

March 17, 2023

## Update: Recent Commissioner Decisions on Tenure Acquisition

In 2012, the TEACHNJ statute overhauled New Jersey's tenure and evaluation systems by, among other things, tying tenure acquisition to a one-size-fits-all rating system. To be eligible for tenure under TEACHNJ a teaching staff member must "receive a rating of effective or highly effective in two annual summative evaluations within the first three years of employment after the initial year of employment." In other words, they must earn two effective or highly effective ratings in years two through four of their employment in the district.

Two recent decisions issued by acting Commissioner Dr. Angelica Allen-McMillan illustrate the need for all nontenured teaching staff to ensure they are evaluated annually. These decisions, *Harrell v. Plainfield Board of Education* and *McDonald v. State-Operated Newark School District*, conclude that if a district does not satisfy its obligation to annually evaluate nontenured teaching staff, tenure will be denied. Although the district is responsible for conducting evaluations, an individual's tenure acquisition could be jeopardized if there is any question as to whether they received the requisite summative scores. Equipped with this knowledge, NJEA advises members to protect themselves.

**NJEA urges all teaching staff members, particularly nontenured staff, to keep copies of their annual summative evaluations: save an electronic copy on a personal drive or retain hard copies of all evaluations.** Although the regulations at N.J.A.C. 6A:10-2.4(g) require districts to maintain confidential personnel files that include "all performance reports and supporting data," members should retain their own records to assist them in the unlikely event of a discrepancy.

Further, pursuant to N.J.A.C. 6A:10-2.4(c), annual summative conferences between teaching staff members and their designated supervisors must occur by June 30, although in most districts these conferences are held earlier in the spring. There may be rare instances when a teacher's score drops from effective to partially effective the following fall when the 5% mSGP component is calculated. Nonetheless, all other issues pertaining to the individual evaluation of nontenured staff must be addressed by June 30.

Members with questions or concerns about any aspect of evaluation (including but not limited to observations, annual conferences and scoring) should immediately reach out to their local association leadership. Local association leaders are encouraged to work with their UniServ field representative and PDII staff to address issues and ensure that each staff member receives a fair evaluation that helps them continue to perform at their best.