

N.J.S.A. 18A:27-3.1. Evaluation of [nontenured] teaching staff

1. Every board of education in this State shall cause each [nontenure] teaching staff member employed in the positions of teacher, principal, assistant principal, and vice-principal employed by it to be observed and evaluated in the performance of her or his duties at least [three times] twice during each school year, [but not less than once during each semester. Said evaluations are to take place before April 30 each year. The evaluations may cover that period between April 30 of one year and April 30 of the succeeding year excepting in the case of the first year of employment where the three evaluations must have been completed prior to April 30.] The number of required observations and evaluations may be reduced proportionately when an individual teaching staff member's term of service is less than one academic year. Each evaluation [shall] may be followed by a conference between that teaching staff member and his or her superior or superiors. The purpose of this procedure is to recommend as to reemployment, identify any deficiencies, extend assistance for their correction and improve professional competence.

2. The commissioner shall promulgate rules and regulations pertaining to the evaluation of teaching staff members employed in the positions of teacher, principal, assistant principal, and vice-principal that shall be binding upon and supersede any district-adopted evaluation criteria or process that may be inconsistent with regulations made pursuant to this act. Such rules and regulations shall provide for an educator evaluation system using multiple performance measures and shall at a minimum include:

- a) four defined annual rating categories for teachers, principals, administrative principals, assistant principals and vice-principals: ineffective, partially effective, effective and highly effective;
- b) a provision requiring that at least 50 percent of such effectiveness ratings be based on objective measures of student learning such as standardized test scores or other quantifiable indicators;
- c) objective measures of student learning that use growth from one year's quantifiable measure to the next year's quantifiable measure;
- d) a provision that multiple measures of educator practice and student learning be used in rating educator effectiveness with specific measures and implementation processes;
- e) a requirement that all educators receive at least one annual evaluation, including a conference with their superior or superiors following the final evaluation for the school year;
- f) an opportunity for educators to improve their effectiveness from routine evaluation feedback;
- g) guidelines for districts regarding training on the evaluation system to support its implementation; and
- h) a performance framework, associated evaluation tools and observation protocols with a process for a school district to obtain the approval of the Commissioner of Education to utilize other evaluation tools.

3. Each school district in the State shall fully implement the educator evaluation system by the 2012-2013 school year, provided however that any evaluation system or process that is set out in any existing collective bargaining agreement need not conform to these regulations until such time as the agreement expires. No collective bargaining agreements or other contracts entered into by a school district upon the passage of this act shall conflict with the rules and regulations of this act pertaining to the evaluation of teaching staff members.

4. Annual ratings of teaching staff members employed in the position of teacher, principal, assistant principal and vice-principal shall not be subject to grievance or appeal unless the grievance or appeal relates to a charge that the district failed to adhere substantially to the approved evaluation process. Any such appeals initiated by a teacher shall be directed to the district superintendent within 30 days of receipt of the annual rating, and the superintendent may consider such appeal pursuant to rules and regulations promulgated by the commissioner.

5. Each school district shall report on its website for each school the number of teachers rated in each evaluation category for the most recent school year. The Commissioner of Education shall report on its website the number of teachers and principals in each district rated in each evaluation category.

L.1975,c.132,s.1; amended 1977,c.161,s.1; 1992,c.159,s.17; 1993,c.100,s.1.

N.J.S.A. 18A:28-5. Requirements for tenure of certain employees

The services of all teaching staff members employed in the positions of [teacher, principal, other than administrative principal, assistant principal, vice-principal,] assistant superintendent, and all school nurses including school nurse supervisors, head school nurses, chief school nurses, school nurse coordinators, and any other nurse performing school nursing services, school athletic trainer and such other employees as are in positions which require them to hold appropriate certificates issued by the board of examiners, serving in any school district or under any board of education, excepting those who are not the holders of proper certificates in full force and effect and school business administrators shared by two or more school districts, shall be under tenure during good behavior and efficiency and they shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming such a teaching staff member or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of this Title, after employment in such district or by such board for:

- (a) Three consecutive calendar years, or any shorter period which may be fixed by the employing board for such purpose; or
- (b) Three consecutive academic years, together with employment at the beginning of the next succeeding academic year; or
- (c) The equivalent of more than three academic years within a period of any four consecutive academic years.

