

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

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

**Source and Effective Date**

R.1995 d.86, effective January 13, 1995.  
See: 26 N.J.R. 4297(a), 27 N.J.R. 499(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 11, Instructional Staff, expires on January 13, 2000.

**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 was readopted as R.1995 d.86. See: Source and Effective Date. See, also, section annotations.

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**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 educational certification as a condition of employment; and,
2. Are not otherwise included in the New Jersey Department of Personnel classified system.

**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 any facility in the Department of Human Services, holding office, position, or employment of such character that the qualifications require him or her to hold a valid and effective standard certificate issued by the State Board of Examiners, appropriate to his or her instructional 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; Supervising Consultant, Curriculum Services; and educational titles that require staff to hold valid and effective standard certificates, issued by the State Board of Examiners appropriate to the instructional function as determined by the Director, Office of Education.

“Supervisory or administrative staff” means a member of the staff of any Department of Human Services facility or the Office of Education in the Department of Human Services holding a position or employment that requires him or her to hold a valid and effective standard certificate, issued by the State Board of Examiners appropriate to his or her function as determined by the Director, Office of Education.

**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 continuously 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 instructional 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).

#### 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:

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.

#### 10:11-1.7 Performance assessment for tenure purposes

(a) Educationally certified supervisory personnel or the Director, Office of Education, as appropriate, shall conduct performance assessment reviews in compliance with the standards and criteria promulgated by the Commissioner of the Department of Personnel pursuant to N.J.S.A. 11A:6-28 and N.J.A.C. 4A:1-1, and set forth fully at 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.

(c) Supervision and evaluation of administrative or supervisory staff shall be conducted by the Director, Office of Education, or his or her appropriately qualified designee, in conjunction with the appointing authority.

(d) 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 Performance Assessment Review system shall consist of a minimum of three observations/conferences conducted for the duration of at least one class period or lesson period.

(e) 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 Performance Assessment Review system shall consist of a minimum of two observations/conferences annually.

(f) A non-tenured or tenured instructional staff member will be observed through visitation to his or her classroom or work station by an appropriately certified supervisor for the purpose of observing the staff member in the educational process.

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

(h) 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).

**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 (in conjunction with the Supervisor of Education, for all instructional staff) 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.

**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 State institution conducted under his or her jurisdiction, supervision or control, to reduce the number of instructional staff in any such institution or institutions when the reduction is due to natural diminution of the number of students or pupils in the institution or institutions, 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).