

**CHAPTER 11****INSTRUCTIONAL STAFF****Authority**

N.J.S.A. 18A:1-1, 18A:60-1, 18A:60-1.1 et seq. (P.L. 1986, c.158) and 30:1-12.

**Source and Effective Date**

R.1999 d.445, effective November 29, 1999.  
See: 31 N.J.R. 2440(a), 31 N.J.R. 4259(b).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 11, Instructional Staff, expires on May 28, 2005. See: 36 N.J.R. 3520(a).

**Chapter Historical Note**

Chapter 11, Instructional Staff, was adopted as R.1990 d.25, effective January 16, 1990. See: 21 N.J.R. 2849(b), 22 N.J.R. 215(a).

Pursuant to Executive Order No. 66(1978), Chapter 11, Instructional Staff was readopted as R.1995 d.86, effective January 13, 1995. See: 26 N.J.R. 4297(a), 27 N.J.R. 499(a).

Pursuant to Executive Order No. 66(1978), Chapter 11, Instructional Staff, was readopted as R.1999 d.445, effective November 29, 1999. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS****SUBCHAPTER 1. TENURE**

- 10:11-1.1 Authority
- 10:11-1.2 Scope
- 10:11-1.3 Definitions
- 10:11-1.4 Scope of tenure
- 10:11-1.5 Eligibility
- 10:11-1.6 Notice of reemployment; non-reemployment
- 10:11-1.7 Performance assessment
- 10:11-1.8 Disciplinary action—tenured staff
- 10:11-1.9 Reduction in force

**SUBCHAPTER 1. TENURE****10:11-1.1 Authority**

This subchapter implements the provisions of N.J.S.A. 18A:60-1 and 18A:60-1.1 (P.L. 1986, c.158), which grants tenure rights to instructional staff of the Department of Human Services.

**10:11-1.2 Scope**

(a) This subchapter applies to all individuals employed by the Department of Human Services who:

1. Are required to possess appropriate educational certification as a condition of employment; and
2. Are not otherwise included in the New Jersey Department of Personnel classified system.

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)1, inserted "appropriate" following "possess".

**10:11-1.3 Definitions**

When used in this subchapter, the following terms shall have the indicated meanings, unless the context clearly indicates otherwise.

"Instructional staff member" means a member of the professional staff of the Office of Education or any facility in the Department of Human Services, holding position or employment of such character that the qualifications require him or her to possess a valid and effective standard certificate issued by the State Board of Examiners, appropriate to his or her assignment, as determined by the Director, Office of Education. Applications of time earned during possession of emergency or provisional certifications are described in N.J.A.C. 10:11-1.5.

"One year of service" means, for seniority purposes only, 12 months of employment in pay status in a tenure-applicable title in the Department of Human Services. A service period commences on the date of appointment into a tenure-applicable title. Examples of tenure-applicable titles are Teacher I; Teacher II; Supervisor of Educational Programs I and II; Assistant Supervisor of Educational Programs I and II; Instructor, Commission for the Blind and Visually Impaired; School Psychologist; Learning Disabilities Specialist; School Social Worker; and other educational titles that require staff to hold valid and effective standard certificates, issued by the State Board of Examiners appropriate to the assignment as determined by the Director, Office of Education.

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

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

In "Instructional staff member", inserted "the Office of Education or" following "staff of", deleted "office," following "holding", and deleted "instructional" preceding "assignment"; in "One year of service", deleted "Supervising Consultant, Curriculum Services;" following "Worker;"; inserted "other" preceding "educational", and substituted "assignment" for "instructional function" following "appropriate to the"; and deleted "Supervisory or administrative staff".

**10:11-1.4 Scope of tenure**

Once tenure is acquired by an employee, such standing shall apply throughout the Department of Human Services. If, however, the employee experiences a break in service, he or she will forfeit tenure rights. A break in service for tenure purposes is defined as resigning or leaving a tenured position to enter a career service, unclassified, non-tenured or Senior Executive Service position.

**10:11-1.5 Eligibility**

(a) In addition to fulfillment of the requirements set forth in N.J.A.C. 10:11-1.2, and pursuant to N.J.S.A. 18A:60-1 et seq., those individuals who have been continu-

ously employed for at least two academic years in an instructional capacity within the Department of Human Services as of July 1, 1986 and have completed at least two years of educational services with satisfactory evaluations shall acquire tenure upon completion of one additional year of satisfactory service.

