



DELAWARE

EMPLOYMENT LAW LETTER

Part of your Delaware Employment Law Service

William W. Bowser, Editor; Scott A. Holt and Adria B. Martinelli,
Associate Editor
Young, Conaway, Stargatt & Taylor

Vol. 15, No. 9
September 2010

TERMINATION

Delaware Supreme Court clarifies requirements for teacher terminations

by Michael P. Stafford

In a recent decision, the Delaware Supreme Court clarified key procedural requirements for terminating nontenured teachers.

Background

Delaware statute states that a nontenured teacher may request, in writing, the reasons for his termination. The statute requires that the reasons provided by the school district "must have either been contained in the teacher's performance appraisal, and the teacher was provided time to correct any deficiency through an individualized improvement plan or other documented materials properly placed in the teacher's personnel file prior to said notice." A recent decision by the Delaware Supreme Court clarifies exactly what that language requires.

A school district took the position that the statute contemplates that the teacher had actual notice of his performance deficiencies, and where the document physically resided was not of significance. The Delaware Supreme Court disagreed, holding that the term "personnel file" means exactly that — a physical personnel file — and doesn't simply refer to the type of documentation. Moreover, documents supporting the decision to terminate a nontenured teacher's services must be in the personnel file when the district makes its decision.

However, the court took a very broad view of what constitutes "other documented materials." Such documents are not merely limited to

reprimands or other disciplinary documents. In this instance, a lesson analysis noting the teacher's difficulties controlling the classroom constituted the "other documented material" that sufficiently supported the school district's decision to terminate. *Angstadt v. Red Clay Consol. Sch. Dist.*, No. 08C-03-051 (Del., July 8, 2010).

Bottom line

In light of this decision, districts will need to review their procedures to ensure that disciplinary documents are promptly placed in teachers' personnel files. In addition, school districts would be well advised to review the contents of personnel files *before* distributing notices of their intention to terminate nontenured teachers to ensure that documents supporting the decision are in the teacher's personnel file.

Copyright 2010 M. Lee Smith Publishers LLC

DELAWARE EMPLOYMENT LAW LETTER does not attempt to offer solutions to individual problems but rather to provide information about current developments in Delaware employment law. Questions about individual problems should be addressed to the employment law attorney of your choice.

[Back to Results](#)

[Back to Search](#)

[Exit Search](#)