

## **CERTIFICATED NON-TENURE RIGHTS**

### **IMPORTANT TIME LIMITS**

#### **May 15:**

Statutory date (on or before) to notify nontenured certificated staff member of the nonrenewal of his/her employment contract.

#### **WITHIN 15 CALENDAR DAYS OF RECEIPT OF NOTICE OF NONRENEWAL:**

(Whether from the chief school administrator or the Board of Education, whichever comes first). Teaching staff member may request, in writing, a written statement of reasons for non-reemployment.

#### **WITHIN 30 CALENDAR DAYS OF RECEIPT OF WRITTEN REQUEST:**

Board must provide a written statement of reasons for non-reemployment.

#### **WITHIN 10 CALENDAR DAYS OF RECEIPT OF WRITTEN STATEMENT OF**

**REASONS:** Teaching staff member can make a written request to the board for an informal appearance before the board.

#### **WITHIN 30 CALENDAR DAYS OF RECEIPT OF THE REQUESTED STATEMENT OF REASONS BY TEACHING STAFF MEMBER:**

Board must schedule an informal appearance.

#### **WITHIN 3 DAYS FOLLOWING THE INFORMAL APPEARANCE:**

Board may notify the affected staff member, in writing, of its final determination; but if there is no change in the board's disposition, then no notice is required.

**ON OR BEFORE JUNE 1, 2009:** In the event that the nontenured member receives an offer of continued employment for the following school year (2009-2010) OR IF NO NOTICE IS GIVEN BY May 15, 2009, the nontenured member must accept the board's offer of employment in writing by June 1, 2009.

(See sample letter on next page)

**SEND THIS LETTER PROMPTLY:**

Nontenured, certificated members who do not receive proper notification of **2009-2010** contract status by **May 15, 2009**; or if you are a nontenured member who did receive notice of contract renewal, NJEA advises you to send a letter to your board immediately and, in any event **NO LATER THAN JUNE 1, 2009.**

**SAMPLE LETTER:**

(The following letter should be addressed to your Board of Education,  
Attention: Board Secretary.)

\_\_\_\_\_  
**(Date)**

**I hereby notify you in writing that I accept your offer of employment for the coming school year.**

Very truly yours,

\_\_\_\_\_  
**(Signature)**

**TITLE 6A. DEPARTMENT OF EDUCATION**

**CHAPTER 32. SCHOOL DISTRICT OPERATIONS**

**SUBCHAPTER 4. EMPLOYMENT AND SUPERVISION OF TEACHING STAFF**

6A:32-4.6 Procedure for appearance of nontenured teaching staff members before a district board of education upon receipt of a notice of nonreemployment

(a) Whenever a nontenured teaching staff member has requested in writing and has received a written statement of reasons for nonreemployment pursuant to [N.J.S.A. 18A:27-3.2](#), he or she may request in writing an informal appearance before the district board of education. Such written request shall be submitted to the board within 10 calendar days of receipt of the board's statement of reasons.

(b) Such an informal appearance shall be scheduled within 30 calendar days from receipt of the district board of education's statement of reasons.

(c) Under the circumstances described in this section, a nontenured teaching staff member's appearance before the district board of education shall not be an adversary proceeding. The purpose of such an appearance shall be to permit the staff member to convince the members of the board to offer reemployment.

(d) Each district board of education shall exercise discretion in determining a reasonable length of time of the proceeding, depending upon the specific circumstances in each instance.

(e) Each district board of education shall provide adequate written notice to the employee regarding the date and time of the informal appearance.

(f) The nontenured teaching staff member may be represented by counsel or one individual of his or her own choosing.

(g) The staff member may present witnesses on his or her behalf. Such witnesses do not need to present testimony under oath and shall not be cross-examined by the district board of education. Witnesses shall be called into the meeting to address the board one at a time and shall be excused from the meeting after making their statements.

(h) The proceeding of an informal appearance before the district board of education as described herein may be conducted pursuant to [N.J.S.A. 10:4-12\(b\)\(8\)](#).

(i) Within three days following the informal appearance, the district board of education shall notify the affected teaching staff member, in writing, of its final determination. The board may delegate such notification to its chief school administrator or board secretary.

