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EDUCATION

38 N.J.R. 2216(a)

STATE BOARD OF EDUCATION

Notice of Receipt of Petition for Rulemaking

N.J.A.C. 6A:3-5.1, Filing of written charges and certificate of determination

Petitioner: Christine Gillespie.

Take notice that on April 4, 2006, the New Jersey State Board of Education received a petition for rulemaking from the above petitioner requesting that the State Board of Education amend the rules pertaining to the Charges Under Tenure Employees Hearing Act, pursuant to N.J.A.C. 6A:3-5, to their original intent, to implement and carry out the mandates of N.J.S.A. 8A:6-11 [sic]. The petitioner states that this would mean the procedure to follow in filing tenure charges uniform for all school districts to be in compliance with N.J.S.A. 18A:6-11. Furthermore, the petitioner states that the State Board of Education and New Jersey Department of Education is left with only one legal recourse, to implement its authority and amend N.J.A.C. 6A:3-5 to be in compliance with N.J.S.A. 18A:6-11, for all tenured employees of State operated districts; except school principals and vice principals whose tenure due process rights were amended by N.J.S.A. 18A:7A-45 as part of their evaluation process.

The petitioner states that on November 8, 1999, proposed amendments to rules at N.J.A.C. 6:24-5.1, 5.2, 5.3, 5.4 and 5.6 were filed by the Department of Education with the Office of Administrative Law and that these amendments made provision for changes in the procedure to follow in filing tenure charges under the tenure employees Hearing Act against all employees of the State operated school districts. The petitioner also states that the Department of Education provided the following authority for promulgation of these amendments: N.J.S.A. 18A:4-15, 18A:6-9, 18A:6-10.1 et seq., 18A:29-14 and 18A:60.1. The petitioner further states that there is no authority granted in the identified statutes that permits tenure due process rights to be denied of tenured employees of State operated school districts. The petitioner states that except for principals and vice principals, there are no school laws of the State of New Jersey which amend or repeal the tenure due process rights by teachers, and other employees, employed by State operated school districts, under the mandates of N.J.S.A. 18A:6-11. The petitioner also asserts that the Department of Education failed to comply with N.J.S.A. 52:14B-4 and inform those persons most likely to be affected by or interested in the intended action and that publication of the proposed amendments in the December 20, 1999 issue of the New Jersey Register is not sufficient for compliance with the notification of "those persons most likely to be affected by or interested in the intended action."

In accordance with applicable law N.J.A.C. 1:30-4.2, the Department shall subsequently mail to the petitioners, and file with the Office of Administrative Law, a notice of action on the petition.