

2. Performance areas needing improvement based upon the job description;

3. An individual professional development plan developed by the supervisor and the teaching staff member;

4. A summary of indicators of student progress and growth, and in statement of how these indicators relate to the effectiveness of the overall program and the performance of the individual teaching staff member; and

5. Provisions for performance data, which have not been included in the report prepared by the supervisor, to be entered into the record by the evaluatee within 10 working days after the signing of the report.

(g) These provisions are the minimum requirements for the evaluation of tenured teaching staff members.

6A:32-4.5 Evaluation of nontenured teaching staff members

(a) Each of the three observations required pursuant to N.J.S.A. 18A:27-3.1 shall be conducted for a minimum duration of one class period in a secondary school, and for one complete subject lesson in an elementary school.

(b) Each district board of education shall adopt a policy for the supervision of instruction, setting forth procedures for the observation and evaluation of all nontenured teaching staff members. Such policy shall be distributed to each teaching staff member at the beginning of his or her employment.

(c) Each policy for the supervision of instruction shall include, in addition to those observations and evaluations described in (a) and (b) above, an annual written evaluation of the nontenured teaching staff member's total performance as an employee of the district board of education, including, but not limited to:

1. Performance areas of strength;

2. Performance areas needing improvement based upon the job description;

3. An individual professional development plan developed by the supervisor and the teaching staff member; and

4. A summary of indicators of student progress and growth, and a statement of how these indicators relate to the effectiveness of the overall program and the performance of the individual teaching staff member.

(d) Each of the three observations required pursuant to N.J.S.A. 18A:27-3.1 shall be followed within a reasonable period of time, but in no instance more than 10 days, by a conference between the administrative or supervisory staff member who has made the observation and written evaluation, and the nontenured teaching staff member. Both parties to such a conference shall sign the written evaluation report and retain a copy for his or her records. The nontenured teaching staff member shall have the right to submit his or her

written disclaimer of such evaluation within 10 days following the conference and such disclaimer shall be attached to each party's copy of the evaluation report.

(e) The purposes of this procedure for the observation and evaluation of nontenured teaching staff members shall be to improve professional competence, identify deficiencies, extend assistance for the correction of such deficiencies, provide a basis for recommendations regarding reemployment, and improve the quality of instruction received by the students served by the public schools.

6A:32-4.6 Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of nonreemployment

(a) Whenever a nontenured teaching staff member has requested in writing and has received a written statement of reasons for nonreemployment pursuant to N.J.S.A. 18A:27-3.2, he or she may request in writing an informal appearance before the district board of education. Such written request shall be submitted to the board within 10 calendar days of receipt of the board's statement of reasons.

(b) Such an informal appearance shall be scheduled within 30 calendar days from receipt of the district board of education's statement of reasons.

(c) Under the circumstances described in this section, a nontenured teaching staff member's appearance before the district board of education shall not be an adversary proceeding. The purpose of such an appearance shall be to permit the staff member to convince the members of the board to offer reemployment.

(d) Each district board of education shall exercise discretion in determining a reasonable length of time of the proceeding, depending upon the specific circumstances in each instance.

(e) Each district board of education shall provide adequate written notice to the employee regarding the date and time of the informal appearance.

(f) The nontenured teaching staff member may be represented by counsel or one individual of his or her own choosing.

(g) The staff member may present witnesses on his or her behalf. Such witnesses do not need to present testimony under oath and shall not be cross-examined by the district board of education. Witnesses shall be called into the meeting to address the board one at a time and shall be excused from the meeting after making their statements.

(h) The proceeding of an informal appearance before the district board of education as described herein may be conducted pursuant to N.J.S.A. 10:4-12(b)(8).

(i) Within three days following the informal appearance, the district board of education shall notify the affected teaching staff member, in writing, of its final determination. The board may delegate such notification to its chief school administrator or board secretary.

