

3. Each of the three observations required pursuant to N.J.S.A. 18A:27-3.1 shall be conducted for a duration appropriate to an individual's duties and responsibilities but for at least one class or lesson period for a teacher or instructor.

(c) For purposes of evaluation of tenured instructional staff, the following provisions shall apply.

1. An educationally certified supervisor, an educationally certified administrator or the Director, Office of Education, as appropriate, shall conduct the annual Performance Assessment.

2. The annual Performance Assessment shall consist of a minimum of two observations, two written evaluations, and two conferences.

(d) A non-tenured or tenured instructional staff member shall be observed through visitation to his or her classroom or work station by an educationally certified supervisor, an educationally certified administrator or the Director, Office of Education, for the purpose of evaluating the staff member's performance of assigned duties and responsibilities.

(e) Each observation shall be followed within a reasonable period of time by a conference between the instructional staff member and the supervisory or administrative staff member who conducted the observation and prepared the written evaluation. Each party to the conference will sign the Performance Assessment instrument and retain a copy for his or her records.

(f) The instructional staff member shall have the right to submit his or her comments to such an evaluation within 10 days following the conference and such disclaimer shall be attached to each party's copy of the instrument.

Amended by R.1995 d.86, effective February 6, 1995.  
See: 26 N.J.R. 4297(a), 27 N.J.R. 499(a).  
Amended by R.1999 d.445, effective December 20, 1999.  
See: 31 N.J.R. 2440(a), 31 N.J.R. 4259(b).

Rewrote the section.

Amended by R.2005 d.150, effective May 16, 2005.  
See: 36 N.J.R. 3520(a), 37 N.J.R. 1729(a).

Rewrote the section.

#### 10:11-1.8 Disciplinary action—tenured staff

(a) In a case where disciplinary action is recommended or implemented, which does not involve dismissal or reduction in salary, as a result of charges made against a tenured employee of the Department of Human Services, the appointing authority and the Director, Office of Education, or his or her qualified designee shall act in accordance with Department of Human Services Administrative Order 4:08, a copy of which may be obtained from the employing facility.

(b) In a case where disciplinary action will result in dismissal or reduction in salary, for reasons other than inefficiency, the charges shall be filed with the Director of

Employee Relations. The charges shall be stated with specificity as to the action or behavior underlying the charges and shall be accompanied by a supporting statement of evidence, both of which shall be executed under oath by the person or persons instituting such charges.

(c) The charges, along with the required sworn statement of evidence, shall be transmitted to the affected employee and the employee's representative, if known, within three working days of the date they were filed with the Director of Employee Relations. Proof of mailing or in-person delivery shall constitute proof of transmittal.

(d) The affected tenured employee shall have the opportunity to submit to the Director of Employee Relations a written statement of position and a written statement of evidence, both of which shall be executed under oath with respect thereto, within 15 days of receipt of the tenure charges.

(e) Within 45 days of receipt of the affected tenured employee's written statement of evidence under oath or upon expiration of the allotted 15-day time period, the Director of Employee Relations shall determine whether there is probable cause to credit the evidence in support of the charges and whether such charges, if credited, are sufficient to warrant a dismissal or reduction of salary.

(f) The Director of Employee Relations shall immediately notify in writing the affected employee against whom the charge has been made of the determination, in person or by certified mail to the last known address of the employee and the employee's representative, if known.

(g) If the Director of Employee Relations determines that probable cause exists and that the charges, if credited, warrant dismissal or reduction in salary, he or she shall file such charges and the required certification with the Commissioner of the Department of Education, together with proof of service upon the employee and the employee's representative, if known.

(h) Procedures for tenure charges based on inefficiency and procedures governing processing and hearing provisions subsequent to the filing of charges in (g) above are set forth at N.J.A.C. 6A:3-5.1 through 5.6.

Amended by R.1999 d.445, effective December 20, 1999.  
See: 31 N.J.R. 2440(a), 31 N.J.R. 4259(b).

In (a), substituted "and the Director, Office of Education, or his or her qualified designee" for "(in conjunction with the Supervisor of Education, for all instructional staff)" following "authority".

Amended by R.2005 d.150, effective May 16, 2005.  
See: 36 N.J.R. 3520(a), 37 N.J.R. 1729(a).

Rewrote the section.

#### 10:11-1.9 Reduction in force

Nothing contained in N.J.S.A. 18A shall be held to limit the right of the Commissioner of Human Services in the case of any educational program conducted under his or her

jurisdiction, supervision or control, to reduce the number of instructional staff in any such educational program or programs when the reduction is due to natural diminution of the number of students participating in the educational program or programs, subject to N.J.A.C. 6:3-5.1.

Amended by R.1995 d.86, effective February 6, 1995.

See: 26 N.J.R. 4297(a), 27 N.J.R. 499(a).

Amended by R.1999 d.445, effective December 20, 1999.

See: 31 N.J.R. 2440(a), 31 N.J.R. 4259(b).

Substituted references to educational programs for references to state institutions throughout, and deleted a reference to pupils.