

Tenure Reform

ISSUE: Proposed changes in the current tenure (fair dismissal) law

STATUS: Governor Christie and members of the Legislature have stated that they want to reform the current tenure (fair dismissal) law.

On Dec. 7, at a news conference in Trenton, NJEA introduced a package of education reforms, including proposed changes in the tenure dismissal process (see below).

On Dec. 9, NJEA President Barbara Keshishian and Executive Director Vincent Giordano testified before the Senate Education Committee at an all-day hearing on proposed tenure reforms, at which they urged support for the NJEA proposal.

In the Assembly, a bill reflecting NJEA's proposal, sponsored by Assembly Education Committee Chairman Patrick Diegnan (D-18) is being prepared for introduction early in 2011.

NJEA'S PROPOSAL:

Comparing the Current Tenure Statute and the NJEA Proposal

- The NJEA proposal would retain most of the current statute's process for certifying dismissal charges against a tenured teacher for "inefficiency, incapacity, conduct unbecoming or other just cause."
- Once charged, the employee has 15 days to file a statement and evidence with the Board of Education.
- The BoE then has up to 45 days to certify charges and file them with the Commissioner of Education.
- Once charges are certified, boards of education may suspend the employee without pay for up to 120 calendar days.
- The employee has up 15 days from the BoE's filing to file his/her answers to the charges.
- Under the current statute, the Commissioner has 15 days to determine the sufficiency of charges, and another 10 days to transmit the case to the Office of Administrative Law.
- Under the NJEA proposal, the Commissioner has 15 day to determine the sufficiency of charges, and another 10 days to refer the case to an Arbitrator.

Who is covered

- Under the current statute, public school teachers, secretaries, and some custodians are covered. Under the NJEA proposal, all public school employees would be covered. The current three-year probationary period would remain in effect.

Timeline once case is sent to Administrative Law Judge/Arbitrator

- Under the current statute, the process takes between 6-12 months or more to be adjudicated by an Administrative Law Judge, with a lengthy list of checkpoints to allow for additional discovery, disputes over sufficiency, and Commissioner's final decision with respect to judge's ruling.
- Under the NJEA proposal, a hearing must be held within 60 days of the case being assigned to an arbitrator, and the arbitrator's decision – which is final and binding – must be rendered within 30 days of the conclusion of the hearing, for a total of 90 days.

Choice of Arbitrators

- Arbitrators will be American Arbitration Association (AAA/National Academy of Arbitrators) -certified. They will be selected from a list jointly created by NJEA and the New Jersey School Boards Association.