

Policy

TENURE

Tenure Acquisition

Employees including teachers, principals, other than administrative principals, assistant principal, vice principal, assistant superintendent, all school nurses, school athletic trainer and such other employees hired by the Little Silver Board of Education after August 2012, shall accrue tenure according to law (N.J.S.A. 18A:28-5) following an employment period for:

- A. Four consecutive calendar years; or
- B. Four consecutive academic years, together with employment at the beginning of the next succeeding academic year; or
- C. The equivalent of more than four academic years within a period of any five consecutive academic years.

Service in the following positions shall be performed only under contract renewable at the discretion of the board and tenure shall not be accrued:

- A. Substitute teacher acting in the absence of another employee;
- B. Summer school teacher;
- C. Co-curricular advisor;
- D. Athletic coach; and
- E. Department chairperson other than a supervisor.

Tenure Charges

The board will challenge the continued employment of any tenured teaching staff member who demonstrates inefficiency in the performance of his/her duties as determined by the outcome of the teaching staff member evaluation (see board policy 4116 Evaluation of Teaching Staff members) process as follows:

Year A Rating	Year B (Consecutive) Rating	Action
Ineffective	Ineffective	The superintendent shall file a charge of inefficiency
Partially Effective	Ineffective	
Ineffective	Partially Effective	The superintendent may file a charge of inefficiency or may defer the filing until the next year; in the following year (i.e., the third consecutive year), the superintendent shall file a charge of inefficiency if the annual rating is ineffective or partially effective
Partially Effective	Partially Effective	

Continued employment shall also be challenged and tenure charges may be filed when the employee is

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incapable of performing those duties, violates by unbecoming conduct, or by other means demonstrates unfitness for district employment. When charges are filed against a tenured teaching staff member by any person the board shall determine the gravity of the charges and the probity of supporting evidence in accordance with law.

Charges may be instituted against a tenured teaching staff member of the district by filing with the board secretary a written statement, signed by the charging person, that sets forth the specific charges and the statutory grounds on which each is based. The statement of charges must be accompanied by a written statement of evidence made under oath in support of the charges. The board secretary shall promptly notify the superintendent and the president that such charges have been filed.

Charges for Reasons Other Than Inefficiency

Where the tenure charges allege incapacity, unbecoming conduct, or good cause other than inefficiency the following procedures and timelines shall be observed:

- A. Charges shall be stated with specificity as to the action or behavior underlying the charges and shall be filed in writing with the board secretary, accompanied by a supporting statement of evidence, both of which shall be executed under oath by the person(s) instituting such charges;
- B. Along with the required sworn statement of evidence, charges shall be transmitted to the affected tenured employee and the employee's representative, if known, within three (3) working days of the date they were filed with the board secretary. Proof of mailing or hand delivery shall constitute proof of transmittal;
- C. The affected tenured employee shall have an opportunity to submit to the board a written statement of position and a written statement of evidence both of which shall be executed under oath within 15 days of receipt of the tenure charges;
- D. Upon receipt of the tenured employee's written statements of position and evidence under oath, or upon expiration of the allotted 15-day time period, the board shall determine by a majority vote of its full membership within 45 days 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;
- E. The board shall provide, within three (3) working days, written notification of the determination to the employee against whom the charge has been made, in person or by certified mail to the last known address of the employee and the employee's representative, if known;
- F. If the board finds probable cause exists and the charges, if credited, are sufficient to warrant a dismissal or reduction of salary, then the board shall file, within 15 days, written charges with the Commissioner. The charges shall be stated with specificity as to the action or behavior underlying the charges and shall be accompanied by:
 1. The required certificate of determination;
 2. The name of the attorney who it is anticipated for administrative purposes will be representing the board; and
 3. Proof of service such as a certified mail receipt, upon the employee and the employee's representative, if known. Such proof of service shall be at the same time and in the same manner as the filing of charges with the Commissioner;

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- G. All deliberations and actions of the board with respect to such charges shall take place at a closed meeting.

Charges for Inefficiency

Where the charge alleges inefficiency, the following actions will be taken:

- A. When the conditions described in N.J.S.A. 18A:6-17.3.a(1) or (2) and detailed in the table above have been satisfied, the superintendent shall promptly file with the board secretary a charge of inefficiency;
- B. The charges of inefficiency shall be transmitted to the affected tenured employee and the employee's representative, if known, within three (3) working days of the date they were filed with the board secretary. A statement of evidence and the evaluation results pertinent to the charge of inefficiency shall be included in the transmission. Proof of mailing or hand delivery shall constitute proof of transmittal;
- C. The affected tenured employee shall have an opportunity within 10 days of receipt to submit to the board a written statement of position under oath demonstrating how the school district failed to comply with the evaluation procedures;
- D. Within 30 days of the filing, the board shall forward a written charge to the Commissioner unless the board determines the evaluation process has not been followed. Such determination shall be made by a majority vote of the district board of education's full membership;
- E. Upon receipt of the charge, the Commissioner or his or her designee shall examine the charge. The charge shall again be served upon the employee at the same time it is forwarded to the Commissioner and proof of service shall be included with the filed charges. The individual against whom the charge is filed shall have 10 days to submit to the Commissioner a written response to the charge;
- F. Within five (5) days of the individual's deadline to submit a written response to the charge, the Commissioner shall appoint an arbitrator to hear the case and refer the case to the arbitrator, unless he or she determines the evaluation process has not been followed;
- G. All deliberations and actions of the board with respect to such charges shall take place at a closed meeting.