For purposes of this chapter, tenure in any of the administrative or supervisory positions enumerated herein shall accrue only by employment in that administrative or supervisory position. Tenure so accrued shall not extend to any other administrative or supervisory position and nothing herein shall limit or restrict tenure rights which were or may be acquired pursuant to N.J.S.18A:28-6 in a position in which the individual actually served.

N.J.S.A. 18A:28-5.1 Tenure of teachers and principals (NEW)

1. The services of all teaching staff members employed in the positions of teacher, principal, other than administrative principal, assistant principal and vice-principal who hold appropriate certificates issued by the board of examiners, serving in any school district or under any board of education, excepting those who are not the holders of proper certificates in full force and effect, shall be under tenure during good behavior and efficiency and they shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming such a teaching staff member or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of this Title, after the employee receives annual ratings of “effective” or “highly effective” as defined under the Commissioner of Education’s regulations as promulgated under 18A:27-3.1 in the most recent annual evaluation and in the two years preceding the most recent annual evaluation.

For purposes of this chapter, tenure in any of the administrative or supervisory positions enumerated herein shall accrue only by employment in that administrative or supervisory position. Tenure so accrued shall not extend to any other administrative or supervisory position and nothing herein shall limit or restrict tenure rights which were or may be acquired pursuant to N.J.S.18A:28-6 in a position in which the individual actually served.

2. A teacher under tenure who receives an annual rating of "ineffective" for one year, or an annual rating of "partially effective" for two consecutive years, shall revert to non-tenure status and may be subject to dismissal by either the board of education or the school principal. A principal, assistant principal or vice-principal under tenure who receives an annual rating of "ineffective" for one year, or an annual rating of "partially effective" for two consecutive years, shall revert to non-tenure status and be subject to dismissal by the board of education or the superintendent. A teaching staff member employed as a teacher, principal, assistant principal or vice-principal who reverts to non-tenure status after receiving an annual rating of "ineffective" or two consecutive annual ratings of "partially effective" shall revert to tenure status following three consecutive annual ratings of "effective" or "highly effective."

3. Any teacher or principal under tenure on the effective date of this act shall continue under tenure subject to the annual rating requirements set forth in subsection (2).

N.J.S.A. 18A:28-6. Tenure upon transfer or promotion

Any such teaching staff member under tenure or eligible to obtain tenure under this chapter, who is transferred or promoted with his consent to another position covered by this chapter on or after July 1, 1962, shall not obtain tenure in the new position until [after:] the teaching staff member receives an annual rating of "effective" or "highly effective" as defined under the Commissioner of Education's regulations as promulgated under 18A:27-3.1 in the most recent annual evaluation and in the two years preceding the most recent annual evaluation while in the new position.

[(a) the expiration of a period of employment of two consecutive calendar years in the new position unless a shorter period is fixed by the employing board for such purpose; or

(b) employment for two academic years in the new position together with employment in the new position at the beginning of the next succeeding academic year; or

(c) employment in the new position within a period of any three consecutive academic years, for the equivalent of more than two academic years;

provided that the period of employment in such new position shall be included in determining the tenure and seniority rights in the former position held by such teaching staff member, and in the event the employment in such new position is terminated before tenure is obtained therein, if he then has tenure in the district or under said board of education, such teaching staff member

shall be returned to his former position at the salary which he would have received had the transfer or promotion not occurred together with any increase to which he would have been entitled during the period of such transfer or promotion.]

N.J.S.A. 18A:6-31.4. Terms, conditions of employment

Whenever a new school district is created, a new collective bargaining agreement shall be negotiated with the majority representative of the new school district. [the terms and conditions of employment, whether established through a collective bargaining agreement or past practice, of the largest constituent school district which is affected, replaced or displaced by, or forms part of the new school district, shall apply until a successor agreement is negotiated with the majority representative of the new school district. As used in this section, the term largest constituent school district means that school district which employs the largest number of teaching staff members.