Case Notes

To the extent nontenured teaching staff members, who received non-renewal letters citing budgetary constraints in May and then learned in September that replacements were hired to fill their positions, alleged a violation of the legislatively-conferred right to a "Donaldson hearing," embodied in N.J.S.A. 18A:27-4.1(b) and N.J.A.C. 6A:32-4.6, any such deprivation could not be attributed to the local board; the employees failed to take the necessary action – which only they could have taken – to avail themselves of that right. *Middletown Educ. Ass'n ex rel. McGee v. Bd. of Educ. of Middletown*, OAL Dkt. No. EDU 12159-06, Commissioner's Decision (August 16, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 1042) adopted, which concluded that since N.J.S.A. 18A:27-3.2 and N.J.A.C. 6A:32-4.6 require that nontenured teaching staff members whose contracts are not renewed must make a request in order to receive a written statement of reasons and board appearance pursuant to N.J.S.A. 18A:27-4.1, then non-teaching staff employees should be subject to the same requirement; thus, petitioner, a non-teaching staff employee, could not complain about not receiving these opportunities when he did not make a request. *Ruby v. Bd. of Educ. of Piscataway*, OAL Dkt. No. EDU 6661-06, Commissioner's Decision (January 22, 2007).

6A:32-4.7 Approval of paraprofessional staff

(a) The county superintendent shall annually approve school aides and/or classroom aides who assist in the supervision of student activities under the direction of a principal, teacher or other designated certified professional personnel.

(b) In order to employ a paraprofessional, the district board of education shall develop a job description and standards for each appointment. The description and standards shall be based on the school district's needs and shall include:

1. The duties to be performed;
2. The types of proficiencies needed;
3. The academic and/or experience qualifications;
4. The arrangement for supervision of the aide; and
5. The compensation.

(c) The chief school administrator shall submit the job description and standards in (b) above to the county superintendent for approval. The county superintendent shall review the description and standards proposed for classroom aide positions. If, after review of the description and standards, the county superintendent determines that the school district requires the paraprofessional position, he or she shall approve the school district's use of the position and notify the district board of education in writing of the approval.

6A:32-4.8 Support residencies for regularly-certified, inexperienced first-year principals

(a) Each school district employing a regularly-certified, inexperienced first-year principal shall enter into an agreement

to provide a principal residency program pursuant to N.J.A.C. 6A:9-12.5, including a pre-residency experience, except that:

1. Entry requirements in N.J.A.C. 6A:9-12.5 shall not apply to regularly-certified, inexperienced first-year principals;

2. Special certification evaluations as described in N.J.A.C. 6A:9-12.5 shall not be conducted for regularly-certified, inexperienced first-year principals, and no evaluations or recommendations concerning their certification shall be presented to the Department of Education; and

3. As part of the support residency, the school district shall require the new principal to undergo an assessment of performance at a State-approved center during the pre-residency phase. The sole purpose of this assessment shall be to provide a diagnosis of strengths and weaknesses as a basis for designing continuing education and support exercises.

(b) The Department of Education shall monitor school districts to determine compliance with this section.

6A:32-4.9 Access to personnel records

(a) A district board of education shall make the following employee records and information available for public access, pursuant to N.J.S.A. 47:1A-10, the Open Public Records Act:

1. An individual's name, title, position, salary, payroll record, length of service, date of separation and reason for separation, and the amount and type of pension received;

2. Personnel or pension records of any individual when required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by the State or the United States, or when authorized by an individual in interest; and

3. Data contained in information regarding specific experiential, educational or medical qualifications required for receipt of a public pension, except for detailed medical or psychological information.

SUBCHAPTER 5. SENIORITY

6A:32-5.1 Standards for determining seniority

(a) The word "employment" for purposes of these standards shall also be held to include "office" and "position."

(b) Seniority, pursuant to N.J.S.A. 18A:29-9 et seq., shall be determined according to the number of academic or calendar years of employment, or fraction thereof, as the case may be, in the school district in specific categories as hereinafter provided. The periods of unpaid absences not exceeding 30 calendar days aggregate in one academic or calendar year, leaves of absence at full or partial pay and unpaid absences