days of receipt.

25 h. The commissioner may remove any arbitrator from an
26 arbitration case or an arbitration panel if an arbitrator does not
27 adhere to the timelines set forth herein without approval from the
28 commissioner. If the commissioner removes an arbitrator from an
29 arbitration case, the commissioner shall refer the case to a new
30 arbitrator within five days. The newly-assigned arbitrator shall
31 convene a new hearing and then render a written decision within 45
32 days of being referred the case.¹

33
34 '~~24.] 23.~~¹ (New section) a. In the event that the matter before
35 the arbitrator pursuant to section '~~23~~ 22¹' of this act is employee
36 inefficiency pursuant to section '~~26~~ 25¹' of this act, in rendering a
37 decision the arbitrator shall only consider whether or not:

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

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

42 (3) the charges would not have been brought but for
43 considerations of political affiliation, nepotism, union activity,
44 discrimination as prohibited by State or federal law, or other
45 conduct prohibited by State or federal law; or

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

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

8 c. The evaluator's determination as to the quality of an
9 employee's classroom performance shall not be subject to an
10 arbitrator's review.

11 d. The board of education shall have the ultimate burden of
12 demonstrating to the arbitrator that the statutory criteria for tenure
13 charges have been met.

14 e. The hearing shall be held before the arbitrator within ¹[30
15 business] 45¹ days of the assignment of the arbitrator to the case.
16 The arbitrator shall render a written decision within ¹[30 business]
17 45¹ days of the start of the hearing.

18
19 ¹[25.] 24.¹ (New section) The State Board of Education shall
20 promulgate regulations pursuant to the "Administrative Procedure
21 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in accordance with an
22 expeditious time frame, to set standards for the approval of
23 evaluation rubrics for all teaching staff members, other than those
24 included under the provisions of subsection b. of section ¹[18] 17¹
25 of P.L. , c. (C.) (pending before the Legislature as this bill).
26 The standards at a minimum shall include: four defined annual
27 rating categories: ineffective, partially effective, effective, and
28 highly effective.

29
30 ¹[26.] 25.¹ (New section) a. Notwithstanding the provisions of
31 N.J.S.18A:6-11 or any other section of law to the contrary, in the
32 case of a teacher, principal, assistant principal, and vice-principal:

33 (1) the superintendent shall promptly file with the secretary of
34 the board of education a charge of inefficiency whenever the
35 employee is rated ineffective or partially effective in an annual
36 summative evaluation and the following year is rated ineffective in
37 the annual summative evaluation;

38 (2) if the employee is rated partially effective in two consecutive
39 annual summative evaluations or is rated ineffective in an annual
40 summative evaluation and the following year is rated partially
41 effective in the annual summative evaluation, the superintendent
42 shall promptly file with the secretary of the board of education a
43 charge of inefficiency, except that the superintendent upon a written
44 finding of exceptional circumstances may defer the filing of tenure
45 charges until after the next annual summative evaluation. If the
46 employee is not rated effective or highly effective on this annual

1 summative evaluation, the superintendent shall promptly file a
2 charge of inefficiency.

3 b. Within 30 **'[business]'** days of the filing, the board of
4 education shall forward a written charge to the commissioner,
5 unless the board determines that the evaluation process has not been
6 followed.

7 c. Notwithstanding the provisions of N.J.S.18A:6-16 or any
8 other section of law to the contrary, upon receipt of a charge
9 pursuant to subsection a. of this section, the commissioner shall
10 examine the charge. The individual against whom the charges are
11 filed shall have 10 **'[business]'** days to submit a written response
12 to the charges to the commissioner. The commissioner shall, within
13 five **'[business]'** days immediately following the period provided
14 for a written response to the charges, refer the case to an arbitrator
15 and appoint an arbitrator to hear the case, unless he determines that
16 the evaluation process has not been followed.

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

21
22 **'[27.] 26.'** (New section) The commissioner shall have the
23 authority to extend the timelines in the tenure charge process upon a
24 showing of exceptional circumstances.

25
26 **'[28.] 27.'** The following section is repealed:
27 Section 1 of P.L.1998, c. 42 (C.52:14B-10.1).

28
29 **'[29.] 28.'** This act shall take effect in the 2012-2013 school
30 year, except that section **'[18] 17'** of this act shall take effect
31 immediately. The Department of Education shall take such
32 anticipatory administrative action in advance thereof as shall be
33 necessary for the implementation of this act.