

18A:28-5

LEGISLATIVE HISTORY CHECKLIST
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(Tenure--teaching staff)

NJSA: 18A:28-5

LAWS OF: 1996 **CHAPTER:** 58

BILL NO: A2153

SPONSOR(S): Rocco

DATE INTRODUCED: June 10, 1996

COMMITTEE: **ASSEMBLY:** Education
SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** June 24, 1996
SENATE: June 27, 1996

DATE OF APPROVAL: June 28, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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LEGISLATIVE HISTORY CHECKLIST

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Synopsis: Clarifies that tenure accrued in a particular position within a public school district shall not extend to any other position.

Bill Number: A2153 Aca (1R)

P.L. 1996 c. 58

Identical to: S1362 (1R)
Substituted for: S1362 (1R)
Combined with:
Last Session Bill Number:

See Above Bill(s) for Additional History

NJSA: 18A:28-5

Sponsor(s): Rocco, John A. + 2

Date Introduced: 6/10/1996

Committee Reference:

Assembly:

Education

Statement: Public Hearing:

Yes

No

Sponsor Statement: Yes

Fiscal Note: No

Dates Of Passage:

Assembly:

6/24/1996 (76-0-0)

Senate:

6/27/1996 (40-0)

Amended During Passage: Yes

Governor's Action:

Veto: No

Date of Approval: 6/28/96

Date of Veto:

Message on Signing: No

Additional Information:

P.L. 1996, CHAPTER 58, *approved June 28, 1996*
Assembly No. 2153 (*First Reprint*)

1 AN ACT concerning tenure for teaching staff members, amending
2 N.J.S.18A:28-5 and supplementing chapter 28 of Title 18A of the
3 New Jersey Statutes.

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

7
8 1. (New section) The Legislature finds and declares that, due to
9 the interpretation of N.J.S.18A:28-5 by the Appellate Division in the
10 case of Nelson v. Board of Education of the Township of Old Bridge,
11 a clarification of that statute is necessary in order to continue the
12 traditional practice of providing that tenure is acquired in one of the
13 specifically enumerated positions only if the individual has served for
14 the requisite statutorily required period of time in that position.

15
16 2. N.J.S.18A:28-5 is amended to read as follows:

17 18A:28-5. The services of all teaching staff members [including all
18 teachers, principals other than administrative principals, assistant
19 principals, vice principals, assistant superintendents] **employed in the**
20 **positions of teacher, principal, other than administrative principal,**
21 **assistant principal, vice-principal, assistant superintendent**¹ **[** **director,**
22 **supervisor**]¹, and all school nurses including school nurse supervisors,
23 head school nurses, chief school nurses, school nurse coordinators,
24 and any other nurse performing school nursing services and such other
25 employees as are in positions which require them to hold appropriate
26 certificates issued by the board of examiners, serving in any school
27 district or under any board of education, excepting those who are not
28 the holders of proper certificates in full force and effect, shall be under
29 tenure during good behavior and efficiency and they shall not be
30 dismissed or reduced in compensation except for inefficiency,
31 incapacity, or conduct unbecoming such a teaching staff member or
32 other just cause and then only in the manner prescribed by subarticle
33 B of article 2 of chapter 6 of this Title, after employment in such
34 district or by such board for:

35 (a) Three consecutive calendar years, or any shorter period which
36 may be fixed by the employing board for such purpose; or

37 (b) Three consecutive academic years, together with employment
38 at the beginning of the next succeeding academic year; or

39 (c) The equivalent of more than three academic years within a

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AED committee amendments adopted June 17, 1996.

1 period of any four consecutive academic years.

2 For purposes of this chapter, tenure in any of the 'administrative or
3 supervisory' positions enumerated herein shall accrue only by
4 employment in that 'administrative or supervisory' position '[. and
5 tenure] .Tenure' so accrued shall not extend to any other
6 'administrative or supervisory' position 'and nothing herein shall limit
7 or restrict tenure rights which were or may be acquired pursuant to
8 N.J.S.18A:28-6 in a position in which the individual actually served'.

9
10 3. This act shall take effect immediately and shall apply to all
11 individuals who have acquired tenure pursuant to N.J.S.18A:28-5 or
12 any prior statute.

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17 Clarifies that tenure accrued in a particular position within a public
18 school district shall not extend to any other position.

[First Reprint]
ASSEMBLY, No. 2153

STATE OF NEW JERSEY

INTRODUCED JUNE 10, 1996

By Assemblyman ROCCO

1 AN ACT concerning tenure for teaching staff members, amending
2 N.J.S.18A:28-5 and supplementing chapter 28 of Title 18A of the
3 New Jersey Statutes.

