

Tennessee School Boards Association

Monitoring: Review: Annually, in February	Descriptor Term: Separation Practices for Non-Tenured Teachers	Descriptor Code: 5.201	Issued Date:
		Rescinds:	Issued:

1 **SUSPENSION PENDING AN INVESTIGATION¹**

2
3 The director of schools may suspend a teacher at any time that may seem necessary, pending investi-
4 gation or final disposition of a case before the board or an appeal. Under no circumstances shall the
5 director of schools suspend a non-tenured teacher with pay. If reinstated, the nontenured teacher shall
6 be paid full salary for the period of suspension, unless suspension without pay is deemed to be an ap-
7 propriate penalty.

8
9 **SUSPENSION OF THREE DAYS OR LESS²**

10
11 A director of schools/designee may suspend a teacher for incompetence, inefficiency, neglect of duty,
12 unprofessional conduct and insubordination. Before an employee is suspended s/he shall be: (1) provided
13 with written notice, including the reasons for the suspension along with an explanation of the evidence;
14 (2) given an opportunity to respond to the director at a recorded conference, if requested within five
15 (5) days; and (3) given a written decision of the suspension within ten (10) days. Both parties may be
16 represented by counsel at the conference, which shall be recorded.

17
18 **DISMISSAL OR SUSPENSION GREATER THAN THREE DAYS**

19
20 The director of schools may dismiss or suspend for more than three days any non-tenured teacher **dur-**
21 **ing the contract year** for incompetence, inefficiency, insubordination, improper conduct or neglect of
22 duty after giving the nontenured teacher, in writing, due notice of the charges.

23
24 The director of schools shall give the non-tenured teacher an opportunity for a full and complete hearing
25 before an impartial hearing officer.³

26
27 The Board will appoint an impartial hearing officer to conduct such hearings. The hearing officer will
28 hear the case and the employee shall have the right to:

- 29
30 1. be represented by counsel;
31 2. call and subpoena witnesses;
32 3. examine all witnesses; and
33 4. require that all testimony be given under oath.

34
35 Factual findings and decisions in all dismissal cases shall be reduced to written form and delivered to
36 the affected employee within ten (10) working days following the close of the hearing. The employee
37 may appeal the decision to the Board within ten (10) working days of the hearing officer rendering the
38 written decision to the employee. Written notice of appeal to the Board shall be given to the director of
39 schools. Within twenty (20) days on receipt of notice, the director shall prepare a copy of the proceed-
40 ings, transcript, documentary and other evidence presented and provide the Board a copy of the same.

41

1 The Board shall hear the appeal. No new evidence shall be introduced. The non-tenured teacher may ap-
2 pear in person or be represented by counsel and argue why the decision should be modified or reversed.
3 The Board shall take one of the following actions:

- 4
- 5 1. sustain the decision;
- 6 2. send the record back if additional evidence is necessary; or
- 7 3. revise the penalty or reverse the decision.
- 8

9 Before any decision to dismiss is made, a majority of the membership of the Board shall concur in
10 sustaining the charges. The Board shall render a decision on the appeal within ten (10) working days
11 after the conclusion of the hearing.

12
13 The director of schools shall also have the right to appeal any adverse ruling by the Personnel Hearing
14 Officer in same manner as the non-tenured teacher.

15
16 Within twenty (20) days after receipt of notice of the decision of the Board, either party may appeal to
17 the chancery court in the county where the school system is located. The Board shall provide the entire
18 record of the hearing to the court.

19
20 **NONRENEWAL**

21
22 Non-tenured teachers are subject to the same rules and regulations and are entitled to the privileges of
23 employment enjoyed by tenured teachers except that they have no claim upon continuing employment
24 or tenure protections.

25
26 The principal is responsible for discussing deficiencies as part of the evaluation process with the non-
27 tenured teacher and providing assistance for overcoming these deficiencies.

28
29 The director of schools is under no obligation to re-employ nontenured teachers at the end of their con-
30 tract period. If the director of schools determines not to renew the contract of a non-tenured teacher,¹
31 the following action shall be taken:

- 32
- 33 1. The Board shall be notified at the next regular board meeting; and
- 34 2. Written notice of non-renewal shall be hand delivered or sent to the employee by registered
35 mail so that it will be received by the employee **prior to June 15.**⁴
- 36

37 **RESIGNATION**

38
39 A teacher shall give the director of schools notice of resignation at least thirty (30) days before the
40 effective date of the resignation. A teacher who fails to give such notice, in the absence of justifiable
41 extenuating circumstances, shall forfeit all tenure status. The Board may waive the thirty (30) days
42 notice requirement and permit a teacher to resign in good standing.

43
44 The conditions under which it is permissible to break a contract with the Board are as follows:

- 45
- 46 1. The incapacity on the part of the teacher to perform the contract as evidenced by the certified
47 statement of a physician approved by the Board;
- 48 2. The release by the Board of the teacher from the contract which the teacher has entered into with
49 the Board.⁵

1 Any teacher on leave shall notify the director of schools in writing at least thirty (30) days prior to the
2 date of return if the teacher does not intend to return to the position from which he/she has taken leave.
3 Failure to render such notice may be considered a breach of contract.⁶

4
5 Upon a breach of contract, the Board, upon a motion recorded in its minutes, may file a complaint with
6 the Commissioner and request the suspension of a teacher's certificate. After the Commissioner has
7 provided the teacher an opportunity for defense during a hearing, the Commissioner may suspend the
8 certificate for no less than thirty (30) and no more than three hundred sixty-five (365) days.⁷

9 **RETIREMENT**

10 Retirement shall mean a termination of services under conditions which will allow the employee to draw
11 benefits from retirement plans and/or social security benefits.

12 Employees eligible for retirement benefits may elect to retire at any age according to the provisions of
13 the retirement system.

14
15 Central office personnel shall assist employees in securing retirement benefits; however, it shall be the
16 responsibility of the retiring employee to provide verification of eligibility in writing from TCRS to the
17 central office. It shall be the responsibility of the retiring employee to file for benefits.

18
19 Employees who retire under TCRS may be employed up to one hundred twenty (120) days per year
20 without loss of retirement benefits. Retired teachers may substitute teach for an additional ninety (90)
21 days if the director of schools certifies in writing to the Board that no other qualified personnel are
22 available to substitute teach.⁸

23
24 The director of schools may employ teachers retired for at least one year for full-time employment as a
25 kindergarten through twelfth grade teacher on a year-to-year basis. Retirement benefits will not be lost
26 or suspended under certain conditions, which include but are not limited to the following:⁹

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

38
39 *(Note: Nonrenewal of non-tenured teachers after the contract year is not suspension or dismissal and*
40 *does NOT follow the suspension/dismissal procedures outlined in this policy. Rather, nonrenewal of non-*
41 *tenured teachers after the contract year follows the nonrenewal procedures outlined in this policy.)*

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Legal References:

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| 1. TCA 49-5-511(a)(3) | 5. TCA 49-5-508 |
| 2. TCA 49-2-301 (b)(1)(EE), <u>Tenn. Code Ann. § 49-5-512(d)</u> | 6. TCA 49-5-706 |
| 3. TCA 49-2-301 (b)(1)(GG) | 7. TCA 49-5-411 |
| 4. TCA 49-5-409(a); OP Tenn. Atty. Gen. 97-123 (September 2, 1997);
OP Tenn. Atty. Gen. 99-091 (April 12, 1999) | 8. TCA 8-36-805 |
| | 9. TCA 8-36-821 |