Good morning. I’m Wayne Eastman, a member of the South Orange-Maplewood Board of Education, elected in 2006 and re-elected in 2009. My background, briefly: I’m a former practicing lawyer who is now a professor of business law and business ethics in the Supply Chain Management and Marketing Sciences Department at Rutgers Business School-Newark and New Brunswick. I also serve as a department administrator. (In case you’re wondering about my own tenure status, I’ll turn to that at the end of my statement, after making my policy recommendations.)

First, I want to express my appreciation to Senator Ruiz for the invitation to speak here today as a board member and volunteer citizen activist. I note that I am speaking on behalf of the South Orange-Maplewood Board of Education in one respect, in that we have agreed as a body that reforms in tenure are warranted. We have established a lobbying group consisting of myself, our President, Mark Gleason, and our First Vice President, Beth Daugherty, to advance that position and other positions we hold collectively. On the specifics of what I’m saying, though, the words and arguments I’m using are my own rather than a collective position of the Board.

In addition to Senator Ruiz, Mr. Gleason, Ms. Daugherty, and my other colleagues on the South Orange-Maplewood Board, I want to thank two other people. The proposal for statutory change that I’ll be presenting was originally drafted by our excellent counsel, Jessica DeKoninck, and I want to thank her. In addition to hearing from me, you’ll also be hearing today from our superintendent in South Orange-Maplewood, Brian Osborne. I believe that’s important, since the success of tenure reform will depend in practice on high-quality evaluation processes, high-quality organizational cultures, and high-quality teachers and administrators within the public schools. Our superintendent is one such high-quality person who can make tenure reform work, and I want to thank him for saying yes to Senator Ruiz’ invitation.

The South Orange-Maplewood Proposal for Tenure Reform

I want to start with the specific statutory changes that we believe should be passed. I recognize that you’ve got excellent drafters here in the legislature, but I believe that Jessica’s skills and experience combined with my background as a business lawyer and our collective commitment to tenure reform in South Orange-Maplewood have produced a proposal from us that is strongly worthy of your consideration and of enactment into New Jersey law.

Here are the three key points in our draft, which I’ve submitted along with copies of this statement:
First: Keep tenure for teachers, but reform it by making it earned after five years rather than three years and making it subject to renewal every five years thereafter.

This is the key single reform. With it, teachers would continue to have tenure, but instead of being life-long it would be for a reasonable five year length. Life-long tenure is an unfair anachronism; the proposal here combines valid state-level protection for teachers with the accountability that fairness demands. It also allows for local flexibility, as tenure reform should.

Second: Abolish tenure for principals and other administrators.

Managers, especially high level ones who hire and dismiss, should not have state-mandated tenure. If a district and an administrator agree on three-year or five-year contracts during which an administrator’s termination would have to be for cause, fine. But let’s get the state out of the business of requiring job security for bosses.

Third: Operate tenure hearings under a standard that makes them a guarantee of due process rather than a guarantee of life-long employment.

As it now operates, tenure in New Jersey public education is an effective guarantee of lifetime employment, not a guarantee of due process, as it was originally supposed to be. I can testify to that as a board member who saw our district’s effort to dismiss a teacher for unacceptable conduct involving a secret email account with an opposite-sex minor student of the teacher’s rejected by an Administrative Law Judge in favor of a 75-day loss of salary. Our proposal—modeled on the business judgment rule that is used in New Jersey and other states—is designed to avoid that type of overruling of reasonable, good-faith judgments by school districts. Specifically, once a board carries its burden of showing that there was no conflict of interest or bad faith and that the decision was reasonably informed and based on a reasonable evaluation process, an Administrative Law Judge would not be able to overturn a district’s decision unless the employee demonstrates unusual circumstances that make the decision grossly unfair. Our proposal is designed to ensure as much as possible that the hearing process guarantees due process, not a job.

My Experience

I’ve already mentioned the unsuccessful dismissal case that helped convince me as a board member that the New Jersey tenure system as it now operates is profoundly broken. On the particular issue of administrative tenure, I would also note that many hours of board discussion and many thousands of dollars have been wasted in our district because of a lawsuit fostered by administrative tenure. It is possible the lawsuit would have occurred anyway, given that government employees have—and in my view should have—due process rights. But without administrative tenure, any such litigation would have merely been a nuisance suit, rather than the significant drain on time and money that we actually experienced.
In my experience, the requirement that a superintendent and a board make a decision within a limited number of years—frequently less than three because of shorter clocks for administrators with certain kinds of previous experience—on whether someone should have what amounts to a lifetime job is a terrible one. Even when nothing goes dramatically wrong, tenure plays a central, deforming role in personnel decisions. I have found myself supporting tenure for principals where I thought that there was very limited evidence on progress in student achievement and building a strong school culture. Even in cases where I thought there was good evidence of progress, I have never felt confident in what amounts to tying the hands of future superintendents. The problem goes beyond the length of the tenure clock. What the superintendent and the board know about a candidate is necessarily time-bound. To ask a superintendent and a board to proscribe the judgment of all future superintendents and boards by granting life-long tenure is to ask them to engage in a fool’s mission.

