



What is...

## 3020-a?



## In a nutshell

- A NYS mandated process for removing teachers accused of incompetence or misconduct
- A **disciplinary procedure** and a **guarantee of due process** for tenured employees

### How can a district remove a teacher with tenure?

Education Law § 3020-a governs the discipline of tenured teachers and administrators (except superintendents). To fire a tenured teacher, school boards must prove one of the following:

- Immoral character
- Pedagogical incompetence
- Conduct unbecoming a teacher
- Insubordination
- Neglect of duty
- Inefficiency
- Failure to maintain certification
- Physical or mental disability
- Corporal punishment
- Excessive absenteeism
- Verbal abuse
- Sexual contact/ relationship

### What is pedagogical incompetence?

Although the term "pedagogical" is not defined in either the statute or Commissioner's Regulations, it is generally understood to include:

- Inability to control a class
- Failure to prepare required lesson plans
- Neglect of duty

### What are your rights if a 3020-a is instituted against you?

- Usually suspended with pay during investigation (except in cases of felony crime)
- Charges must be put in writing
- You have the right to a hearing
- Charges must be brought within 3 years of alleged actions (except felonies)
- **If acquitted of charges**, you are entitled to full restoration of job, back pay, and charges are expunged from record
- If hearing board decides charges are frivolous, districts are responsible for reimbursing costs for teacher defense
- **If you are deemed guilty** of charges, you can be terminated, reprimanded, fined, suspended without pay, issued a leave of absence with or without pay, mandated counseling, medical treatment, or continuing education, or any other remedial action

### What must districts prove before you are convicted of 3020-a?

- Teachers must be warned about deficiencies, provided assistance and training, and given adequate opportunity to improve
- Teachers must be shown to persist in rendering incompetent service
- Teacher must be shown to be insubordinate for not heeding supervisors' instructions to improve.

## The Bottom Line

3020-a procedures are designed to provide **due process**, **not protect incompetent teachers**. In 1997, the average 3020-a case took 319 days to resolve and cost over \$112,000. In 2008, the average cost per case had risen to over \$216,000.