

**SENATE, No. 2366**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED APRIL 13, 2020

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**SYNOPSIS**

Provides automatic effective rating for certain school district employees for whom annual summative evaluation is not conducted in any school year in order to protect tenure achievement timeline.

**CURRENT VERSION OF TEXT**

As introduced.



1   **AN ACT** concerning tenure for certain public school employees and  
2       amending N.J.S.18A:28-5, P.L.2012, c.26, and N.J.S.18A:28-6.

3  
4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7       1. N.J.S.18A:28-5 is amended to read as follows:

8       18A:28-5. a. The services of all teaching staff members  
9 employed prior to the effective date of P.L.2012, c.26 (C.18A:6-117  
10 et al.) in the positions of teacher, principal, other than administrative  
11 principal, assistant principal, vice-principal, assistant superintendent,  
12 and all school nurses including school nurse supervisors, head school  
13 nurses, chief school nurses, school nurse coordinators, and any other  
14 nurse performing school nursing services, school athletic trainer and  
15 such other employees as are in positions which require them to hold  
16 appropriate certificates issued by the board of examiners, serving in  
17 any school district or under any board of education, excepting those  
18 who are not the holders of proper certificates in full force and effect  
19 and school business administrators shared by two or more school  
20 districts, shall be under tenure during good behavior and efficiency  
21 and they shall not be dismissed or reduced in compensation except  
22 for inefficiency, incapacity, or conduct unbecoming such a teaching  
23 staff member or other just cause and then only in the manner  
24 prescribed by subarticle B of article 2 of chapter 6 of this Title, after  
25 employment in such district or by such board for:

26       (1) Three consecutive calendar years, or any shorter period which  
27 may be fixed by the employing board for such purpose; or

28       (2) Three consecutive academic years, together with employment  
29 at the beginning of the next succeeding academic year; or

30       (3) The equivalent of more than three academic years within a  
31 period of any four consecutive academic years.

32       b. The services of all teaching staff members employed on or  
33 after the effective date of P.L.2012, c.26 (C.18A:6-117 et al.) in the  
34 position of teacher, principal, other than administrative principal,  
35 assistant principal, vice-principal, assistant superintendent, and all  
36 school nurses, including school nurse supervisors, head school  
37 nurses, chief school nurses, school nurse coordinators, and any other  
38 nurse performing school nursing services, school athletic trainer and  
39 such other employees as are in positions which require them to hold  
40 appropriate certificates issued by the board of examiners, serving in  
41 any school district or under any board of education, excepting those  
42 who are not the holders of proper certificates in full force and effect,  
43 and school business administrators shared by two or more school  
44 districts, shall be under tenure during good behavior and efficiency  
45 and they shall not be dismissed or reduced in compensation except

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 for inefficiency, incapacity, or conduct unbecoming such a teaching  
2 staff member or other just cause and then only in the manner  
3 prescribed by subarticle B of article 2 of chapter 6 of this Title, after  
4 employment in such district or by such board for:

5 (1) Four consecutive calendar years; or

6 (2) Four consecutive academic years, together with employment  
7 at the beginning of the next succeeding academic year; or

8 (3) The equivalent of more than four academic years within a  
9 period of any five consecutive academic years.

10 In order to achieve tenure pursuant to this subsection, a teacher  
11 shall also complete a district mentorship program during the initial  
12 year of employment and receive a rating of effective or highly  
13 effective in two annual summative evaluations within the first three  
14 years of employment after the initial year of employment in which  
15 the teacher completes the district mentorship program. In order to  
16 achieve tenure pursuant to this subsection, a principal, assistant  
17 principal, and vice-principal shall also receive a rating of effective or  
18 highly effective in two annual summative evaluations within the first  
19 three years of employment with the first effective rating being  
20 received on or after the completion of the second year of  
21 employment.

22 For purposes of this subsection, if an annual summative evaluation  
23 is not conducted for a teacher, principal, assistant principal, or vice-  
24 principal in any given year of employment, the individual shall be  
25 deemed to receive a rating of effective on that annual summative  
26 evaluation and that rating shall be used in the determination of tenure  
27 achievement.

28 For purposes of this subsection, "effective" or "highly effective"  
29 means the employee has received an annual summative evaluation  
30 rating of "effective" or "highly effective" based on the performance  
31 standards for his position established through the evaluation rubric  
32 adopted by the board of education and approved by the  
33 commissioner.

34 c. For purposes of this chapter, tenure in any of the  
35 administrative or supervisory positions enumerated herein shall  
36 accrue only by employment in that administrative or supervisory  
37 position. Tenure so accrued shall not extend to any other  
38 administrative or supervisory position and nothing herein shall limit  
39 or restrict tenure rights which were or may be acquired pursuant to  
40 N.J.S.18A:28-6 in a position in which the individual actually served.  
41 (cf: P.L.2012, c.26, s.9)

42  
43 2. Section 11 of P.L.2012, c.26 (C.18A:28-5.1) is amended to  
44 read as follows:

45 11. A tenured teaching staff member who has been rated effective  
46 or highly effective on his most recent annual summative evaluation,  
47 and who accepts employment in the same position in an  
48 underperforming school shall be under tenure in that position in the

1 new district during good behavior and efficiency and shall not be  
2 dismissed or reduced in compensation except for inefficiency,  
3 incapacity, or conduct unbecoming such a teaching staff member or  
4 other just cause and then only in the manner prescribed by subarticle  
5 B of article 2 of chapter 6 of this Title, after the employee receives a  
6 rating of effective or highly effective in at least one of the annual  
7 summative evaluations within the first two years of employment in  
8 the new school.