As much as my service on the board has helped convince me that tenure needs to be reformed, the biggest contributor to my belief has been my own experience as a tenured professor and as a non-tenured academic administrator, along with my wife’s experience as a non-tenured and now-tenured high school English teacher.

I’ll start with my wife’s story first. After she went back to school at Montclair State to get her masters in teaching, where she wrote a nice paper for an academic journal on her experiences teaching philosophy to children, she was hired by one of the finest school districts in northern New Jersey. Three years later, she resigned after meeting with her principal. My aim here is not to revisit that long-ago situation, much as I would stand up for my wife’s superior writing and reasoning skills as shown in her paper. I have no problem with the idea that rigor in evaluation means that good people will leave or be let go. In fact, as a supporter of tenure reform, I believe we need to accept that as a difficult but necessary fact of life. But it bothered me then, and still does now, that all the risk in the evaluation system in my wife’s district lay on her as a junior teacher, with none on the senior teachers who were guaranteed continued employment even if their commitment had faded and their performance was so-so or worse.

In a reformed tenure system, there will be more, not fewer, teachers leaving and getting the bad news that they will not be renewed. I have the deepest sense of empathy with them, based not only on what I’ve just said but also on my own memories of being a junior faculty member at Rutgers, frantically trying to increase my publication count and worrying about what I would do if I failed to earn tenure. But in a reformed system like the one the South Orange-Maplewood proposal calls for, there will be a fairer distribution of risks than exists now under a tenure system that places all the burdens on the beginners and none on the veterans.

Crucially, a reformed system of tenure will also be fairer to the large majority of people in New Jersey who have no guarantee of job security. It will also be better for the profession of education and for our dignity as educators.

I speak as one who is a New Jersey educator, who is married to a New Jersey educator, and who is the son of a retired New Jersey educator. I deeply believe in New Jersey K-12 education and higher education. For all the problems of education here and elsewhere, we have much to be proud of in our state, which although it lags Massachusetts with its better state tests and more advanced reform culture is among the national leaders in reading and math achievement. Yes, we should worry greatly that students in Korea, Finland, and Singapore
among other places are doing better than our students on high-level as well as more basic tests, and about other matters as well, including deep and persistent achievement gaps by race and ethnicity. At the same time, the world leadership of the United States in the natural sciences and the social sciences—evidenced in Nobel prizes won as well as by other criteria—and the humanities has a tremendous amount to do with our public schools as well as our system of higher education. We should be proud of an educational culture in our state and our nation that encourages young children, young adults, and adults alike to speak up, innovate, and seek out new ideas.

I don’t think all groups in society should be the same, dress the same, or think the same. As much as I respect business executives and practicing lawyers, I don’t aspire to look like them or to be them—I’ll keep wearing my turtleneck and my beard (though I could be persuaded to get a haircut). I am an educator in my blood and in my bones, and am proud to be one. I believe most of us who are educators work hard and well. In fact, for public school teachers, the nature of the job impels you to work with a sharper spur than is applicable to most of us who have job security, such as a civil service-protected firefighter in the station house or a professor like myself researching an article. As a public school teacher, you have a professional responsibility to your students—“five shows a day,” as my wife likes to say—and I think most teachers uphold that responsibility well.

At the same time, it is not fair for everyone else in New Jersey or good for us as educators to have a tenure system tantamount to a life-time job guarantee. That applies not just to public education but also to me and to my job as a tenured professor. Much as I admit to having some defensive feelings on behalf of higher education—it takes roughly twice as long to earn tenure as in K-12, the standards at Rutgers are rigorous, administrators don’t have tenure, and tenure is a matter of institutional choice rather than state mandate—it would be an excellent thing if I and my tenured colleagues at Rutgers and other public universities in New Jersey had to undergo a fresh review every five years just as our South Orange-Maplewood proposal sets out for K-12 teachers.

When someone asks me or my wife what we’re doing over our long summer vacation, or asks a more pointed question like “How many hours are you working this semester?”—a barbed inquiry I got a little while ago—I feel a twinge. I can give true but defensive responses about academic schedules that trade off time and pay and about how hours in the classroom are only a fraction of my job. But the twinge is there, because it’s also true that my wife and I have what amounts to a lifetime job guarantee that basically is not fair in a modern world in which we all need to be accountable. Reforming tenure is right for many reasons. The central one as far as I’m concerned is for the sake of the honor, the dignity, and the self-respect of the educational profession in New Jersey to which I, my wife, my father, and so many others have devoted our lives.

Thank very much Senator Ruiz—and all Senators on this committee—for affording me the opportunity to make this statement. As much as personal feelings and experiences like the ones I’ve just described, and many other feelings and experiences as well, are relevant to the decision you have to make about tenure reform, I fully respect that your decision needs to come down to perhaps dry but vital matters of detail and drafting. With that in mind, I’d be happy to take any questions you may have on our South Orange-Maplewood proposal as well as on the parts of my statement related to my school board experiences and my personal experiences as an educator.