**GUIDE TO REPRESENTING  
NONTENURED TEACHERS IN  
CONTRACT NONRENEWAL SITUATIONS**

*Suggested Approaches for Representing Nontenured Teachers  
At an Informal Appearance.*

- A. The teacher advocate makes an opening statement and points out to the board what is going to happen at this meeting.
- B. The teacher has the responsibility to convince the board that their decision not to renew is erroneous and that the school district, as a result, will lose a good teacher. It is essential that the teacher present the case on his own behalf.
- C. Review the evaluations of the teacher, if they are positive; have enough copies so that the board members present can follow along.
- D. It is possible to have individuals make statements on the teacher's behalf. These individuals may be parents or highly respected staff members or influential citizens or former students. The purpose of their statements is to inform the board of the personal involvement they have had with the teacher, in an attempt to persuade the board that they school district will suffer as a result of not renewing this teacher. These witnesses are sequestered and they are called into the room one at a time to make their statements. The board may question these individuals.
- E. **Special Programs** – the teacher should elaborate to the board on any unique activities and/or units taught.
- F. **Open Classroom** – the teacher might invite the superintendent, principal, or board members to visit his/her classroom for additional observations.
- G. **Classroom Tour** – the teacher may invite the board that evening (if possible) to visit his/her classroom and provide explanations as to the different projects, teaching stations, etc. in the classroom.
- H. **Extracurricular Program** – The teacher may review with the board his/her involvement with any extra position, i.e., coaching, clubs, etc.
- I. **Community Programs Involving Children** – The teacher may wish to inform the board of his involvement in community programs, i.e., Scouts, Big Brother, YMCA, United Way, etc.
- J. **Professional Improvement** – The teacher may wish to review the various courses taken, seminars attended, etc., since he/she has been in the employ of the district.
- K. **Closing Statement** – The teacher advocate might review the highlights of the teacher's major attributes, thank the school board members for their time and interest, and urge the board to reconsider.

### **CHECK THE FOLLOWING PROVISIONS OF THE LOCAL CONTRACT:**

- a. Review the definition of a “grievant” to see if there are any disclaimers involving a nontenured teacher. Also be sure to review the timeliness factor in the processing of a grievance.
- b. Check to see if the contract contains binding arbitration as a terminal step in the grievance procedure.
- c. How has the contract been violated? Possible provisions to check:
  1. Just cause
  2. Evaluation procedure
  3. Timely notice of a contract for the following year
  4. Fair dismissal procedure
  5. Reduction in force
  6. Possible past practice.

### **RESIGNATION VS. NON-RENEWAL**

Sometimes an employee is given the option of resigning rather than being non-renewed. Choosing resignation may affect a person’s entitlement to unemployment compensation in the event the person is not employed for the next school year. Additionally, under President Obama’s *American Recovery and Reinvestment Act (ARRA)*, certain employees who are eligible for reduced COBRA premiums for health insurance may lose the opportunity for reduced premiums if they resign.

- Voluntarily quitting a job (resigning) without good cause connected with the work, or voluntarily choosing to retire, may indefinitely disqualify one from unemployment benefits.
- If the above situation applies, the employee will be scheduled to see a claim examiner. The examiner will gather information from the employee and the employer in order to make a determination regarding unemployment entitlement. If the school district has a voluntary resignation on record, the district can fight the unemployment claim.
- Under provision of the ARRA, individuals who are eligible for COBRA coverage because of their own or a family member's involuntary termination from employment that occurred from September 1, 2008 through December 31, 2009

and who elect COBRA, may be eligible to pay a reduced premium. Eligible individuals pay only 35% of the full COBRA premiums under their plans for up to 9 months. This premium reduction is generally available for continuation coverage under the Federal COBRA provisions, as well as for group health insurance coverage under state continuation coverage laws. Resigning from one's position will negate this benefit. More information can be found at <http://www.dol.gov/ebsa/faqs/faq-cobra-premiumreductionEE.html>.

The decision to resign vs. being non-renewed is an individual one for each person. It is imperative, however, that the member has as much information as possible in order to make an informed decision.