9 For purposes of this section, if an annual summative evaluation is  
10 not conducted for a teaching staff member in any given year of  
11 employment, the individual shall be deemed to receive a rating of  
12 effective on that annual summative evaluation and that rating shall  
13 be used in the determination of tenure achievement.

14 For purposes of this subsection, "effective" or "highly effective"  
15 means the employee has received an annual summative evaluation  
16 rating of "effective" or "highly effective" based on the performance  
17 standards for his position established through the evaluation rubric  
18 adopted by the board of education and approved by the  
19 commissioner.

20 As used in this section, "underperforming school" means a school  
21 which has been identified by the Department of Education as a "focus  
22 school" or a "priority school" for any year within a two-year period.  
23 (cf: P.L.2012, c.26, s.11)  
24

25 3. N.J.S.18A:28-6 is amended to read as follows:

26 18A:28-6. a. Any such teaching staff member under tenure or  
27 eligible to obtain tenure under this chapter, who is transferred or  
28 promoted with his consent to another position covered by this chapter  
29 on or after July 1, 1962, shall not obtain tenure in the new position  
30 until after:

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

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

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

40 provided that the period of employment in such new position shall  
41 be included in determining the tenure and seniority rights in the  
42 former position held by such teaching staff member, and in the event  
43 the employment in such new position is terminated before tenure is  
44 obtained therein, if he then has tenure in the district or under said  
45 board of education, such teaching staff member shall be returned to  
46 his former position at the salary which he would have received had  
47 the transfer or promotion not occurred together with any increase to

1 which he would have been entitled during the period of such transfer  
2 or promotion.

3 b. Any such teaching staff member under tenure or eligible to  
4 obtain tenure under this chapter, who is transferred or promoted with  
5 his consent to another position covered by this chapter on or after the  
6 effective date of P.L.2012, c.26 (C.18A:6-117 et al.), shall not obtain  
7 tenure in the new position until after:

8 (1) the expiration of a period of employment of two consecutive  
9 calendar years in the new position; or

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

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

16 provided that the period of employment in such new position shall  
17 be included in determining the tenure and seniority rights in the  
18 former position held by such teaching staff member, and in the event  
19 the employment in such new position is terminated before tenure is  
20 obtained therein, if he then has tenure in the district or under said  
21 board of education, such teaching staff member shall be returned to  
22 his former position at the salary which he would have received had  
23 the transfer or promotion not occurred together with any increase to  
24 which he would have been entitled during the period of such transfer  
25 or promotion.

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

30 For purposes of this subsection, if an annual summative evaluation  
31 is not conducted for a teacher, principal, assistant principal, or vice-  
32 principal in any given year of employment, the individual shall be  
33 deemed to receive a rating of effective on that annual summative  
34 evaluation and that rating shall be used in the determination of tenure  
35 achievement.

36 For purposes of this subsection, "effective" or "highly effective"  
37 means the employee has received an annual summative evaluation  
38 rating of "effective" or "highly effective" based on the performance  
39 standards for his position established through the evaluation rubric  
40 adopted by the board of education and approved by the  
41 commissioner.

42 (cf: P.L.2012, c.26, s.10)

43

44 4. This act shall take effect immediately.

## STATEMENT

Under current law, in addition to the requirement for a certain number of years of employment in the certificated position, in order to achieve tenure in a school district as a teacher, principal, assistant principal, and vice-principal, the individual must receive a rating of “effective” or “highly effective” in two annual summative evaluations within the three years of employment after the probationary year of employment. Similarly, in order for a teacher, principal, assistant principal, and vice-principal to acquire tenure when the individual is transferred or promoted with his consent to another position, the individual must receive an “effective” or “highly effective” rating on two annual summative ratings within the first three years of employment in the new position. An “effective” or “highly effective” rating on the annual summative evaluation also must be received for tenure achievement when a tenured teaching staff member accepts employment in the same position in an underperforming school in a new district.

The bill will protect the timeline for tenure acquisition for individuals for whom an annual summative evaluation is not conducted in any given school year, by deeming the individuals to have received an “effective” rating. This will ensure that the timeline for tenure acquisition is not disrupted due to the district’s failure to comply with State law mandating that an annual summative evaluation be conducted for these individuals. The protection will apply to individuals who are newly hired by a district, individuals who are transferred or promoted with their consent to another position in the district, and individuals who transfer to a new district to accept employment in the same position in an underperforming school.