

NEW HAMPSHIRE SCHOOL BOARDS ASSOCIATION presents Teacher Dismissal and Nonrenomination At Your Fingertips

RSA 189:13 & RSA 189:14-a

I. DISMISSAL OF TEACHERS: RSA 189:13

- “Dismissal” means the termination of a teacher’s contract during the term of the contract; to discontinue a teacher’s employment during the school year for one of the reasons set forth in RSA 189:13.
- School boards may dismiss a teacher if the teacher: (1) is found to be immoral; (2) fails to satisfactorily maintain the competency standards established by the school district; or (3) fails to conform to regulations prescribed.
- Teachers facing dismissal are entitled to: (1) notification of the cause of dismissal; and (2) a full and fair hearing.
- “Teacher” means any professional school district employee whose position requires state board certification, which may include principals, librarians, or guidance counselors. Littky v. Winchester School District, 129 N.H. 626 (1987). “Teacher” does not apply to school nurses. Ferreira v. Bedford School District, 133 N.H. 785 (1990).
- “Educator” or “educational personnel” means any school district employee whose position requires certification by the state board pursuant to RSA 189:39. Administrators, specialists, and teachers are included within the definition of this term. NH Code of Admin. Rules, Section Ed 501.02(j).
- Failure to follow these provisions may result in the teacher being entitled to his/her full salary for the term of the teacher’s contract. RSA 189:14.

II. TEACHERS WITH LESS THAN 3 YEARS EXPERIENCE: RSA 189:14-A, I(a)

- “Nonrenewal” or “nonrenomination” means the termination or discontinuation of a teacher’s employment after the teacher’s contract has expired. This means the teacher will not be offered a new contract for the next school year.
- Teachers who have taught for one or more years, but less than three in the same school district, must be notified in writing by April 15th that he/she will not be renominated for employment for the following school year.
- Teachers in this category are not entitled to the reason(s) for their nonrenomination or a hearing before the board.

III. TEACHERS WITH MORE THAN 3 YEARS EXPERIENCE: RSA 189:14-a, I(b)

- Teachers who have taught for at least three consecutive years in the same school district must be notified in writing by April 15th that he/she will not be renominated for employment for the following school year.
- Such teachers may request a hearing before the school board. The request must be in writing. The Superintendent must receive the request within 10 days of issuing notice of nonrenewal.
- The school district is required to: (1) advise teachers of their right to a hearing; (2) advise teachers of their right to ask for the reasons for nonrenomination; (3) hold any hearing requested by a teacher within 15 days of receipt of the request; and (4) issue its decision in writing within 15 days of the close of the hearing.
- These requirements apply to teachers who have taught for three or more years in any district in New Hampshire, including those who have subsequently changed school districts and have taught for at least two consecutive years in their current district. RSA 189:14-a, II.

IV. NONRENEWAL IS BASED UPON UNSATISFACTORY PERFORMANCE: RSA 189:14-a, III

- If a Superintendent cites “unsatisfactory performance” as the reason for nonrenomination, the Superintendent must demonstrate that: (1) the teacher was previously informed he/she was not meeting school district standards; (2) the teacher had a “reasonable opportunity” to correct the unsatisfactory performance; and (3) the teacher failed to correct his/her performance.



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Page Two

- Though “reasonable opportunity” is not defined, NHSBA recommends at least one full semester be given.
- School boards and administrators are not legally obligated to provide assistance to remedy teacher deficiencies, although you should check CBAs and board policies to determine if these obligations exist therein.

V. HEARING PROCEDURE FOR TEACHER NONRENOMINATION: NH Code of Admin. Rules, Section Ed 204.02

- This rule provides detailed procedures to follow for nonrenomination hearings. (See NHDOE website for details.)

VI. BURDEN OF PROOF: RSA 189:14-a, IV

- The Superintendent must prove “by a preponderance of the evidence” that he/she has: (1) met the notice requirements of this statute; and (2) in nonrenewals based on unsatisfactory performance, that the teacher was given a reasonable opportunity to correct his/her deficiencies.
- “Preponderance of the evidence” means the Superintendent has the stronger evidence, however slight the edge.

VII. APPEALS PROCESS: NH Code of Admin. Rules, Section Ed. 206.01

- A teacher aggrieved by a local school board’s decision may appeal to the state board for review, in accordance with RSA 541-A and Ed 200. The appeal must be filed within 30 days of receipt of the local school board’s written decision (or 7 days after any alternative dispute resolution that did not produce an agreement with parties).

VIII. UNIQUE SITUATIONS YOUR SCHOOL BOARD SHOULD AVOID:

- **Teacher Not Renominated, But Offered Lesser Position.** If a teacher is being offered different employment at a lesser position, he/she is still entitled to a hearing and reasons of nonrenomination, consistent with the provisions outlined above. Petition of Gorham School Board, 121 N.H. 878 (1981).
- **School Board Bias.** A school board may conduct a nonrenewal hearing, absent a showing of actual bias or prejudice. A show of “actual bias” must be present in order to overturn a local school board’s nonrenomination decision. Considerations of actual bias include personal animosity towards a particular teacher or having a personal stake in the teacher’s employment or nonrenomination. Appeal of Hopkinton School District, 151 N.H. 478 (2004).
- **Failing to grant a teacher a hearing.** If a school board dismisses a teacher and fails to allow that teacher, who has conformed to all valid regulations of the school board, a hearing, then the teacher may recover full salary for the period for which they were originally engaged. Stoneman v. Tamworth School Dist, 114 N.H. 371 (1974).

IX. PRACTICE POINTERS:

- Advise teachers of their rights under this statute and provide RSA 189:14-a when issuing the nonrenomination letter.
- Superintendents must have adequate documentation of unsatisfactory performance, to uphold the nonrenomination. There should also be documented evidence of the teacher’s failure to remedy the unsatisfactory performance.
- School board members should refrain from viewing teacher personnel files until presented with them as evidence at the nonrenomination hearing.
- School board members should not make public comments regarding a teacher’s performance until the board has issued its written decisions.
- All collective bargaining agreements and applicable board policies should be reviewed in dismissal or nonrenewal situations to determine if they provide requirements beyond what is contained in state law or administrative rule.

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