

THE NEW TENURE LAW: How it will affect you

Q: What is the status of tenure reform in New Jersey?

A: The Senate and Assembly both passed tenure reform legislation unanimously in June. Governor Christie signed it into law on August 6, 2012.

Q: Whose idea was this legislation?

A: The new tenure law melds two earlier proposals, sponsored by Senator Ruiz and Assemblyman DiGnan, as well as input from many other stakeholders. NJEA suggested many of its provisions, based on education reform proposals we announced in late 2011.

Q: How is tenure acquired under the new law?

A: The time period to achieve tenure for “teaching staff members” will be lengthened to four years from the current three. To achieve tenure, “teachers” must complete a district mentorship in their first year of teaching. They must then be rated “effective” or “highly effective” in two of their next three years’ annual summative evaluations.

Q: Will this affect non-tenured teaching staff employed in the district prior to the 2012-13 school year?

A: All employees in the process of earning tenure before the signing of the law will still earn tenure in three years. The four-year provision only applies to new hires starting with the 2012-13 school year.

Q: Will teaching staff members who are currently tenured have to earn it all over again?

A: No, unless they move to another school district.

Q: Who is covered under the new law?

A: All public school employees who are eligible for statutory tenure are covered under the law in terms of the tenure hearing process. However, some of the law’s other provisions do not apply to teaching staff members working under educational services certificates or non-certified school staff who are eligible for statutory tenure.

Q: How does the law treat teaching staff members working under educational services certificates differently?

A: Educational services staff members do not need to complete a first-year mentorship and are not subject to the evaluation rating categories spelled out in the law.

Q: Does this law affect the tenure rights of secretaries/clerks?

A: No. Secretaries/clerks will continue to earn tenure after three years. However, their tenure cases now will be subject to the new arbitrator hearing process.

Q: If a tenured teaching staff member is promoted to another tenurable position in the district (e.g., from teacher to principal), what happens to the employee’s original tenure?

A: As under the previous tenure law, teaching staff members under tenure who are promoted or transferred to another position that requires a different

type of certificate obtain tenure in the new position after two years – such as a classroom teacher (instructional certificate) moving to a school counselor position (educational services certificate) or principal post (administrative certificate) However, this timeline could be altered for some individuals. Teachers, principals, vice principals, and assistant principals must be rated “effective” or “highly effective” in two annual summative evaluations within the first three years of employment in the new position. This would only affect those individuals who transfer after the effective date of the legislation. Also, as under the previous tenure law, the employee retains tenure in the original position.

Q: If a tenured teacher leaves a district for a teaching position in another district, what happens to his or her tenure?

A: As under the previous tenure law, tenure is not transferable from one district to another. Any employee beginning employment in a new district after the effective date of the new law must earn tenure under its requirements, even if that employee was previously tenured in another district under the requirements of the old law.

Q: How are evaluation-based tenure charges triggered?

A: Teachers, principals, vice principals, and assistant principals must receive an annual summative evaluation in which they will be rated as “highly effective,” “effective,” “partially effective,” or “ineffective.” Tenure charges must be brought against an employee who has an “ineffective” or “partially effective” rating in one year and who is rated “ineffective” the following year in an annual summative evaluation. Tenure charges may be brought against an employee rated “ineffective” or “partially effective” in one year and “partially effective” the following year. That employee may, at the discretion of the superintendent, be given a third year to improve, but would have to receive a rating of “effective” or “highly effective” in that third year in order to avoid facing tenure charges.

Q: Does this law maintain the due process rights of school employees?

A: Yes. Unlike in earlier proposals, this law guarantees employees the right to rebut the charges against them and to have a hearing before a neutral third party.

Q: How will dismissal cases be heard?

A: Tenure hearings for public school employees will go before an arbitrator, with the costs of arbitration borne by the State of New Jersey. The original Senate bill kept cases in the courts, where cases frequently took too long and cost too much. NJEA proposed taking the courts out of the mix and putting cases before an arbitrator. The arbitrator’s decision will be final and binding, subject to judicial review and enforcement in very limited circumstances.

Q: Does this law link tenure and evaluation?

A: Tenure and evaluation have always been linked. This law, however, makes that connection more specific. The evaluation component would need to be imple-

mented in the 2013-14 school year, with districts preparing for full implementation during 2012-13 and starting to pilot rubrics by Jan. 31, 2013. Evaluations must be based on “multiple objective measures of student growth” and allow the district to determine a measure of student growth when there is no state-mandated standardized test. NJEA won a provision stipulating that student test scores cannot be the “predominant” factor in teacher evaluation. The overwhelming conclusion of respected researchers on the use of test scores suggests that they should not be the deciding factor in a teacher’s evaluation or employment. The law also stipulates that all information relating to evaluations is confidential and shall not be accessible to the public. NJEA continues to push for a valid and reliable evaluation system.

Q: Who will do the evaluations?

A: Evaluations must be done by in-district certified administrators or supervisors. A school improvement panel will oversee mentoring, conduct certain evaluations, and identify professional development opportunities. The panel will consist of a principal or his/her designee, a vice or assistant principal, and a teacher, except that the teacher shall have no role in the evaluation process unless the majority representative (local union) has agreed to this. The original Senate bill had teachers – rather than certified supervisors – conducting the evaluations.

Q: Does this law make any changes to seniority rights?

A: No. NJEA fought successfully to remove such provisions from earlier versions of the bill.

Q: Does the law require administrators to consent to a teacher’s transfer?

A: No. The original Senate bill would have provided that teachers could not be transferred without the consent of both the principal and the teacher. This would have opened the door for a principal to block a senior teacher seeking a transfer to that principal’s school, leaving that teacher without a position. That teacher would then have been placed in the “priority hiring pool” for one year, after which he/she would lose salary and benefits. NJEA succeeded in removing this provision.

Q: Who will pay for the cost of implementing this legislation?

A: The Department of Education is required to provide funds to implement the act. The cost of arbitrators will be borne by the state.

Q: Does NJEA have any remaining concerns?

A: NJEA remains concerned about the evaluations that will be used to rate teachers. We will continue working with legislators and the Department of Education to ensure those evaluations are fair, valid and reliable.

Q: When does this law take effect?

A: It takes effect in the 2012-13 school year. However, districts are not required to fully implement the new evaluation system until the 2013-14 school year.