

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

TEACHING STAFF MEMBERS  
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Certification of Tenure Charges

3144 CERTIFICATION OF TENURE CHARGES

Tenure charges may be instituted against a tenured staff member of the district in accordance with the provisions of N.J.A.C. 6A:3-5.1 et seq. In all instances of the filing and certification of tenure charges, except charges filed against a teacher, Principal, Assistant Principal, or Vice Principal for reasons of inefficiency pursuant to N.J.S.A. 18A:6-17.3, the procedures and timelines outlined in N.J.A.C. 6A:3-5.1(b) shall be observed. In the event the tenure charges are charges of inefficiency pursuant to N.J.S.A. 18A:6-17.3, except in the case of Principals, Assistant Principals, and Vice Principals in school districts under full State intervention, where procedures are governed by the provisions of N.J.S.A. 18A:7A-45 and such rules as may be promulgated to implement it, the procedures and timelines outlined in N.J.A.C. 6A:3-5.1(c) shall be observed.

Filing and service of petition of appeal as outlined in N.J.A.C. 6A:3-1.3, shall not apply in a case of charges filed with the Commissioner of Education against an employee of a Board of Education or of a school district under full State intervention. In place of the usual petition, the Board of Education or the State District Superintendent shall file written charges and the required certificate of determination with the Commissioner together with the name of the attorney who is anticipated for administrative purposes will be representing the Board of Education or State District Superintendent and proof of service upon the employee and the employee's representative, if known. Such service shall be at the same time and in the same manner as the filing of charges with the Commissioner.

In accordance with N.J.S.A. 34:13A-24, fines and suspensions imposed as minor discipline shall not constitute a reduction in compensation pursuant to the provisions of N.J.S.A. 18A:6-10 where the negotiated agreement between the Board of Education and the majority representative of the employees in the appropriate collective bargaining unit provides for such discipline. In these cases, tenure charges shall not be filed to impose minor discipline on a person serving under tenure.

The Board of Education or the State District Superintendent 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. Pursuant to N.J.S.A. 18A:6-11, all deliberations and actions of the Board of Education with respect to such charges shall take place at a closed/executive session meeting. In the event the Board of Education or the State District Superintendent finds probable cause exists and that the charges, if credited, are sufficient to warrant a dismissal or reduction of salary, then the Board or the State District Superintendent shall file, within fifteen days, written charges with the Commissioner. The charge(s) shall be stated with specificity as to the action or behavior underlying the charges or the nature of the alleged inefficiency and shall be accompanied by the required certificate of determination together with the name of the attorney who is anticipated for administrative purposes will be representing the Board of Education or State District Superintendent and proof

of service upon the employee and the employee's representative, if known. Such service shall be at the same time and in the same manner as the filing of charges with the Commissioner.

The certificate of determination that accompanies the written charges shall contain a certification by the Board Secretary or the State District Superintendent including that a determination was made of the charges and the evidence in support of the charges are sufficient, if true in fact, to warrant dismissal or a reduction in salary; of the date, place, and time of the meeting at which such determination was made and whether or not the employee was suspended and, if so, whether such suspension was with or without pay; that such determination was made by a majority vote of the whole number of members of the Board of Education or by the State District Superintendent in accordance with N.J.S.A. 18A:7A-39.

An individual against whom tenure charges are certified shall file a written response to the charges in accordance with the provisions of N.J.A.C. 6A:3-5.3 et seq. The Commissioner shall determine whether such charge(s) are sufficient, if true, to warrant dismissal or reduction in salary in accordance with the provisions of N.J.A.C. 6A:3-5.5. Any withdrawal, settlement, or mooted of tenure charges shall be in accordance with the provisions of N.J.A.C. 6A:3-5.6.

Certification of tenure charges for Charter School employees shall be governed by N.J.A.C. 6A:11-6.1 et seq.