(b) Those individuals who do not meet the requirements set forth in (a) above, but were employed on or after July 1, 1986, shall be eligible for tenure:

1. After continuous employment for three consecutive years; or
2. After employment for the equivalent of more than three years within a period of four consecutive academic years.

(c) Employment experience obtained under emergency or provisional certification may be applied towards tenure eligibility. However, tenure may be acquired only when standard certification is issued. Instructional staff shall obtain a standard certificate within three years from the date an emergency certificate is issued. Requests for an extension of time shall be presented in writing to the Director, Office of Education. Extensions of time to obtain a standard certificate shall be granted by the Director, Office of Education, based upon a demonstration of extraordinary circumstances which prevented the requestor from completing the necessary course work within the time allotted.

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).

In (a), substituted a reference to educational services for a reference to instructional services.

#### 10:11-1.6 Notice of reemployment; non-reemployment

(a) All notices under this section, including the recommendation for reemployment or the 60-day notice of non-reemployment, shall be made by the appointing authority and the Director, Office of Education, or his or her qualified designee for all instructional staff.

1. By the appointing authority, in conjunction with the facility Supervisor of Education, for non-supervisory or non-administrative instructional staff;
2. By the Director, Office of Education, for all supervisory or administrative staff.

(b) A written notice of non-reemployment shall be provided to an individual not to be granted tenure at least 60 days prior to such individual's date of tenure eligibility pursuant to N.J.A.C. 10:11-1.5.

(c) All non-tenured instructional staff not recommended for tenure shall be dismissed prior to the otherwise effective date of tenure.

(d) Any instructional staff member who receives a notice of non-reemployment, as noted in (b) above, may, within 15 days of receipt of the notice, request, in writing, a statement of the reasons for such action from the appointing authority (N.J.S.A. 18A:27-3.2), which statement of reasons shall be given to the instructional staff member in writing within 30 days after the receipt of such request.

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

#### 10:11-1.7 Performance assessment

(a) Educationally certified supervisory personnel or the Director, Office of Education, as appropriate, shall conduct performance assessments pursuant to N.J.S.A. 18A:27-3.1 and N.J.A.C. 6:3-4.1 and 4.3.

(b) Supervision and evaluation of instructional staff shall be conducted by educationally certified supervisors employed in an educational capacity within the Department of Human Services or by the Director, Office of Education, or his or her appropriately qualified designee, in conjunction with the appointing authority.

(c) For purposes of evaluation of non-tenured instructional staff, the following provisions shall apply notwithstanding the schedule of evaluations set forth in N.J.A.C. 6:3-4.1.

1. The annual Performance Assessment shall consist of a minimum of three observations/written evaluations/conferences 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.

(d) For purposes of evaluation of tenured instructional staff, the following provisions shall apply notwithstanding the schedule of evaluations set forth in N.J.A.C. 6:3-4.3.

1. The annual Performance Assessment shall consist of a minimum of two observations/written evaluations/conferences.

(e) A non-tenured or tenured instructional staff member will be observed through visitation to his or her classroom or work station by an educationally certified supervisor or the Director, Office of Education or his or her qualified designee, as appropriate, for the purpose of observing the staff member in the educational process.

(f) Each observation shall be followed within a reasonable period of time by a conference between the instructional staff member and the Supervisor of Educational Programs or the Director, Office of Education or his or her designee, as appropriate. Each party to the conference will sign the Performance Assessment instrument and retain a copy for his or her records.

(g) 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.

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

(a) In a case where disciplinary action is recommended or implemented, which does not result in 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, the charges shall be filed with the Director of Employee Relations. The charges 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) Charges along with the required sworn statement of evidence shall be transmitted to the affected tenured employee within three working days of the date they were filed with the Director of Employee Relations. Proof of mailing or hand 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 charges, 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 its determination, in person or by certified mail to the last known address of the employee.

(g) If the Director of Employee Relations determines that there is probable cause, he or she shall file a finding of probable cause, together with accompanying documentation, with the Commissioner of the Department of Education, together with proof of service upon the employee.

(h) Procedures governing processing and hearing provisions for subsequent activity under this chapter may be found at N.J.A.C. 6:24-5.4.

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".

#### 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.