

April 14, 2020



Authors:



Thomas B. Mooney
(860) 251-5710
tmooney@goodwin.com



Natalia Sieira Millan
(860) 251-5250
nwieiramillan@goodwin.com

Commissioner Cardona Announces Guidance on Non-Renewal Process and Tenure Timelines

On April 13, 2020, the Commissioner of Education issued [Temporary Flexibilities - Non-Renewal and Tenure \[https://portal.ct.gov/-/media/SDE/Digest/2019-20/Temporary-Flexibilities---Non-Renewal-and-Tenure-Final-4-13-20.pdf?la=en\]](https://portal.ct.gov/-/media/SDE/Digest/2019-20/Temporary-Flexibilities---Non-Renewal-and-Tenure-Final-4-13-20.pdf?la=en), which provides specific guidance to local and regional boards of education as they navigate the non-renewal of non-tenure teachers in the remaining weeks of April 2020. This Guidance provides important clarification of the mechanics of providing effective notification of non-renewal and gives school districts a new option of extending the probationary period for certain non-tenure teachers, as described below.

Pursuant to the Guidance, local and regional boards of education have the option this year to elect one of the following two options with individual non-tenure teachers:

1. **Non-Renewal by May 1, 2020 with an Extension of the Hearing Date:**

Districts may elect to follow the regular timeline for non-renewal and provide notice to the non-tenure teacher by May 1 that his or her contract will not continue to the next school year. Significantly, this year that notice may be sent by **email**, provided the notice conforms to specific requirements. The process as revised by the Guidance is as follows:

- **Notice:** Superintendents may provide notice via email to the teacher's district email address and the teacher's bargaining unit representative's email address. The Guidance requires that the notification email must specify that the teacher has not achieved tenure.

OUR RECOMMENDATION: We suggest that the wording for this notice include, at a minimum, the following:

In accordance with the provisions of Conn. Gen. Stat. § 10-151, I hereby notify you that your contract of employment with the _____ Board of Education will not be renewed for the 2020-2021 school year. Accordingly, you will not achieve tenure with the _____ Board of Education and your employment will end at the end of the 2019-2020 school year.

Superintendents are free to add a personal message to this notification (e.g., thanking the teacher for his or her service) when the non-renewal is not related to performance issues.

Also, the Guidance makes clear that superintendents may issue the non-renewal notification without a requirement that boards of education authorize such action in advance, as has sometimes been done in the past as a precaution.



- **Statement of Reasons:** As currently provided in the statute, a teacher may request a statement of the reasons for non-renewal within 3 days of receiving the non-renewal notice, and the district must provide such reasons in writing within 4 days of the request. The Guidance specifies that the request for a statement of reasons and the response may be provided by email.
- **Hearing:** Teachers may request a hearing upon receiving a notice of non-renewal by sending an email to both the superintendent and the board chairperson within 10 calendar days of receipt of notice of non-renewal.

Boards of Education (or appointed hearing officer(s)/subcommittee(s)) may grant an extension of all state statutory and regulatory timelines related to non-renewal hearings for up to 90 days.

2. **Extension of May 1st Timeframe:**

Superintendents may also elect to extend the May 1st deadline for an individual teacher if he or she has not made a final determination concerning that teacher's continued employment prior to May 1, 2020. This option is new, is limited to this year (given the COVID-19 health emergency), and it may be exercised prior to May 1, 2020, only as follows:

- **Extension Notification:** Superintendents may send an *extension notification* to the teacher prior to May 1, 2020 via email. The notification email must specify that the teacher has not achieved tenure and notify the teacher that their employment in a non-tenure status continues into the following year.
- **Length of the Extension:** The Guidance provides that such an extension may be for up to one year. The Guidance encourages districts to reach agreements with the teachers and their bargaining unit representatives concerning the length of the contractual extension so as to permit additional time for the teacher to demonstrate "progress and performance," but also possibly to permit non-renewal mid-year or on some other date. The Guidance further provides that, absent such an agreement, districts are authorized to extend the probationary period (non-tenure status) for the entire following year (with notification of non-renewal by May 1, 2021).
- **Fast Track Tenure.** Under current law, teachers who achieved tenure in another Connecticut school district within the preceding five years achieve tenure after completing twenty months of service, and it may be appropriate to extend the period in which those "fast-track" teachers will achieve tenure. The Guidance does not expressly address the situation of such teachers. However, the Guidance does not exclude such teachers from consideration, and the policy considerations underlying the Guidance (more time may be required for a fair judgment) are especially applicable to such teachers, given the already-abbreviated period within which such teachers achieve tenure. Such situations can be complex, in that such teachers may have been hired midyear (and thus complete twenty months of service midyear). Accordingly, further discussion with legal counsel is advisable in considering extension notifications for such teachers.

OUR RECOMMENDATION: The possibility of extending the time to achieve tenure will be a helpful option in specific cases, particularly for teachers on the fast track to tenure. However, this option is unprecedented, and it is accompanied by an invitation to discuss and seek agreement on the specific terms with the teacher's bargaining representative. Accordingly, superintendents may wish to follow the normal non-renewal process in most



cases. Moreover, if a teacher is not scheduled to complete the time for tenure at the end of a particular year (e.g., a first, second or third year teacher who has not previously attained tenure in Connecticut), superintendents may decide that imposing such an extension is not necessary.

This Guidance provided by Commissioner Cardona was authorized by Governor Lamont in his [Executive Order No. 7C](https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7C.pdf) [https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7C.pdf]. That Executive Order addresses other educational issues as well, authorizing, among other things, the Commissioner of Education (Commissioner) to temporarily waive:

- graduation and courses of study requirements,
- timelines for educator certification (teacher, substitute and administrator certification)
- timelines for teacher evaluation and support,
- timelines for the employment, “tenure” and termination of teachers, and
- timelines for required in-service trainings and professional development.

Since that time, the Commissioner has issued regular updates and guidance for [Educator Certification and Educator Preparation](https://portal.ct.gov/SDE/Certification/Bureau-of-Certification/COVID19-Updates-for-Educators) [https://portal.ct.gov/SDE/Certification/Bureau-of-Certification/COVID19-Updates-for-Educators]. In addition, on March 25, 2020 the Commissioner *waived all components* of the [Educator Evaluation and Support Plan](https://portal.ct.gov/-/media/SDE/Digest/2019-20/Superintendent-Memo-Educator-Evaluation-3-25-20.pdf) [https://portal.ct.gov/-/media/SDE/Digest/2019-20/Superintendent-Memo-Educator-Evaluation-3-25-20.pdf] for the remainder of the 2019-2020 school year and, on March 26, 2020, released a [Temporary Extension of Educator Certificates and Coaching Permits](https://portal.ct.gov/-/media/SDE/Digest/2019-20/SuptMemo-CertificationExtensions-3-26-20.pdf) [https://portal.ct.gov/-/media/SDE/Digest/2019-20/SuptMemo-CertificationExtensions-3-26-20.pdf] that prolongs the expiration date “of all Initial and Provisional Certificates (including Interim) and 5-Year Coaching Permits with expiration dates between 3/15/20 and 12/31/20 for 1-year from the date of original expiration.”

The Connecticut State Department of Education (CSDE) continues to issue guidance related to the operation of school districts during the COVID-19 health emergency, and we will continue to provide updates here. We urge school officials to monitor advisories from CSDE, CAPSS, and other guidance provided here at www.ctschoollaw.com.

Questions or Assistance:

If you have any questions regarding non-renewals, please contact Thomas B. Mooney at tmooney@goodwin.com or (860) 251-5710 or Natalia Sieira Millan at nsieiramillan@goodwin.com or (860) 251-5250.

These materials have been prepared by Shipman & Goodwin LLP for informational purposes only. They are not intended as advertising and should not be considered legal advice. This information is not intended to create, and receipt of it does not create, a lawyer-client relationship. Viewers should not act upon this information without seeking professional counsel. © 2019 Shipman & Goodwin LLP. One Constitution Plaza, Hartford, CT 06103.