§ 2587. Tenure in fashion institute of technology. 1. The following words and phrases, as hereinafter used, and for the purposes of this section, shall have the following meanings:

a. "Community college" shall mean fashion institute of technology, a community college sponsored by the board of education of the city of New York.

b. "Board" shall mean the board of trustees of fashion institute of technology.

c. "Instructional staff" shall mean the persons employed in the community college in the positions of president, dean, director, assistant dean, assistant director, chairman of department or division, senior instructor, instructor, lecturer, college registrar, college bursar, laboratory technician, college administrative assistant, instructor technologist, college librarian, assistant librarian; or in any position which the board in its discretion may add thereto.

d. "Tenure" shall mean the right of a person to hold his position during good behavior and efficient and competent service, and not to be removed therefrom except for cause in the manner hereinafter provided.

2. All members of the permanent instructional staff under the jurisdiction of the board shall have tenure.

3. The permanent instructional staff shall consist of:

a. All persons employed on an annual salary basis in the community college in the positions of senior instructor, librarian, assistant librarian, college registrar, college bursar or college administrative assistant, who, on the date on which this section is enacted, are serving in any of the positions enumerated in this paragraph and have completed at least four full years of continuous service on an annual salary from the date of their appointment to any of the positions enumerated in this paragraph, or who have so served at least three full years and have been appointed for a fourth full year.

b. All other persons employed on an annual salary basis in the community college in the positions of senior instructor, librarian, assistant librarian, college registrar, college bursar, college administrative assistant, or in any position hereafter created which the board in its discretion may designate as a tenure position, who, after serving on an annual salary in any of the positions enumerated or provided for in this paragraph for three full years continuously, have been appointed or shall be appointed for a fourth full year, except as provided in subdivision four of this section, provided that in determining the tenure rights of such persons time served as an instructor shall be counted.

c. Any regularly appointed member of the teaching or supervising staff of the board of education of the city of New York who, on the date on which this section is enacted, is serving in the community college in the position of senior instructor, librarian, assistant librarian, college registrar, college bursar or college administrative assistant, pursuant to an assignment by the superintendent of schools of the board of education of the city of New York, and has or thereafter shall have completed three full years of continuous service in any of the positions enumerated in this paragraph, or in any position hereafter created which the board may designate as a tenure position, shall be entitled to become a member of the permanent instructional staff of the community college with tenure in the position in which he is then serving in the community college providing such person, within three months after such completion of three full years of continuous service, shall notify the president of the community college in writing of his election to become a member of the permanent instructional staff of the community college with tenure in the position in which he is then serving in the community college, and provided further that such person shall within the same period resign from his position in the board of education of the city of New York. Such person shall have the absolute right, notwithstanding his election to become a member of the permanent instructional staff of the community college with tenure, to continue as a member of the retirement system of which he was a member immediately prior to such election, without any loss or diminution in his rights, status or privileges in

such retirement system. Any regular license issued by the superintendent of schools of the board of education of the city of New York, held by such person at the time he becomes entitled to tenure in the community college shall continue to be valid during his continuance of service in the community college.

4. Nothing herein contained shall be construed as conferring or permitting tenure, or service credit toward the achievement of tenure, in the positions of president, dean, director, assistant dean, chairman of department or division, or assistant director. Appointments to such position or removal therefrom, however, shall not deprive the person so appointed or removed of tenure in highest position on the instructional staff held with tenure prior to his appointment to such office or conjointly with such office, nor shall such appointment or the holding of such position or removal from such position deprive any person of service credit toward the achievement of tenure under the provisions of this section.

5. A certificate of permanent tenure shall be issued by the board upon the enactment of this section to each person then employed in the community college who, on or prior to the date of such enactment, shall have satisfied the requirements for entitlement to tenure prescribed by this section. In the case of any person now or hereafter employed in the community college, who, after such date of enactment, satisfies such requirements for entitlement to tenure, a certificate of permanent tenure shall be issued by the board to such person, upon the completion by such person of such requirements.

