

ANALYSIS AND OVERVIEW OF THE CONNECTICUT TEACHER TENURE LAW

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I. CALCULATION OF TENURE

Connecticut law requires newly hired public school teachers to serve in a probationary employment status for the first 40 school months of their teaching employment. A “school month” for tenure law purposes is defined as at least one-half the **student** school days in any calendar month other than July or August. In order to earn tenure credit for a partial month, a newly hired employee must have “been employed” at least one-half the student days in the first month. **Note:** “Teaching employment” for tenure purposes means employment for at least ninety calendar days in any position below the rank of Superintendent that requires certification from the State Board of Education. This translates into four complete 10-school month teaching years for the “typical” new teacher who starts work in September and ends the working year in June.

1. No Special Tenure for Administrators¹

The same probationary period and other requirements for acquiring tenure, which apply to classroom teachers, also apply to certified administrators. The legislature has specifically decreed that non-tenured administrative staff (and other certified staff whose work year extends into July and/or August) are “teachers” for the purposes of the tenure statute and may earn no more than 10 school months needed to attain tenure in one calendar year, even though they may actually have a twelve-month work year. This was accomplished legislatively by excluding the months of July and August from tenure calculations. Once attained, tenure status is universal in that there is no separate tenure for teachers and administrators. Thus, a tenured teacher who accepts a promotion to an administrative position within the same school district is fully tenured as of the first day of administrative employment, even though he/she has absolutely no prior administrative experience. Conversely, an employee who earns tenure as a certified administrator and is reassigned to a teaching position, within the same school district for which proper certification is possessed, is fully tenured as a teacher even if he/she has been away from the classroom for many years.

2. Forty-Month Probationary Period

As probationary employees, non-tenured teachers have only a few of the statutory and constitutional rights enjoyed by their tenured colleagues. Their 40 school month (4 year) probationary term may well be the longest probationary period in the history of employment law! Boards of education lack the right to either reduce or extend the statutory nontenure period.

¹ “Teacher” is defined by C.G.S. §10-151, the “Teacher Tenure Act”, as anyone in a Connecticut school district below the rank of Superintendent employed in a position requiring certification from the State Department of Education; therefore, administrators such as Assistant Superintendents and Principals, are “teachers” for the purposes of acquiring tenure. A different definition of “teacher” is contained in the Teacher Negotiations Act. C.G.S. §10-153a *et seq.*

A teacher's tenure status is relatively easy to determine if he/she is the "traditional" September-June new educator hired in a full-time position starting at the beginning of a school year, since the Tenure Law is structured for such a scenario, *i.e.*, 10 school months of continuous employment each year for 4 consecutive years, resulting in tenure at the end of the 4th school year, if the Superintendent offers the teacher a contract for the next school year based on "effective practice" as determined by the statutory evaluation system. Problems arise when teachers are hired **during the school year to start work other than in September**, take **extended leaves of absence** during a school year and/or when teachers are assigned to **part-time** positions that pay less than 50% of the salary that would be received if the assignment were full-time.

All work toward tenure must be performed "in a position requiring a certificate issued by the State Board of Education." Once the 40 months of teaching experience have been completed, the teacher acquires tenure, "provided the superintendent offers the teacher a contract to return for the following school year on the basis of effective practice as informed by performance evaluations conducted pursuant to section 10-151b, as amended by [P.A. 12-116, Section 57]." The purpose of this last clause is not totally clear, but was apparently inserted into the statute to indicate that a teacher who is nonrenewed during the last year of employment prior to earning tenure does not acquire tenure even though he/she is allowed to complete the remainder of the school year after being nonrenewed and that non-tenured reemployment decisions must be based on the statutory evaluation program. Note that a non-tenured teacher who is nonrenewed in his/her 4th year of employment due to a layoff (reduction in force) would not lose the prior service toward tenure so long as that person was recalled to work by the same board within 5 calendar years of the layoff. However, a non-tenured teacher nonrenewed in the 4th year of employment due to poor performance, as opposed to layoff, will lose all prior service credits and, if rehired in the future, will have to repeat the 40 school month probationary period.

Remember, a "school month" for tenure law purposes is defined as at least one-half the **student** school days in any calendar month **other than July or August**. In order to earn tenure credit for a partial month, a newly hired employee must have "been employed" at least one-half the student days in the first month. This has applicability to newly hired non-tenured teachers whose initial employment begins during the month of hire, as opposed to the beginning of that month. A newly hired teacher whose employment begins after the midpoint of the month of initial hire will not receive tenure credit for that first month, since he/she did not work at least one-half the student days. **Note:** These rules **do not** apply to teachers who are absent on extended authorized leaves. (See below).

3. Special Tenure Rules for Extended Leaves of Absence and Part-Time Employment

Like all employees, non-tenured teachers have legitimate needs to be absent on authorized leave due to sickness, maternity, and other reasons. Also, large numbers of non-tenured teachers are assigned to part-time positions. At the same time, the school administration has less opportunity to observe and monitor non-tenured teachers who are not present at school on a regular, full-time basis. To balance these interests, the tenure law has special provisions to deal with leaves of absence and part-time employment.

