

# POLICY

## RANDOLPH BOARD OF EDUCATION

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Certification of Tenure Charges

### 3144 CERTIFICATION OF TENURE CHARGES

~~The Board of Education will challenge the continued employment of any tenured teaching staff member who demonstrates inefficiency in the performance of his/her duties, and 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 substance of the supporting evidence in accordance with law and these guidelines:~~

- ~~1. Charges may be instituted against a tenured teaching staff member of the district by any person by filing with the Board Secretary a written statement, signed by the charging person, that sets forth the specific charges and the statutory ground on which each is based. 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 seventy-two (72) hours of the time charges have been filed with the Board Secretary, be served on the charged employee 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 the charge alleges inefficiency, the following actions will be taken:~~
  - ~~a. A copy of the charges and a copy of the statement of evidence shall, within seventy two (72) hours of the~~

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~~time charges have been filed with the Board Secretary, be served on the charged employee together with a letter informing the employee that, unless the specified inefficiencies are corrected within ninety (90) 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 will be revised to address the specific charges of inefficiency and to assist the employee toward improvement within the ninety (90) days.~~

~~e. The employee's performance will be observed and evaluated over the next ninety (90) days, excluding summer vacation.~~

~~d. At the conclusion of the ninety (90) days, the Superintendent shall report to the Board an assessment of the employee's progress.~~

~~e. Thereafter, the Board will meet in executive session to determine 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 executive session 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 (30) days of the Board of Education meeting, 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. The employee must file a written statement of position and evidence within forty five (45) days from the date in~~

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- ~~which the charges were received by the employee or the expiration of fifteen (15) days, whichever occurs first. The Board of Education shall meet in executive 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 Secretary will file the charges and a certificate of determination with the Commissioner of Education and serve notice of such certification on the employee in accordance with rules of the State Board of Education.~~
- ~~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.~~

Tenure charges may be instituted against a tenured teaching 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, other than for reasons of inefficiency, 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, except in the case of Building 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 preferred before the Commissioner of Education against an employee of a Board of Education or of a school district under full State intervention pursuant to the Tenure Employees' Hearing Act. In place of the usual petition, the Board of

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Education or the State District Superintendent shall file the 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 in order 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 that such 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 such 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.

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The certificate of determination which accompanies the written charges shall contain a certification 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 full Board or by the State District Superintendent in accordance with N.J.S.A. 18A:7A-39; and in the case of a charge of inefficiency, that the employee was given at least ninety (90) days prior written notice of the nature and particulars of the alleged inefficiency.

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 et seq. 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 teaching staff members, janitors, and secretaries in a Charter School shall be governed by N.J.A.C. 6A:11-6.1 et seq.~~

~~N.J.S.A. 18:A6 8.3; 18A:6 10 et seq.; 18A:25 6; 18A:25 7  
N.J.A.C. 6A:3 5.1 et seq.; 6A:9 17.4; 6A: 9 17.5~~

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

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Adopted: 21 January 2009

**Amended:**

Formerly policy 420.0 - Dismissal of a Tenure Teacher for  
Inefficiency which was:

Adopted: 14 December 1976

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