

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.

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

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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 superintendent, director,
22 supervisor, 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:

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.

- 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)

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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.

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STATEMENT

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