6. For the purpose of appointments and promotions in the instructional staff which may be made after the date on which this section is enacted, the board shall determine to what extent examinations are practicable to ascertain merit and fitness for each of the positions under its jurisdiction, and, insofar as examinations are deemed practicable, shall determine to what extent it is practicable, that such examinations be competitive. Any examination held in accordance with the provisions of this subdivision shall be set and administered through any agency which the board may from time to time create or designate. The superintendent

of schools of the board of education of the city of New York may, upon the request of the president of the community college, direct the medical board of the board of education of the city of New York to render such service as the president of the community college may request to assist the board and the president of the community college in the ascertainment of merit and fitness for appointment to or relative to service in instructional positions in the community college.

7. Neither tenure as conferred through the operation of this section nor the period requisite for the achievement of tenure shall be affected by transfer within the community college, or by promotion, or by change of title, except that a person upon whom tenure is conferred through the operation of this section and who may be transferred to any position in the community college, or who may be promoted, or whose title may be changed, shall have tenure in his new position, provided such position is not one of those enumerated in subdivision four of this section. Nothing herein contained shall be construed to prevent the board from assigning any person having tenure to any appropriate position on the staff, but no such assignment shall carry with it a reduction in rank or a reduction in salary other than the elimination of any additional emolument provided for administrative positions.

8. A position held by a person upon whom tenure is conferred through the operation of this section may be abolished or discontinued by the board for reasons which are not discriminatory against a particular person or persons. In the event that a position in a specified subject is to be abolished or discontinued, such position shall be that of the person last appointed to such position; provided, however, that all persons in such position upon whom tenure is not conferred by the operation of this section shall be dismissed before the position of any other person in such subject is abolished or discontinued. If the board abolishes or discontinues the position of a person upon whom tenure is conferred through the operation of this section and can find no position in the community college which can be efficiently and capably filled by such person, then his name shall be placed and shall remain for three years on a preferred eligible list of candidates for reappointment to fill a vacancy that may thereafter occur in a position which can be

efficiently and capably filled by such person or to fill a newly created position which can be efficiently and capably filled by such person. Reappointment from such preferred eligible list to a position in a specified subject shall be made in the order of the original appointment of the persons on such preferred eligible list. Any person reappointed from such preferred eligible list shall be reappointed at a salary not less than that which he was receiving when his position was abolished or discontinued. Any person whose name is placed on such preferred eligible list as hereinbefore provided shall, for the purpose of maintaining his status in any retirement system of which he is a member, be deemed to be on leave of absence without pay.

9. Persons granted tenure under the provisions of this section shall not be removed except for cause, after a hearing and by a majority vote of the board. Charges against a person entitled to tenure under the provisions of this section may be preferred by the president, any member or members of the board, or the board itself. Such charges and all specifications of such charges shall be filed with the board, which shall cause a copy thereof to be served upon the person accused, and such person shall have ten days from the date of the service of such charges and specifications, or such additional time as may be granted him by the chairman of the board, in which to file an answer in writing with the board. Any person against whom charges as herein provided are filed with the board, may be suspended with or without pay by the president pending a final determination of such charges by the board. The board shall proceed to try and determine such charges either by the board, or by a trial committee consisting of one or more members of the board, or by a trial committee consisting of one or more persons specially appointed for such purpose by the board, and the board shall fix the penalty or punishment, if any, to be imposed for the offense, and such penalty or punishment may consist of a reprimand, a fine, suspension for a fixed time without pay, or dismissal; provided, however, that a vote of a majority of all the members of the board shall be necessary to impose a penalty or punishment. The report of any trial committee holding such trial shall be subject to final action by the board, each member of which shall before voting read the testimony and the evidence in the case. The board may reject, confirm or modify the

conclusions of the trial committee, and the decisions of the board shall be final, except that any person aggrieved may review the determination of said board only by an appeal to the commissioner of education, as provided for by article seven of this chapter. In case the charges preferred against any person are dismissed, he shall be restored to his position with full pay for the period of his suspension. In all trials and investigations authorized by this section all testimony taken shall be under oath, which the chairman of the board or the chairman of the trial committee is hereby authorized to administer. For the purpose of any investigation, trial or hearing, the chairman of the board or the chairman of the trial committee shall have power to subpoena witnesses, papers and records. The Supreme Court shall have power, upon the application of the chairman of the board or the chairman of the trial committee, to compel any witness who may be summoned, to appear and testify before said board or trial committee.