

# NJPSA



## Education Law Primer

### CHAPTER 9 TENURE & SENIORITY



*New Jersey Principals and Supervisors Association*  
12 Centre Drive, Monroe Township, NJ 08831-1564  
609-860-1200 Fax: 609-860-2999  
Email: [njpsa@njpsa.org](mailto:njpsa@njpsa.org) Web: [www.njpsa.org](http://www.njpsa.org)

## Chapter 9: Tenure & Seniority

TENURE .....	3-5
PROMOTIONS/TRANSFERS .....	5-7
SENIORITY.....	7-13
NON-TENURED TEACHING STAFF MEMBERS .....	13-14
NON-RENEWAL OF NON-TENURED TEACHING STAFF MEMBERS ...	14-15
EMPLOYEE DISCIPLINE: WITHHOLDING OF INCREMENTS .....	15-16
EMPLOYEE DISCIPLINE: TENURE CHARGES .....	17-21
CRIMINAL PROCEEDINGS .....	21-22
DISTRICT REPORTING RESPONSIBILITY.....	22

---

# EDUCATION LAW PRIMER

## Chapter 9: Tenure & Seniority

Tenure - Forfeiture - Withholding of Increment Reassignment  
Transfer Rights of Non-Tenured Staff Members - Seniority

January 2008

by Robert M. Schwartz, Esq.

Updated and edited in conjunction with Ruth Moscovitch, Esq. and Teresa Moore, Esq.,  
Institute on Education Law and Policy, Rutgers School of Law - Newark

### INTRODUCTION

This primer will review the various statutes, administrative regulations, and case law affecting tenure, as well as the board's authority to award tenure or remove it, withhold increments, re-assign and transfer teaching staff members, and reduce staff. The intent of this primer is to provide an understanding of the process, both in terms of the rights of staff members and the authority given to boards of education. It should be used only as a guide. Staff members facing any of the issues referred to in this primer are advised to consult with counsel.

### TENURE

#### *What is tenure?*

The Tenure Act was originally enacted in 1909. Since then, it has undergone numerous amendments. However, its purpose has not changed. Tenure is designed to offer teaching staff members a measure of security in the positions they hold. It is intended to protect teaching staff members from dismissal for "unfounded, flimsy, or political reasons." *Zimmerman v. Newark Board of Ed.* 38 N.J. 65 (1962).

#### ***Tenure is a legislative status that may not be superseded contractually***

Tenure is a creation of the legislature. Since it is legislatively created, tenure may be changed only through legislation. In no event may it be superseded by contract. The matter of *Local 195, IFPTE, AFL-CIO v. State of New Jersey*, 88 N.J. 393 (1982).

#### ***Conditions which must be met for tenure to be achieved***

The "precise" requirements in the tenure statute must be met for tenure to be achieved. Teaching staff members must (1) hold appropriate certificates "in full force and effect" issued by the State Board of Examiners, and (2) hold such positions delineated in the tenure statute, or in an otherwise certificated position for the required period, which consists of:

- (a) three consecutive calendar years or any shorter period which may be fixed by the employing board for such purpose; or*
- (b) three consecutive academic years, together with employment at the beginning of the next succeeding academic years; or*
- (c) the equivalent of more than three academic years within a period of any four consecutive academic years.*