4

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

7

8 1. (New section) The Legislature finds and declares that, due to
9 the interpretation of N.J.S.18A:28-5 by the Appellate Division in the
10 case of Nelson v. Board of Education of the Township of Old Bridge,
11 a clarification of that statute is necessary in order to continue the
12 traditional practice of providing that tenure is acquired in one of the
13 specifically enumerated positions only if the individual has served for
14 the requisite statutorily required period of time in that position.

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16 2. N.J.S.18A:28-5 is amended to read as follows:

17 18A:28-5. The services of all teaching staff members **[including all**
18 **teachers, principals other than administrative principals, assistant**
19 **principals, vice principals, assistant superintendents]** employed in the
20 positions of teacher, principal, other than administrative principal,
21 assistant principal, vice-principal, assistant superintendent¹ **[, director,**
22 **supervisor]**¹, and all school nurses including school nurse supervisors,
23 head school nurses, chief school nurses, school nurse coordinators,
24 and any other nurse performing school nursing services and such other
25 employees as are in positions which require them to hold appropriate
26 certificates issued by the board of examiners, serving in any school
27 district or under any board of education, excepting those who are not
28 the holders of proper certificates in full force and effect, shall be under
29 tenure during good behavior and efficiency and they shall not be
30 dismissed or reduced in compensation except for inefficiency,
31 incapacity, or conduct unbecoming such a teaching staff member or

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Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AED committee amendments adopted June 17, 1996.

1 other just cause and then only in the manner prescribed by subarticle
2 B of article 2 of chapter 6 of this Title, after employment in such
3 district or by such board for:

4 (a) Three consecutive calendar years, or any shorter period which
5 may be fixed by the employing board for such purpose; or

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

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

10 For purposes of this chapter, tenure in any of the 'administrative or
11 supervisory' positions enumerated herein shall accrue only by
12 employment in that 'administrative or supervisory' position '[. and
13 tenure] .Tenure' so accrued shall not extend to any other
14 'administrative or supervisory' position 'and nothing herein shall limit
15 or restrict tenure rights which were or may be acquired pursuant to
16 N.J.S.18A:28-6 in a position in which the individual actually served'.

17

18 3. This act shall take effect immediately and shall apply to all
19 individuals who have acquired tenure pursuant to N.J.S.18A:28-5 or
20 any prior statute.

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24

25 Clarifies that tenure accrued in a particular position within a public
26 school district shall not extend to any other position.

[Corrected Copy]

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2153

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 1996

The Assembly Education Committee favorably reports Assembly Bill No. 2153 with committee amendments.

In a recent Appellate Division case, G. Michael Nelson v. Board of Education of the Township of Old Bridge, the court held that tenure under the administrative certificate extends to all endorsements held by an individual under that certificate regardless of whether the position at issue is one of those enumerated in the tenure statute, N.J.S.18A:28-5. This decision means that if a tenured supervisor holds the appropriate endorsement, that individual may now claim a position as a principal or assistant superintendent over a non-tenured person in that position in the event of a reduction in force, even if the individual had never before been employed in a similar position.

In coming to the above decision, the court overturned the traditional interpretation of N.J.S.18A:28-5 that all titles listed within the section are separately tenurable. As amended by committee, this bill amends N.J.S.18A:28-5 to specifically provide that tenure in any of the administrative or supervisory positions listed in that section accrues only by employment in that administrative or supervisory position and does not extend to any other administrative or supervisory position. The bill also stipulates that nothing within its provisions limits or restricts tenure rights which were or may be acquired under N.J.S.18A:28-6 in a position in which the individual actually served. The provision of the bill concerning N.J.S.18A:28-6 is intended to protect the tenure rights of those individuals accruing tenure pursuant to that statute but to insure that tenure is limited in scope to the specifically enumerated positions. The provisions of the bill are limited to administrative or supervisory positions because the Nelson case addressed only positions covered by the administrative certificate.

The committee amended the bill to limit its scope to administrative or supervisory positions and to add language clarifying that the bill is not intended to limit tenure rights acquired under N.J.S.18A:28-6. The amendments also delete reference to the positions of director and supervisor.

