

CHAPTER 102**TENURE; TEACHERS AND OTHER CERTIFIED PROFESSIONAL EDUCATORS****Authority**

N.J.S.A. 18A:1-1; 18A:60-1 et seq.; 52:17B-170e(14) and (22); 52:17B-171a(5); 52:17B-176a(6), (7) and (12); 52:17B-177b(1); and 52:17B-178.

Source and Effective Date

R.2005 d.11, effective January 3, 2005.
See: 36 N.J.R. 2178(a), 37 N.J.R. 86(a).

Chapter Expiration Date

Pursuant to Executive Order No. 1(2010), the chapter expiration date is extended from April 3, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule is readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

Chapter Historical Note

Chapter 102, Tenure; Teachers and Other Certified Professional Educators, was adopted as new rules by R.2005 d.11, effective January 3, 2005. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 102, Tenure; Teachers and Other Certified Professional Educators, was extended by gubernatorial directive from January 3, 2010 to April 3, 2010. See: 42 N.J.R. 550(a).

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 13:102-1.1 Purpose
- 13:102-1.2 Scope
- 13:102-1.3 Definitions

SUBCHAPTER 2. TENURE

- 13:102-2.1 Scope of tenure
- 13:102-2.2 Eligibility
- 13:102-2.3 Performance assessment
- 13:102-2.4 Disciplinary action—tenured staff
- 13:102-2.5 Reduction in force

SUBCHAPTER 1. GENERAL PROVISIONS**13:102-1.1 Purpose**

The purpose of this chapter is to implement the provisions of N.J.S.A. 18A:60-1 et seq., that confer tenure protection on teachers and other certified professional educators of the Juvenile Justice Commission.

13:102-1.2 Scope

(a) This chapter applies to all individuals employed by the Juvenile Justice Commission who:

1. Are required to possess appropriate educational certification issued by the State Board of Examiners as a condition of employment; and

2. Are not otherwise included in the New Jersey Department of Personnel career service.

13:102-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Break in service” means resigning or leaving a tenured position for any purpose including to enter a career service, unclassified, non-tenured or Senior Executive Service position.

“Commission” means the New Jersey Juvenile Justice Commission.

“Director, Office of Education” means the Director of Educational Services in the New Jersey Juvenile Justice Commission who supervises the educational programs in all juvenile facilities operated by the Commission (see N.J.S.A. 52:17B-178).

“Executive Director” means the Executive Director of the New Jersey Juvenile Justice Commission.

“Office of Education” means the Office of Education within the Juvenile Justice Commission created and established by the provisions of N.J.S.A. 52:17B-178.

“State Board of Examiners” means the body created pursuant to the provisions of N.J.S.A. 18A:6-34 et seq.

“Teacher(s) and/or other certified professional educator(s)” means a member of the professional staff of the Office of Education or any facility under the authority of the Commission, holding a position or employment of such character that the qualifications require the employee to possess a valid and effective standard certificate issued by the State Board of Examiners.

SUBCHAPTER 2. TENURE**13:102-2.1 Scope of tenure**

Once tenure is acquired by an employee, such standing shall apply throughout the Commission. Tenure rights extend only to assignments within the scope of the certificate under which the employee earned tenure. If, however, the employee experiences a break in service, he or she will forfeit tenure rights.

13:102-2.2 Eligibility

(a) Those individuals who meet the requirements set forth at N.J.A.C. 13:102-1.2 shall be eligible for tenure after the expiration of continuous employment for three consecutive years in tenure eligible assignments within the scope of a specific standard certificate.

(b) Service rendered under a provisional certification shall be applied towards tenure eligibility. Tenure may be acquired, however, only when standard certification has been issued by the State Board of Examiners.

(c) Service rendered under an emergency certification may be applied towards tenure eligibility. However, service under an emergency certificate may be counted towards the service needed for tenure only when that service is followed by the teacher or other certified professional educator obtaining a permanent certificate in the same field as the emergency certificate.

13:102-2.3 Performance assessment

(a) Performance assessments for all teachers and other certified professional educators shall be conducted by the Director, Office of Education, or his or her designee, who has acquired a certificate as School Administrator, Principal or Supervisor.