In the event that there is an employee bargaining unit in a constituent school district with the next largest number of employees and with a majority representative of the unit, which is not so represented in the largest school district, the terms and conditions of employment for all employees holding positions in that unit in the new school district shall apply provided that the terms and conditions of employment shall only apply to the new school district's employees in that bargaining unit.]

N.J.S.A. 18A:6-31.5. Tenure and security rights of employees of the new school district.
(DELETE)

[Whenever a new school district is created, the tenure and seniority rights of all employees from the affected, constituent, replaced or displaced districts which form or are a part of, or are affected, replaced or displaced by the new school district, except for employees who are superintendents, shall be recognized and preserved by the new school district and all periods of employment in any of the school districts shall count toward acquisition of tenure and seniority in the new school district. All statutory and contractual rights to tenure, seniority, accumulated sick leave, leave of absence, and pension of an employee, other than an employee who is a superintendent, which have been acquired through employment in any of the districts shall be recognized by the new school district.]

N.J.S.A. 18A:6-31.6. Filling vacancies. (DELETE)

[Following consideration of the tenure and seniority rights of employees provided pursuant to section 3 of this act or pursuant to any other section of law, a new school district shall fill all vacancies and available positions from a pool of qualified employees prior to interviewing applicants or hiring new employees. The pool of qualified employees shall consist of all employees of the constituent, affected, displaced or replaced school districts who would otherwise be entitled to continued employment in that district in the following school year but are not entitled to continued employment in the new school district because of tenure or seniority

status. During the school year in which the new district is established, a new school district shall not hire an employee for a particular position until all employees in the labor pool qualified to fill the position have been offered employment by the new school district.]

N.J.S.A. 18A:6-31.7. Other employee rights and benefits not affected. (DELETE)

[Nothing in this act shall be construed to limit, restrict, or reduce the rights or benefits of any employee provided under any other section of law or regulation.]

N.J.S.A. 18A:8-34. Principals, teachers and employees of constituent districts; tenure, etc (DELETE)

[All principals, teachers and employees in the public schools of the consolidating school districts and of any regional district or districts abolished by the consolidation shall, when the consolidation became effective, be principals, teachers and employees, respectively, in the public schools of the consolidated district, and their tenure, pension and accumulative sick leave rights under the state laws shall not be affected by consolidation or abolition or by any of the provisions of this chapter.]

N.J.S.A. 18A:28-6.1. Tenure upon discontinuance of school (DELETE)

[Whenever, heretofore or hereafter, any board of education in any school district in this state shall discontinue any high school, junior high school, elementary school or any one or more of the grades from kindergarten through grade 12 in the district and shall, by agreement with another board of education, send the pupils in such schools or grades to such other district, all teaching staff members who are assigned for a majority of their time in such school, grade or grades and who have tenure of office at the time such schools or grades are discontinued shall be employed by the board of education of such other district in the same or nearest equivalent position; provided that any such teaching staff member may elect to remain in the employ of the former district in any position to which he may be entitled by virtue of his tenure and seniority rights by giving notice of said election to the boards of education in each of the school districts at least three months prior to the date on which such school, grade, or grades are to be discontinued. Teaching staff members so employed in such other district shall have their rights to tenure, seniority, pension and accumulated leave of absence, accorded under the laws of this state, recognized and preserved by the board of education of that district. Any periods of prior employment in such sending district shall count toward the acquisition of tenure in the other district to the same extent as if all such prior employment had been in such other district.]

N.J.S.A. 18A:28-9. Reduction of force; power to reduce and reasons for reduction

Nothing in this title or any other law relating to tenure of service shall be held to limit the right of any board of education to reduce the number of teaching staff members, employed in the district whenever, in the judgment of the board, it is advisable to abolish any such positions for reasons of economy or because of reduction in the number of pupils or of change in the administrative or supervisory organization of the district or for efficiencies found through the consolidation or sharing of services between school districts or because a school has been identified as failing by the commissioner or for other good cause upon compliance with the provisions of this article.

N.J.S.A. 18A:28-10. Reasons for dismissals of persons under tenure on account of reduction

Dismissals resulting from any such reduction shall not be made by reason of residence, age, sex, marriage, race, religion or political affiliation but shall be made on the basis of [seniority according to the standards to be] effectiveness as determined by the evaluation system established by the commissioner [with the approval of the state board].

