

## Summary of Legal Requirements for Evaluation and Tenure Cases

The [TEACHNJ Act](#) outlines a new process for filing inefficiency charges under the new evaluation system (AchieveNJ). This guide outlines the actions required in law before bringing an inefficiency tenure charge based on the new tenure revocation process, including the following elements:

### A. [Minimum Requirements to Ensure Compliance with Evaluation Procedures](#)

- I. [Observation Requirements](#)
- II. [Student Achievement Requirements](#)
- III. [Summative Evaluation Requirements](#)
- IV. [Corrective Action Plan \(CAP\) Requirements](#)
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### B. [Requirements for Filing an Inefficiency Tenure Charge](#)

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## A. Minimum Requirements to Ensure Compliance with Evaluation Procedures

Districts must ensure the following evaluation procedures are followed (at minimum) prior to filing an inefficiency tenure charge. Failure to adhere to these requirements can result in the tenure charge being dismissed.

### I. Observation Requirements for Tenured Teachers (N.J.A.C. 6A:10-4.4)

#### Minimum Observation Schedule:

- Three per year for at least 20 minutes (one in first semester/first half of the year, one in second semester)
  - One announced observation preceded by a pre-conference within seven teacher work days prior to but not on the day of the observation
  - One unannounced observation
  - Superintendent/CSA determines whether the third observation is announced or unannounced
- District has discretion to decide if additional observations (beyond the three required) will occur and if they will be announced/unannounced, preceded by a pre-conference, and longer than 20 minutes

#### Post-conference:

- Follows every observation within 15 teacher work days
- Teacher and supervisor/observer discuss data and evidence collected from observation, as well as additional evidence brought to the conference related to the district's teacher practice instrument and the teacher's Professional Development Plan (PDP) or progress on a Corrective Action Plan (CAP), where applicable

#### Observation Report:

- One report required per observation, signed (electronically or on paper) by the supervisor who conducted the observation/post-observation and the observed teacher
- The teacher may attach a written objection within 10 work days

#### Observers:

- Must be employed in the district
- Must serve in a supervisory role in the district
- Must possess an administrative certificate (supervisor, principal, or administrator endorsement)

#### Observations for Teachers on a CAP:

- At least one extra observation/post-conference for a minimum of 20 minutes (N.J.A.C. 6A:10-2.5)
- Multiple observers (at least two) throughout the year

#### **DEPARTMENT RECOMMENDATION**

Where districts have discretion, they notify all teaching staff members of CAP observation policies and procedures and implement those policies and procedures as consistently as possible.

## II. Student Achievement Requirements for Tenured Teachers (N.J.A.C. 6A:10-4.2)

### □ Student Growth Percentiles (SGPs):

- Teachers receiving a median SGP score (mSGP) must teach 4th-8th-grade Language Arts Literacy (LAL) and/or Mathematics
- Teachers who teach multiple courses within 4<sup>th</sup>-8<sup>th</sup>-grade LAL and/or Mathematics will receive a median of all SGP scores, which means if a teacher is assigned to one student for both LAL and Mathematics, he or she will receive two SGP scores for that student (one for each subject)
- To receive the mSGP, teachers must have a course roster of at least 20 different students enrolled for at least 70% of the school year, and must instruct the course at least 60% of the year prior to the assessment

#### **NOTES ON SGP**

- The Department calculates mSGPs using each school district's course roster submitted through NJ SMART
- Subject areas coded 51, 52, or 73 in the course roster submission through NJ SMART meet the criteria for mSGP
- More information is located at <http://www.state.nj.us/education/njsmart/download/course/> and <http://www.nj.gov/education/AchieveNJ/teacher/percentile.shtml>
- More information about code verification is located at <http://www.state.nj.us/education/njsmart/download/course/Roster>

#### **DEPARTMENT RECOMMENDATIONS**

- Districts should engage in a course roster verification process with teachers at the beginning and end of each school year.
- If uncertain whether a teacher may receive an mSGP score, a district should require any teacher of 25 or fewer total students to set two SGOs. If a school's student population is particularly mobile, districts might consider two SGOs for teachers of fewer than 30 students (or other designated district number).
- District SGO/SGP policies, such as the number of required SGOs for teachers with an mSGP, should be applied to across the district as consistently as possible.

### □ Student Growth Objectives (SGOs):

- All teachers must set one or two with principal approval by November 15, 2013 (and October 15 each year starting in 2014)
- Teachers who are not expected to receive an SGP score must set two SGOs
- Districts determine the required number of SGOs for all SGP teachers in the district (one or two)
- Modifications may be made prior to February 15 in a given school year with the approval of the Superintendent/CSA

## III. Summative Evaluation Process (N.J.A.C. 6A:10-2.4)

### □ Annual Summary Conference:

- Must occur at the end of the school year between the teacher and principal/designee to review:
  - The teacher's performance in relation to the district's teacher job descriptions and evaluation rubric, which includes the evaluation of observations and practice based on the teacher practice instrument, SGOs, and mSGP, when applicable
  - Progress toward meeting goals set in the teacher's PDP, or when applicable, CAP
  - The teacher's summative evaluation rating, if available
  - The teacher's preliminary annual written performance report
  - The teacher's PDP for following year, or when applicable, CAP

### □ Annual Written Performance Report:

- Must be prepared by the teacher's principal/designee and include summative rating or available data
- Required by the end of the school year and must be updated with summative evaluation rating when available if later than end of school year
- Should include the teacher's score on the teacher practice instrument and final SGO score (Even if the mSGP score is not yet available)
- Must be signed by teacher and principal or designee within five working days of review