Suspension Upon Certification of Tenure Charges

Upon certification of any tenure charge to the New Jersey Commissioner of Education, the Little Silver Board of Education may suspend the person against whom the charge is made, with or without pay. However, if the determination of the tenure charge by the arbitrator is not made within 120 calendar days after certification of the tenure charges, excluding all delays which are granted at the request of the person against whom the charge was made, then the full salary (except for said 120 days) shall be paid beginning on the 121st day of the suspension until such determination is made.

Should the tenure charge be dismissed at any stage of the process, the person shall be reinstated immediately with full pay from the first day of the period of suspension. Should the tenure charge be dismissed at any stage of the process and the suspension be continued during an appeal, then the full pay or salary of the person shall continue until the determination of the appeal. However, the board shall deduct from said full pay or salary any sums received by such employee or officer by way of pay or salary from any substituted employment assumed during such period of suspension.

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Should the charge be sustained on the original hearing or an appeal, and should such person appeal from the same, then the suspension may be continued unless and until the determination is reversed, in which event the employee or officer shall be reinstated immediately with full pay from the date of the suspension.

Tenure Upon Transfer or Promotion

Any teaching staff member who has tenure or is eligible to obtain tenure, who is transferred or promoted with his/her consent to another position on or after July 1, 1962 shall not obtain tenure in the new position until after:

- 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 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;

The period of employment in the new position shall be included in determining the tenure and seniority rights in the former position held by such teaching staff member. When the teaching staff member had tenure in the position he/she held prior to the transfer or promotion he/she shall be permitted to return to his former position in the event the employment in the new position is terminated before tenure is obtained. When the teaching staff member is returned to the former position, it shall be at the salary which he/she 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.

Any teaching staff member who has tenure or is eligible to obtain tenure, who is transferred or promoted with his consent to another position on or after August 6, 2012, shall not obtain tenure in the new position until after:

- A. The expiration of a period of employment of two consecutive calendar years in the new position; 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;

The period of employment in the new position shall be included in determining the tenure and seniority rights in the former position held by such teaching staff member. When the teaching staff member had tenure in the position he/she held prior to the transfer or promotion he/she shall be permitted to return to his former position in the event the employment in the new position is terminated before tenure is obtained. When the teaching staff member is returned to the former position, it shall be at the salary which he/she 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.

In order to receive tenure a teacher, principal, assistant principal, and vice-principal shall be evaluated as effective or highly effective in two annual summative evaluations within the first three years of employment in the new position.

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For the purpose of law and this policy “effective” or “highly effective” means the employee has received an annual summative evaluation rating of “effective” or “highly effective” based on the performance standards for his position established through the evaluation rubric adopted by the board of education and approved by the commissioner.

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 NJSBA Review/Update: May 2023
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Key Words

Tenure Charges, Suspension

Legal References:	<u>N.J.S.A.</u> 18A:4-15	General rule-making power
	<u>N.J.S.A.</u> 18A:4-16	Incidental powers conferred
under	<u>N.J.S.A.</u> 18A:6-10 <u>et seq.</u>	Dismissal and reduction in compensation of persons tenure in public school system
_____	<u>N.J.S.A.</u> 18A:6-11	Written charges, statement of evidence, filing, statement of
	<u>N.J.S.A.</u> 18A:6-13	position Dismissal of charge for failure of determination by the board
	<u>N.J.S.A.</u> 18A:6-14	Suspension upon certification of charge; compensation; reinstatement
	<u>N.J.S.A.</u> 18A:6-16	Proceedings before the commissioner
	<u>N.J.S.A.</u> 18A:6-17 <u>et seq.</u>	Board of education a party; conduct if hearing
_____	<u>N.J.S.A.</u> 18A:6-117 <u>et seq.</u>	Teacher effectiveness and accountability for the children
_____	<u>N.J.S.A.</u> 18A:28-6	Tenure upon transfer or promotion.
	<u>N.J.A.C.</u> 6A:3-5.1 <u>et seq.</u>	Filing of written charges and certification of determination
_____	<u>N.J.A.C.</u> 6A:10-1.1 <u>et seq.</u>	Educator effectiveness

Possible

Cross References:	*2130	Principal evaluation
	*2131	Superintendent
	*4112.6/4212.6	Personnel records
	*4115	Supervision
	*4116	Evaluation of teaching staff members
	*4215	Supervision
	*4216	Evaluation

*Indicates policy is included in the Critical Policy Reference Manual.