N.J.S.A.18A:28-11. Seniority; board to determine; notice and advisory opinion (DELETE)

[In the case of any such reduction the board of education shall determine the seniority of the persons affected according to such standards and shall notify each such person as to his seniority status, and the board may request the commissioner for an advisory opinion with respect to the applicability of the standards to particular situations, which request shall be referred to a panel consisting of the county superintendent of the county, the secretary of the state board of examiners and an assistant commissioner of education designated by the commissioner and an advisory opinion shall be furnished by said panel. No determination of such panel shall be binding upon the board of education or any other party in interest or upon the commissioner or the state board if any controversy or dispute arises as a result of such determination and an appeal is taken there from pursuant to the provisions of this title.]

N.J.S.A. 18A:28-12. Reemployment in order of seniority (DELETE)

[If any teaching staff member shall be dismissed as a result of such reduction, such person shall be and remain upon a preferred eligible list in the order of seniority for reemployment whenever a vacancy occurs in a position for which such person shall be qualified and he shall be reemployed by the body causing dismissal, if and when such vacancy occurs and in determining seniority, and in computing length of service for reemployment, full recognition shall be given to

previous years of service, and the time of service by any such person in or with the military or naval forces of the United States or of this State, subsequent to September 1, 1940, and the time of service of any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, shall be credited to him as though he had been regularly employed in such a position within the district during the time of such military or naval service, except that the period of that service shall not be credited toward more than four years of employment or seniority credit.]

N.J.S.A. 18A:27-4.1. Board of Education, procedure for certain personnel actions;
recommendation of chief school administrator

Notwithstanding the provisions of any law, rule or regulation to the contrary,

a. A board of education shall appoint, transfer or remove a certificated or non-certificated officer or employee [only] upon the recommendation of the chief school administrator and by a recorded roll call majority vote of the full membership of the board. The board shall not withhold its approval for arbitrary and capricious reasons.

b. A teacher shall not be assigned to the instructional staff of a school without the mutual consent of the teacher and the school principal for such an assignment.

c. In the event that the principal does not consent to the placement of a teacher under tenure, as described in subsection (b), the teacher may continue to receive compensation and benefits while the teacher and the school district search for an alternative assignment in the district. If a mutually agreeable placement is not achieved after twelve months of the date from which the initial assignment was approved by the board, the board of education may place the teacher on permanent unpaid leave. A teacher on permanent unpaid leave shall not receive salary, benefits or credit towards salary or benefits.

[b.] d. A board of education shall renew the employment contract of a certificated or non-certificated officer or employee only upon the recommendation of the chief school administrator and by a recorded roll call majority vote of the full membership of the board. The board shall not withhold its approval for arbitrary and capricious reasons. A nontenured officer or employee who is not recommended for renewal by the chief school administrator shall be deemed nonrenewed. Prior to notifying the officer or employee of the nonrenewal, the chief school administrator shall notify the board of the recommendation not to renew the officer's or employee's contract and the reasons for the recommendation. An officer or employee whose employment contract is not renewed shall have the right to a written statement of reasons for nonrenewal pursuant to section 2 of P.L.1975, c.132 (C.18A:27-3.2) and to an informal appearance before the board. The purpose of the appearance shall be to permit the staff member to convince the members of the board to offer reemployment. The chief school administrator shall notify the officer or employee of the nonrenewal pursuant, where applicable, to the provisions of section 1 of P.L.1971, c.436 (C.18A:27-10).

[c.] e. The provisions of this section shall not apply to the appointment, transfer, removal, renewal or nonrenewal of a person who is a treasurer of school moneys, election officer, board auditor, board attorney or board secretary, except a board secretary who performs business administration functions.

N.J.S.A. 18A:29-17 Factors to Consider in Determining Compensation (NEW)

1. The commissioner shall promulgate rules and regulations addressing the forms of compensation and methods of determining compensation for a teaching staff member employed in the position of teacher, principal, assistant principal or vice-principal. Compensation shall be determined primarily by:

- a. the teaching staff member's demonstrated effectiveness in advancing student learning, as determined by the annual effectiveness ratings;
- b. whether the teaching staff member is assigned to a failing school, as determined by the Commissioner of Education;
- c. whether the teaching staff member is teaching in a subject area identified by the Commissioner of Education as a difficult-to-staff subject area

2. A school district shall not adopt a salary schedule or compensation policy for teaching staff members employed in the position of teacher, principal, assistant principal, or vice-principal for which seniority is a primary factor.