(b) The performance assessment for non-tenured teachers and other non-tenured certified professional educators shall utilize the State of New Jersey's Performance Evaluation System (PES) form for recording the written evaluation section of the performance assessment. In the case of a teacher or other certified professional educator who at the time of the performance assessment possesses a provisional certificate, the appropriate Department of Education forms created for the sole purpose of reporting progress in gaining the skill(s) necessary to earn the standard certificate shall be completed concurrently with the PES form. For the purposes of evaluation of teachers and other certified professional educators who have not acquired tenure, the annual performance assessment shall consist of a minimum of:

1. Three observations throughout the year with no more than six months between evaluations;
2. Three written evaluations; and
3. Three conferences.

(c) The performance assessment for tenured teachers and other tenured certified professional educators shall utilize the PES form for recording the written evaluation section of the performance assessment. For the purposes of evaluation of tenured teachers and other tenured certified professional educators, the annual performance assessment shall consist of a minimum of:

1. Two observations;
2. Two written evaluations; and
3. Two conferences.

(d) The Director, Office of Education, or his or her designee, shall observe teachers and other certified professional educators while performing their duties through visitation to the classroom or work station.

(e) Each observation shall be followed by a conference within 10 days. Conference participants shall include the

teacher or other certified professional educator and the person conducting the observation. Each conference participant shall sign the performance assessment instrument and retain a copy for his or her records.

(f) Teachers and other certified professional educators shall have the right to submit comments relevant to their evaluation within 10 days following the conference. Such comments shall be attached to each party's copy of the instrument.

13:102-2.4 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 Commission, the Commission's appointing authority and the Director, Office of Education, or his or her designee, shall act in accordance with the Department of Law and Public Safety's Standard Operating Procedure 4-96, a copy of which may be obtained from the Commission's Office of Labor Relations.

(b) In a case where disciplinary action may result in dismissal or reduction in salary, for reasons other than inefficiency, the charges shall be filed by the tenured employee's supervisor, or higher administrative authority, with the Director, Office of Education. The charges shall be accompanied by a supporting statement of evidence. The charges and supporting statement of evidence shall be executed under oath by the person or persons instituting such charges.

1. The charges, along with the statement of evidence, shall be transmitted to the affected tenured employee and the employee's representative, if known, within three working days of the date the charges were filed with the Director, Office of Education. The charges, along with the statement of evidence shall be sent via certified mail, return receipt requested or hand delivered in which case a receipt shall be signed by the receiving employee.

2. The affected tenured employee shall have the opportunity to submit to the Director, Office of Education, a written statement of position and a written statement of evidence, both of which shall be executed under oath, within 15 days of receipt of the tenure charges.

3. Within 45 days of receipt of the tenured employee's written statements or expiration of the allotted 15 day time period for submission of these statements, the Director, Office of Education, 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 in salary.

4. The Director, Office of Education, shall notify in writing the affected employee against whom a charge has been made of his or her determination either in person or by certified mail to the last known address of the employee and the employee's representative, if known. Notification shall be made in person or mailed within three working days of the Director's determination.

5. If the Director, Office of Education, determines that probable cause exists and that the charges, if credited, are sufficient to warrant dismissal or a reduction in salary, the Director shall, within 15 days, file with the Commissioner of Education, the charges, the required certificate of determination and the proof of service upon the employee and the employee's representative, if known. A complete copy of all correspondence shall be sent to the affected employee and the affected employee's representative, if known.

(c) Procedures for tenure charges based on inefficiency and procedures governing processing and hearing provisions for subsequent activity under (b) above may be found at N.J.A.C. 6A:3-5.4 and 5.5.

13:102-2.5 Reduction in force

(a) Nothing contained in N.J.S.A. 18A shall be held to limit the right of the Executive Director in the case of any educational program conducted under his or her jurisdiction, supervision or control, to reduce the number of teachers and other certified professional educators 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.

(b) When such teachers and other certified professional educators under tenure are dismissed by reason of a reduction as noted in (a) above, those teachers and other certified professional educators having the least number of years of service shall be dismissed in preference to those having longer terms of service. Seniority shall be calculated as set forth at N.J.A.C. 6:3-5.1.

(c) Should any tenured teacher or other tenured certified professional educator be dismissed as a result of a reduction as noted in (a) above, that person shall remain upon a preferred eligible list in the order of years of service for reemployment, whenever vacancies occur, and shall be reemployed by the Executive Director in such order, when, and if, a vacancy occurs in a position for which that tenured teacher or other tenured certified professional educator shall be qualified. Such reemployment shall give full recognition to previous years of service.