

Tennessee School Boards Association

Monitoring: Review: Annually, in February	Descriptor Term: Separation Practices for Tenured Teachers	Descriptor Code: 5.200	Issued Date:
		Rescinds: 5.200	Issued:

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SUSPENSION

A director of schools/designee may suspend a tenured teacher at any time when deemed necessary.¹ Before a tenured teacher is suspended s/he shall be: (1) provided with reasons for the suspension; (2) given an opportunity to respond³; and (3) given a written decision of the suspension. The causes for which a professional employee may be dismissed are as follows: incompetence, inefficiency, neglect of duty, unprofessional conduct and insubordination.¹

Under no circumstances shall a director of schools suspend an employee with pay. If reinstated, the employee shall be paid full salary for the period of suspension,² unless suspension without pay is deemed to be an appropriate penalty.

DISMISSAL

The Board shall maintain a list of qualified individuals who have indicated a willingness to act as impartial hearing officers, as defined under Tennessee law.

When charges are made against a tenured teacher, charging the teacher with offenses which may justify dismissal, the charges shall be made in writing, specifically stating the offenses which are charged and shall be signed by the party or parties making the charges.

If, in the opinion of the Board, the charges are of such nature as to warrant the release of the teacher, the director of schools shall give the teacher a written notice of this decision, a copy of the charges against the teacher, and a copy of a form provided by the Commissioner of Education advising the teacher of his/her legal duties, rights and recourse.

A tenured teacher who has been given notice of charges against him/her may within thirty (30) days after receipt of notice give written notice to the director of schools of his/her request for a hearing.

The director of schools shall, within five (5) days after receipt of request, assign a hearing officer from the list maintained by the Board.

The hearing officer shall notify the parties, or their attorney, of the officer's assignment and direct the parties or the attorneys for the parties, or both, to appear before the hearing officer for simplification of issues and the scheduling of the hearing. That hearing shall be set later than thirty (30) days following receipt of the initial request for a hearing. In the discretion of the hearing officer, all or part of any prehearing conference may be conducted by telephone if each participant has an opportunity to participate, be heard, and to address proof and evidentiary concerns. The hearing officer is empowered to issue appropriate orders and to regulate the conduct of the proceedings.

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3 Either party may appeal to the Board of Education an adverse ruling by giving written notice of appeal
4 within ten (10) working days of the hearing officer's delivery of the hearing officer's written findings and
5 conclusions. The director of schools shall prepare a copy of the proceedings, including all transcripts
6 and evidence, documentary or otherwise, and transmit the same to the Board within twenty (20) days
7 of the receipt of the notice of appeal.
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9 The Board shall hear the appeal on the record, and no new evidence may be submitted by either party.
10 The appealing party may appear before the Board to argue why the adverse ruling should be over-
11 turned. In no event should such argument last more than fifteen (15) minutes, unless the Board should
12 vote to extend additional time. At the conclusion of the hearing, any member of the Board may vote
13 to sustain the decision of the Hearing officer, send the record back for additional evidence, revise the
14 penalty or reverse the decision. The Board shall render its decision within ten (10) working days after
15 the conclusion of the hearing. In the event that the decision of the Board is appealed to the Chancery
16 court, the Board shall transmit the entire record prepared by the director and reviewed by the Board to
17 the Chancery court for its review.
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19 **RESIGNATION**

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21 A teacher shall give the director of schools notice of resignation at least thirty (30) days before the
22 effective date of the resignation. A teacher who fails to give such notice, in the absence of justifiable
23 extenuating circumstances, shall forfeit all tenure status. The Board may waive the thirty (30) days
24 notice requirement and permit a teacher to resign in good standing.
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26 The conditions under which it is permissible to break a contract with the Board are as follows:

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- 28 1. The incapacity on the part of the teacher to perform the contract as evidenced by the certified
29 statement of a physician approved by the Board;
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 - 31 2. The release by the Board of the teacher from the contract which the teacher has entered into with
32 the Board.⁵
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34 Any teacher on leave shall notify the director of schools in writing at least thirty (30) days prior to the
35 date of return if the teacher does not intend to return to the position from which he/she has taken leave.
36 Failure to render such notice may be considered a breach of contract.⁶
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38 Upon a breach of contract, the Board, upon a motion recorded in its minutes, may file a complaint with
39 the Commissioner and request the suspension of a teacher's certificate. After the Commissioner has
40 provided the teacher an opportunity for defense during a hearing, the Commissioner may suspend the
41 certificate for no less than thirty (30) and no more than three hundred sixty-five (365) days.⁷
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43 **RETIREMENT**

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45 Retirement shall mean a termination of services under conditions which will allow the employee to
46 draw benefits from retirement plans and/or social security benefits.
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48 Employees eligible for retirement benefits may elect to retire at any age according to the provisions of
49 the retirement system.

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Central office personnel shall assist employees in securing retirement benefits; however, it shall be the responsibility of the retiring employee to provide verification of eligibility in writing from TCRS to the central office. It shall be the responsibility of the retiring employee to file for benefits.

Employees who retire under TCRS may be employed up to one hundred twenty (120) days per year without loss of retirement benefits. Retired teachers may substitute teach for an additional ninety (90) days if the director of schools certifies in writing to the Board that no other qualified personnel are available to substitute teach.⁸

The director of schools may employ teachers retired for at least one year for full-time employment as a kindergarten through twelfth grade teacher on a year-to-year basis. Retirement benefits will not be lost or suspended under certain conditions, which include but are not limited to the following:⁹

1. The director of schools of the employing system must certify in writing that no other qualified individuals are available to fill the position;
2. The Commissioner of Education must certify that the employing school system serves an area that lacks qualified teachers to serve in the position to be filled;
3. The retired teacher must hold a valid license and shall not be entitled to tenure status;
4. The retired teacher shall not be eligible to accrue additional retirement benefits, accrue leave or receive medical insurance coverage; and
5. The salary paid to the retired member shall not be less than the rate of compensation set by the Board for teachers with no experience filling similar positions, nor more than eighty-five percent (85%) of the rate of compensation set by Board for teachers with comparable training and years of experience filling similar positions.

Legal References:

1. TCA 49-2-301 (b)(1)(EE)
2. TCA 49-5-511
3. TCA 49-5-511 through 513
4. TCA 49-5-512, 513
5. TCA 49-5-508
6. TCA 49-5-706
7. TCA 49-5-411
8. TCA 8-36-805
9. TCA 8-36-821