- **Summative Evaluation Rating:** A numerical score based on all measures of a teacher’s evaluation rubric (practice, SGOs, and SGPs, where applicable) that correlates with one of four ratings: Ineffective, Partially Effective, Effective, and Highly Effective (*Note: progress on PDP or CAP is not a component of the rating*)
  - District calculates the rating for all non-SGP teachers
  - For SGP teachers, the District must submit through NJ SMART the SGP teacher’s practice component score and SGO score; using district-reported data, the Department will calculate the mSGP score and the summative rating (upon receiving this data from the Department, districts should update personnel files to reflect summative ratings)

#### IV. Corrective Action Plan (CAP) Requirements (N.J.A.C. 6A:10-2.5)

##### □ **Development:**

- Required for all staff members who are rated Ineffective or Partially Effective on their last annual summative evaluation
- Replaces the teacher’s PDP for the following evaluation cycle
- Must be developed collaboratively by the teacher and principal (or designee)

##### **DEPARTMENT GUIDANCE**

Additional guidance and templates for the CAP can be found at <http://www.nj.gov/education/profdev/ipdp/>

##### □ **Deadline for Development:**

- If the staff member’s summative evaluation rating is calculated before the end of the school year, the CAP must be developed before September 15<sup>th</sup> of the following school year and may be developed at the time of the annual summary conference
- If an Ineffective or Partially Effective summative evaluation rating is received after the start of the following school year, the CAP must be developed within 15 working days of the district’s receipt of the rating

##### □ **Observations:**

- A total of four are required when a teacher is on a CAP; the additional observation, which is considered the mid-year evaluation mandated by TEACHNJ, is required beyond the three for non-CAP teachers and must be at least 20 minutes in duration
- If CAP was created on or prior to September 15, the mid-year evaluation or extra observation must be completed by February 15
- If CAP was created after September 15, the mid-year evaluation or extra observation must occur before the annual summary conference
- Teachers must have a minimum of two observers throughout the year

##### □ **Content:**

- Description of the teacher’s deficiencies
- Timelines for corrective action
- Responsibilities of the individual teaching staff member and the district, including actions and professional learning activities to improve the staff member’s performance

#### V. Additional Requirements

##### □ **Confidentiality of Evaluations (N.J.S.A. 18A:6-120):**

- Under the TEACHNJ Act, “information related to the evaluation of a particular employee shall be maintained by the school district, shall be confidential, and shall not be accessible to the public”

##### □ **School Improvement Panel (SciP) (N.J.A.C. 6A:10-3):**

- Must be established by August 31 of each year
- The precise way in which the SciP supports teacher mentoring, evaluation, and professional development may vary among schools, but the district must ensure the minimum membership requirements and procedures for forming the SciP as described in N.J.A.C. 6A:10-3 are followed

## B. Requirements for Filing an Inefficiency Tenure Charge

A Superintendent **must** file an inefficiency tenure charge with the district board of education\* in accordance with the chart below:

Year A Rating	Year B (Consecutive) Rating	Action
Ineffective	Ineffective	The superintendent <b>must</b> file a charge of inefficiency
Partially Effective	Ineffective	
Ineffective	Partially Effective	The superintendent <b>may</b> file a charge of inefficiency or may defer the filing until the next year; in the following year (i.e., the third consecutive year), the superintendent <b>must</b> file a charge of inefficiency if the annual rating is Ineffective or Partially Effective
Partially Effective	Partially Effective	

*\*In certain districts run by the state, the entity could be the state district superintendent.*

## C. Tenure Revocation Process

Following two years of ratings that trigger a charge of inefficiency, the superintendent must file the charge with the district board of education.\* The charge will proceed in accordance with the procedures in the TEACHNJ Act and N.J.A.C. 6A:3-5, including the steps depicted and outlined below:



- **Step 1:** The superintendent files the tenure charge with the secretary of the district board of education.\*
- **Step 2:** The tenured teacher charged with inefficiency is notified of the charge **within 3 working days** of the date filed.
- **Step 3:** The tenured teacher may refute the charge by submitting a written statement under oath demonstrating how the school district failed to comply with the evaluation procedures to the district board of education or State district superintendent within 10 calendar days of receipt of the tenure charges.
- **Step 4:** The district board of education\* forwards a written charge to the Commissioner within 30 calendar days of the filing, unless the district board of education or superintendent determines the evaluation process has not been followed. Such determination shall be made by a majority vote of the district board of education’s full membership.\*
- **Step 5:** The Commissioner shall examine the charge and at the same time the charge is forwarded to the Commissioner, the district board of education again notifies the tenured employee of the charge.
- **Step 6:** The tenured teacher may file a response to the charge with the Commissioner within 10 calendar days.
- **Step 7:** The Commissioner will assign an arbitrator within five days of the employee’s deadline to submit a written response.

*\*In certain districts run by the state, the entity could be the state district superintendent*

Arbitrators may only consider the following circumstances in rendering a decision:

- Whether the evaluation **failed to adhere to the evaluation process including the Corrective Action Plan**
- If there is a **mistake of fact** in the evaluation
- If the charges **would not have** been brought but for considerations of **political affiliation, nepotism, union activity, discrimination, or other conduct**
- **Whether the charge is arbitrary or capricious**

If the employee is able to demonstrate that any of the above circumstances occurred, the arbitrator shall then determine if that fact materially affected the outcome of the evaluation. If the fact did not materially affect the outcome, the arbitrator shall render a decision in favor of the board and the employee shall be dismissed.

**At all levels of review, the deciding entity must determine whether the district followed the proper procedural requirements as established by the district, the TEACHNJ Act, and subsequent regulations.**