3. No teaching staff member employed in the position of teacher, principal, assistant principal or vice-principal shall receive compensation increases based on academic credits or degrees attained unless the Commissioner of Education identifies that degree as one that would have a demonstrable positive effect on student achievement, and the educator is teaching or practicing in that subject area.

4. The commissioner shall promulgate rules and regulations to guide the implementation of the provisions of subsections (1) and (3). Such regulations will be effective upon adoption by the commissioner for a period not to exceed twelve months, after which the commissioner may promulgate the regulations pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 *et seq.*

N.J.S.A. 18A:6-14. Suspension upon certification of charge; compensation; reinstatement

Upon certification of any charge to the commissioner, the board may suspend the person against whom such charge is made, with or without pay, [but, if the determination of the charge by the Commissioner of Education is not made within 120 calendar days after certification of the charges, excluding all delays which are granted at the request of such person, then the full salary (except for said 120 days) of such person shall be paid beginning on the one hundred twenty-first day until such determination is made.] Should the charge be dismissed, the person shall be reinstated immediately with full pay from the first day of such suspension. Should the charge be dismissed and the suspension be continued during an appeal there from, then the full pay or salary of such person shall continue until the determination of the appeal. However, the board of education shall deduct from said full pay or salary any sums received by such employee or officers by way of pay or salary from any substituted employment assumed during such period of suspension. Should the charge be sustained on the original hearing or an appeal there from, and should such person appeal from the same, then the suspension may be continued unless and until such determination is reversed, in which event he shall be reinstated immediately with full pay as of the time of such suspension.

N.J.S.A. 18A:6-16. Proceedings before commissioner; written response; determination.

Upon receipt of such a charge and certification, or of a change lawfully made to the commissioner, the commissioner or the person appointed to act in the commissioner's behalf in the proceedings shall examine the charges and certification. The individual against whom the charges are certified shall have 15 days to submit a written response to the charges to the commissioner. Upon showing of good cause, the commissioner may grant an extension of time. The commissioner shall render a determination on the sufficiency of charges as set forth below within 15 days immediately following the period provided for a written response to the charges.

If, the following receipt of the written response to the charges, the commissioner is of the opinion that they are not sufficient to warrant dismissal or reduction in salary of the person charged, he shall dismiss the same and notify said person accordingly. If, however, he shall determine that such charge is sufficient to warrant dismissal or reduction in salary of the person charged, he shall within 10 days of making that determination refer the case to the Office of Administrative Law for further proceedings, except that when a motion for summary decision is made prior to that time, the commissioner may retain the matter for purposes of deciding the motion. An initial decision shall be issued by the administrative law judge to the commissioner not later than 30 calendar days after the case been received at the Office of Administrative Law.

N.J.S.A. 11A:9-6. Adoption or Rescission of the title; elections

1. The method of submitting the question of the adoption of this title to the voters of a county or municipality shall conform as nearly as possible to the provisions of Title 19 of the Revised Statutes relating to the submission of public questions [and when submitted at a school district election shall conform as nearly as possible to the provisions of Title 18A of the New Jersey Statutes relating to the submission of public questions in school districts]. In school districts, the method of submitting the question of the adoption or rescission shall conform as nearly as possible to the provisions of Title 18A of the New Jersey Statutes relating to the submission of public questions.