- a. A non-tenured teacher may be absent on authorized leave for up to 90 **student** school days in any year without losing any tenure credit. Thus, a full-time teacher who resumes teaching in January after being absent on leave from September through December has not missed more than 90 student school days in that year and, if he/she teaches the remaining 6 months of the school year, will earn a full 10 months toward tenure.
- b. If a teacher in his/her 4th year of employment is nonrenewed prior to May 1 in the last year, he/she would be allowed to complete the remainder of the school year, and would technically have finished the entire 40 months of work needed for tenure. However, in that case, the Superintendent, by virtue of the nonrenewal, **would not have** offered the teacher a contract to return for the following year, so the teacher would not attain tenure upon completing the 40th school month of teaching.
- c. A non-tenured teacher who is absent on authorized leave for more than 90 school days in a year earns tenure credit for only the days he/she was not absent. Using 18 school days as the standard or average number of days in a school month, the total number of school days the teacher actually worked in the entire school year is divided by 18, producing the number of months of tenure credit the teacher earned that year. Fractions are rounded up or down based on the 18 day figure.
- d. Part-time non-tenured teachers, who are in positions paying 50% or more of the full-time salary for the position, earn full month-for-month tenure credit in the same fashion as full-time teachers.
- e. Part-time non-tenured teachers, in positions paying less than 50% but at least 25% of the full-time salary for the position, must work 2 school months to earn a single school month of tenure credit. Their tenure track is thus doubled from 4 to 8 years.
- f. Part-time non-tenured teachers, in positions paying less than 25% of the full-time salary for the position, must work 3 school months to earn 1 school month of tenure credit. Their tenure track is thus 12 school years.

- g. These calculations may have to be “juggled” if the assignment of the non-tenured part-timer changes from year to year (or even from month to month.) For example, a teacher who starts in September as a full-timer, but is reduced to a 0.4 position starting in January, will earn 4 months toward tenure for September-December, but will move to two-for-one status from January-June and will earn only 3 tenure months for that period. The teacher will thus earn 7 of the 40 required months for that particular year.

II. “ACCELERATED” OR “FAST-TRACK” TENURE

“Glitches” arise when laid off non-tenured or tenured teachers are recalled or rehired by the same board of education or when teachers who already earned tenure elsewhere in Connecticut’s public schools begin work with a new Connecticut board of education. These cases often involve some pre-earned or “banked” months of tenure credit, allowing the teacher to achieve tenure in his/her new position at an accelerated rate. In order to count toward accelerated tenure, any prior months of teaching service must have been performed subject to the Teacher Tenure Law in a **public school located in Connecticut**.

1. Acceleration for Non-tenured Teachers

Non-tenured teachers, who are **laid off** due to position elimination or by being “bumped” by a more senior teacher, and who are rehired by **the same** board of education within 5 years, retain the months of credit toward tenure they acquired before the layoff when they return to teaching. They continue to build on that base toward the requisite 40 months of continuous service. **Note:** This only happens when the non-tenured teacher has been **laid off and is rehired/recalled by the same school board**. If the non-tenured teacher left for any other reason (e.g., resignation, nonrenewal for cause, or performance problems) there is no “banked” tenure time in the event of a rehire. This may explain why some non-tenured teachers facing nonrenewal due to reduction in force refuse to resign their jobs and instead insist upon being formally non-renewed (eligibility for unemployment benefits may be another). If a laid-off non-tenured teacher is hired by a different board of education from the one that laid him/her off, he/she starts employment with the new school board having no tenure credit. Prior service is **never portable** for non-tenured staff.

During the initial 40 school months (4 years) of continuous experience, the employment of the non-tenured teacher annually renews by operation of law into the next school year **unless** the teacher is given written **notice of nonrenewal** by May 1 or **terminated for cause** in any of the probationary years. Any time a Superintendent offers a non-tenured teacher a contract to return for another year, “such offer must be based upon records of evaluations” compiled under the system-wide teacher evaluation plan mandated by statute. See, C.G.S. Sec. 10-151(b). This means that if a non-tenured teacher is kept on staff for more than one year and is then nonrenewed, the

Superintendent may have to show at a hearing how the teacher's evaluations were used to renew the employment contract for the previous year(s) of employment.

2. Acceleration for Tenured Teachers

A **tenured** teacher in a Connecticut public school, who leaves his/her job for any reason and is hired within five (5) years by another Connecticut board of education, receives tenure after only 20 school months, two traditional September-June school years of employment, if the Superintendent offers reemployment for the next school year based upon the statutory evaluation program. Tenure is thus acquired in only half the regular probationary period. **Remember**, this feature of the law applies only when **no more than five years have passed** since the teacher last taught in a Connecticut public school. In cases of "accelerated tenure," the employer thus has two chances (once in each of two 10-month school years) to nonrenew the teacher before tenure is earned. Also, a tenured teacher who is **laid off** by a school board and rehired by **the same board** within five years, receives tenure immediately upon the rehiring; but unless rehired by the same board of education after a layoff, tenured teachers who leave their jobs and then return to teaching within five years, are subject to the 20 school month accelerated tenure provisions of the law. **Note:** Automatic/instant tenure applies only when a tenured teacher is laid off for lack of work (not let go for another reason) and later rehired within five years by the same board of education.

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