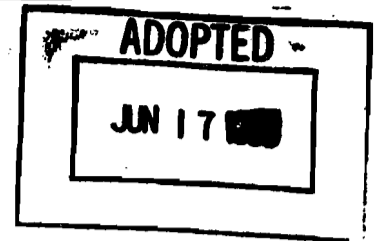
ASSEMBLY EDUCATION COMMITTEE

AMENDMENTS

to

ASSEMBLY, No. 2153

(sponsored by Assemblyman Rocco)



REPLACE SECTION 2 TO READ:

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

18A:28-5. The services of all teaching staff members [including all teachers, principals other than administrative principals, assistant principals, vice principals, assistant superintendents] employed in the positions of teacher, principal, other than administrative principal, assistant principal, vice-principal, assistant superintendent ' [, director, supervisor] ' , and all school nurses including school nurse supervisors, head school nurses, chief school nurses, school nurse coordinators, and any other nurse performing school nursing services and such other employees as are in positions which require them to hold appropriate certificates issued by the board of examiners, serving in any school district or under any board of education, excepting those who are not the holders of proper certificates in full force and effect, shall be under tenure during good behavior and efficiency and they shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming such a teaching staff member or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of this Title, after employment in such district or by such board for:

- (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 year; or
- (c) The equivalent of more than three academic years within a period of any four consecutive academic years.

For purposes of this chapter, tenure in any of the 'administrative or supervisory' positions enumerated herein shall accrue only by employment in that 'administrative or supervisory' position ' [, and tenure] . Tenure ' so accrued shall not extend to any other 'administrative or supervisory' position ' and nothing herein shall limit

or restrict tenure rights which were or may be acquired pursuant to N.J.S.18A:28-6 in a position in which the individual actually served¹.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2153

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 1996

The Assembly Education Committee favorably reports Assembly Bill No. 1739.

In a recent Appellate Division case, G. Michael Nelson v. Board of Education of the Township of Old Bridge, the court held that tenure under the administrative certificate extends to all endorsements held by an individual under that certificate regardless of whether the position at issue is one of those enumerated in the tenure statute, N.J.S.18A:28-5. This decision means that if a tenured supervisor holds the appropriate endorsement, that individual may now claim a position as a principal or assistant superintendent over a non-tenured person in that position in the event of a reduction in force, even if the individual had never before been employed in a similar position.

In coming to the above decision, the court overturned the traditional interpretation of N.J.S.18A:28-5 that all titles listed within the section are separately tenurable. As amended by committee, this bill amends N.J.S.18A:28-5 to specifically provide that tenure in any of the administrative or supervisory positions listed in that section accrues only by employment in that administrative or supervisory position and does not extend to any other administrative or supervisory position. The bill also stipulates that nothing within its provisions limits or restricts tenure rights which were or may be acquired under N.J.S.18A:28-6 in a position in which the individual actually served. The provision of the bill concerning N.J.S.18A:28-6 is intended to protect the tenure rights of those individuals accruing tenure pursuant to that statute but to insure that tenure is limited in scope to the specifically enumerated positions. The provisions of the bill are limited to administrative or supervisory positions because the Nelson case addressed only positions covered by the administrative certificate.

The committee amended the bill to limit its scope to administrative or supervisory positions and to add language clarifying that the bill is not intended to limit tenure rights acquired under N.J.S.18A:28-6. The amendments also delete reference to the positions of director and supervisor.

STATE OF NEW JERSEY

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34 district or by such board for:

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

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

3 (b) Three consecutive academic years, together with employment
4 at the beginning of the next succeeding academic year; or

5 (c) The equivalent of more than three academic years within a
6 period of any four consecutive academic years.

7 For purposes of this chapter, tenure in any of the positions
8 enumerated herein shall accrue only by employment in that position,
9 and tenure so accrued shall not extend to any other position.

10 (cf: P.L.1991, c.267, s.3)

11

12 3. This act shall take effect immediately and shall apply to all
13 individuals who have acquired tenure pursuant to N.J.S.18A:28-5 or
14 any prior statute.

15

16

17 STATEMENT

18

19 In a recent Appellate Division case, Nelson v. Board of Education
20 of the Township of Old Bridge, the court held that tenure under the
21 administrative certificate extends to all endorsements held by an
22 individual under that certificate regardless of whether the position at
23 issue is one of those enumerated in the tenure statute. This holding
24 means that if a tenured supervisor holds the appropriate endorsement,
25 he can now claim a position as a principal or assistant superintendent
26 over a non-tenured person in that position in the event of a reduction
27 in force, even though he had never served in that capacity. In coming
28 to this decision, the court disregarded the traditional interpretation of
29 that section of law that all titles listed in N.J.S.A. 18A:28-5 are
30 separately tenurable. This bill simply maintains the status quo by
31 clarifying that tenure within any of the positions listed in N.J.S.A.
32 18A:28-5 accrues only by employment in that position and shall not
33 extend to any other position.

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37

38 Clarifies that tenure accrued in a particular position within a public
39 school district shall not extend to any other position.

13