2. A school district operating under the provisions of Title 11A of the New Jersey Statutes may rescind the adoption of the provisions of Title 11A of the New Jersey Statutes upon either:

a. the approval by the voters of the school district upon the filing of a petition with the clerk of the municipality in which the school district is located requesting that rescission. The petition shall be signed by the registered voters of the school district equal in number to at least 15% of the valid votes cast in the county or municipality at the last preceding school election. Each name shall be printed and signed and the place of residence indicated by street and number or other description sufficient to identify the place. At the bottom of each separate page of the petition, there shall be printed an affidavit, which shall be signed by the circulator of that page that the circulator, and only the circulator, personally circulated the page, that all signatures to the petition appearing on that page were made in the circulator's presence, and that the circulator believes them to be genuine signatures of the persons whose names they purport to be. If a rescission petition is presented to a prospective petitioner by a part print advertisement, paid mailing, or paid solicitor, the petition and any appeal for the signature of such a prospective signer shall disclose prominently (1) the identity of the person paying for the printed or personal solicitation, and (2) that the solicitor is paid; or

b. the adoption of a resolution by the school board, rescinding the provision of Title 11A of the New Jersey Statutes.

3. Within 10 days from the date of filing the petition, the clerk shall, in conjunction with and with the cooperation of the commissioner of registration of the appropriate county, complete an examination and ascertain whether or not the petition is signed by the requisite number of qualified voters, shall attach to the petition a certificate showing the result of the examination, and, in the case of a municipal clerk, shall transmit to the county clerk a notice that the question of rescission has been qualified for submission to the voters, including with that notice a copy of the certificate. The question shall be submitted at the next school election occurring on or after the 60th day following the vote on which the clerk shall have issued the certificate. The municipal clerk or clerks, as appropriate, shall cause the question to be printed upon the ballots to be used at the election.

4. The clerk shall, prior to an election at which the question of rescinding the adoption of the provisions of Title 11A of the New Jersey Statutes is to be submitted to the voters, give public notice of that submission. Public notice shall include, but need not be limited to, publication in

the official newspaper of the municipality or municipalities where the school district is located once a week for at least four weeks and posting of the notice in five of the most public places in the school district for at least four weeks before the election.

5. If the clerk refuses or neglects to comply with this act, a registered voter of the school district may apply to a judge of the Superior Court in the county in which the school district is located for an order directing and compelling the submission of the question involved in the petition. The judge shall hear the matter summarily. If the judge finds and determines that the petition is in accordance with law, an appropriate order shall be issued. Any clerk failing to comply with the order of the court, or any public official, officer, agent or employee, interfering with, or preventing, a clerk from satisfying an order, shall be guilty of a crime of the fourth degree.

6. If a majority of the votes cast at the election are favorable to rescinding the adoption of Title 11A of the New Jersey Statutes, the result shall be certified by the governing body of the school district to the chairperson of the Civil Service Commission. The rescission shall take effect on a date established by the chairperson no less than six months and no greater than one year following the election at which the rescission was approved. If a majority of the votes cast at the election are against rescission, no new election may be held on the same question before the second school election following the election at which the rescission of Title 11A of the New Jersey Statutes was rejected.

7. The Civil Service Commission shall promulgate regulations providing for the orderly transition, in any school district which has adopted the rescission, in the personnel system of the school district. Such regulations shall provide that any school district which has adopted the rescission shall submit to the Chairperson of the Civil Service Commission for approval its resolution or manual setting forth personnel policies and procedures to be followed and adhered to after the rescission of the provisions of Title 11A of the New Jersey Statutes. Such policies and procedures shall, at a minimum, provide for the terms and conditions of employment not otherwise covered by a collective negotiations agreement such as appointment, promotion, leave, employee performance, discipline and other related areas. Such policies and procedures shall also prohibit all forms of unlawful discrimination, shall include an anti-discrimination policy and a policy concerning local government ethics.

8. A school district which rescinds the adoption of the provisions of Title 11A of the New Jersey Statutes shall not be permitted to readopt the provisions of that title for a period of at least 10 years from the effective date of the rescission and shall be permitted to readopt the provisions of Title 11A of the New Jersey Statutes only once.

9. An employee with permanent status in a title on the date the rescission of Title 11A of the New Jersey Statutes takes effect shall retain only those rights to a Civil Service Commission hearing available to career service employees upon disciplinary removal from government services pursuant to N.J.S.11A:2-13 et seq., or to challenge the good faith of a layoff pursuant to N.J.S.11A:8-4.

10. Following the rescission of Title 11A of the New Jersey Statutes, the school district may enter into a contract with the Civil Service Commission, in an amount which shall not exceed that permitted by law, for testing, classification, compensation, or other technical personnel services.