

CHAPTER 15

TENURE; TEACHERS AND OTHER CERTIFIED PROFESSIONAL EDUCATORS

Authority

N.J.S.A. 30:1B-6 and 30:1B-10.

Source and Effective Date

R.2007 d.4, effective January 2, 2007.
See: 38 N.J.R. 3435(a), 39 N.J.R. 105(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 15, Tenure; Teachers and Other Certified Professional Educators, expires on June 30, 2012. See: 42 N.J.R. 2565(a).

Chapter Historical Note

Chapter 15, Tenure; Teachers and Other Certified Professional Educators, was adopted as new rules by R.2007 d.4, effective January 2, 2007. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:15-1.1 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 Department of Corrections.

10A:15-1.2 Scope

(a) This chapter applies to all individuals employed by the Department of Corrections who are:

1. Required to possess appropriate educational certification issued by the New Jersey State Board of Examiners as a condition of employment; and
2. Not otherwise included in the New Jersey Department of Personnel career service.

10A:15-1.3 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 service, non-tenured or Senior Executive Service position.

“Director, Office of Educational Services” means the Director of Educational Services in the New Jersey Department of Corrections who supervises the educational programs, library services and recreational activities in all adult correctional facilities operated by the Department (see N.J.S.A. 18A:7B-8).

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

“Office of Educational Services” means the Office of Educational Services within the Department of Corrections created and established by the provisions of N.J.S.A. 18A:7B-8.

“Teacher(s) and/or other certified professional educator(s)” means a member of the professional staff of the Office of Educational Services or any correctional facility under the authority of the Department, 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 New Jersey State Board of Examiners appropriate to the employee’s assignment, as determined by the Director, Office of Educational Services.

SUBCHAPTER 2. TENURE

10A:15-2.1 Scope of tenure

Once tenure is acquired by an employee, such standing shall apply throughout the Department. 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.

10A:15-2.2 Eligibility

(a) Those individuals who meet the requirements set forth at N.J.A.C. 10A:15-1.2 shall be eligible for tenure after the expiration of continuous employment for three consecutive years in tenure eligible assignments with satisfactory evaluations 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 New Jersey 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.

10A:15-2.3 Appropriate performance assessments

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

(b) 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) 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. One observation;
2. One written evaluation; and
3. Additional observations, written evaluations and conferences if deemed necessary by the Director, Office of Educational Services, or designee.

(d) The Director, Office of Educational Services, or designee, shall observe and evaluate 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 calendar days. Conference participants shall include the teacher or other certified professional educator and the person conducting the observation and preparing the written evaluation. Each conference participant shall sign the performance assessment instrument and retain a copy for their records.

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

10A:15-2.4 Disciplinary action—tenured staff

(a) In a case where disciplinary action is recommended or implemented as a result of charges made against a tenured employee of the Department, and the disciplinary action does not involve dismissal or reduction in salary, the appointing

authority and the Director or designee, Office of Educational Services, shall act in accordance with the Department of Corrections Human Resources Bulletin 84-17. A copy of this Bulletin may be obtained from the Office of Human Resources, Department of Corrections, P.O. Box 863, Trenton, NJ 08625 ATTN: Director.

(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 Educational Services. 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 business days of the date the charges were filed with the Director, Office of Educational Services. Proof of mailing or hand delivery shall constitute proof of transmittal.

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

3. Within 45 calendar days of receipt of the tenured employee's written statements or upon expiration of the allotted 15 calendar day time period for submission of these statements, the Director, Office of Educational Services, 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 Educational Services, shall notify in writing the affected employee against whom a charge has been made of the determination, either in person or by proof of mailing with return receipt requested 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 business days of the Director's determination.

5. If the Director, Office of Educational Services, 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 calendar days, file with the Commissioner of the State Department 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 are set forth at N.J.A.C. 6A:3-5.4 and 5.5.

10A:15-2.5 Reduction in force

(a) Nothing contained in N.J.S.A. 18A shall be held to limit the right of the Commissioner in the case of any educational program conducted under jurisdiction of the Commissioner, 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 in the standards for determining seniority at N.J.A.C. 6A:32-5.1.

(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 Commissioner 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.