N.J.S.A. 18A:6-8.3; 18A:6-10; 18A:6-11; 18A:6-13; 18A:6-14; 18A:6-16;  
18A:25-6; 18A:25-7

N.J.A.C. 6A:3-5.1; 6A:3-5.2; 6A:3-5.3; 6A:3-5.5; 6A:3-5.6; 6A:9-17.4; 6A:9-17.5

~~The Board of Education will challenge the continued employment of any tenured teaching staff member who demonstrates "inefficiency" (as defined by statute and common law) in the performance of his or her duties, is incapable of performing those duties, violates by unbecoming conduct the public trust placed with employees of this district, 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 and these guidelines:~~

- ~~1. 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. 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 Board President that such charges have been filed.~~
- ~~2. Where the charges allege incapacity, unbecoming conduct, or good cause other than inefficiency, a copy of the charges and a copy of the statement of evidence shall, within three (3) working days of the time charges have been filed with the Board Secretary, be served on the charged employee and his/her representative, if known, together with a letter offering the employee the opportunity of submitting to the Board Secretary a written statement of position and a written statement of evidence under oath, provided that such statements are filed with the Board Secretary no later than fifteen (15) days after the date on which the charges were served on the employee.~~
- ~~3. Where a charge alleging inefficiency has been filed by the appropriate administrator with the Board Secretary, the following actions will be taken:~~

- a. ~~A copy of the charges and a copy of the statement of evidence shall, within three (3) working days of the time charges have been filed with the Board Secretary, be served on the charged employee and his/her representative, if known, together with a letter informing the employee that, unless the specified inefficiencies are corrected within a specified improvement period of ninety (90) or more days, the Board shall certify those charges of inefficiency to the Commissioner of Education.~~
- b. ~~At the same time, the employee's professional improvement plan (PIP) (N.J.A.C. 6:3-4.3(f)) will be revised to address the specific charges of inefficiency and to assist the employee toward improvement within the specified period.~~
- c. ~~The employee's performance will be observed and evaluated over the improvement period, excluding summer vacation.~~
- d. ~~At the conclusion of the specified improvement period, the Superintendent shall report in writing to the Board an assessment of the employee's progress.~~

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- e. ~~Thereafter, the Board will determine in private session whether the employee has corrected all the inefficiencies originally charged. If all the charged inefficiencies have been corrected, the Board shall advise the employee within thirty (30) days of the end of the improvement period that the charges are withdrawn. If the Board finds that any or all charged inefficiencies have not been corrected, the Board Secretary shall serve the employee, within thirty days of the end of the improvement period, a copy of the charges and a copy of the statement of evidence together with a letter offering the employee the opportunity of submitting to the Board Secretary a written statement of position and a written statement of evidence under oath, provided that such statements are filed with the Board Secretary no later than fifteen (15) days after the date on which the charges were served on the employee.~~
4. ~~Upon receipt of respondent's written statement of 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 forty five (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. The Board shall meet in private session to determine, by a majority of the full Board, (a) whether the charges, if true, are sufficiently serious to warrant the imposition of sanctions by the Commissioner and (b) whether there is probable cause to credit the evidence in support of the charges.~~
5. ~~If the Board determines to certify charges against the employee, the Board of Education shall immediately notify the employee of its determination, personally or by certified mail, directed to~~

~~the employee's last known address. The Board Secretary shall file with the Commissioner of Education the written charges and certification together with proof of service upon the employee.~~

~~6. If no action is taken with regard to the charges within the requisite periods of time set forth in this policy, the charges will be considered dismissed and no further action may be taken on them. The charged employee will be promptly notified whenever charges are dismissed by Board action or inaction.~~

~~N.J.S.A. 18A:6-8.3; 18A:6-10 et seq.;  
18A:25-6; 18A:25-7~~

~~N.J.A.C. 6:11-3.4; 6:11-3.5; 6:24-5.1 et seq.; 6A:3-5.1 et seq.~~

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