

Weakley County Board of Education



Monitoring:

Descriptor Term:

Separation Practices for Non-Tenured Teachers

Descriptor Code:

5.201

Revised Date:

09/08/2022

1
2 **SUSPENSION PENDING INVESTIGATION¹**
3
4 The director of schools may suspend a teacher at any time that may seem necessary, pending
5 investigation or final disposition of a case before the board or an appeal. Under no circumstances
6 shall the director of schools suspend a non-tenured teacher with pay. If reinstated, the non-
7 tenured teacher shall be paid full salary for the period of suspension, unless suspension without
8 pay is deemed to be an appropriate penalty.

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

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

19
20 **DISMISSAL OR SUSPENSION GREATER THAN THREE DAYS**

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

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

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

- 31
32 1. Be represented by counsel;
33 2. Call and subpoena witnesses;
34 3. Examine all witnesses; and
35 4. Require that all testimony be given under oath.

36
37 Factual findings and decisions in all dismissal cases shall be reduced to written form and
38 delivered to the affected employee within ten (10) working days following the close of the

Legal References:

¹ TCA 49-6-511(a)(3)

² TCA 49-2-301(b)(1)(EE); TCA 49-6-512(d)

³ TCA 49-2-301(b)(1)(GG)

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1 hearing. The employee may appeal the decision to the Board within ten (10) working days of the
2 hearing officer rendering the written decision to the employee.

3
4 Written notice of appeal to the Board shall be given to the director of schools. Within twenty
5 (20) days on receipt of notice, the director shall prepare a copy of the proceedings; transcript,
6 documentary and other evidence presented and provide the Board a copy of the same.

7
8 The Board shall hear the appeal. No new evidence shall be introduced. The non-tenured teacher
9 may appear in person or be represented by counsel and argue why the decision should be
10 modified or reversed. The Board shall take one of the following actions:

- 11
12 1. Sustain the decision;
13 2. Send the record back if additional evidence is necessary; or
14 3. Revise the penalty or reverse the decision.

15
16 Before any decision to dismiss is made, a majority of the membership of the Board shall concur
17 in sustaining the charges. The Board shall render a decision on the appeal within ten (10)
18 working days after the conclusion of the hearing.

19
20 The director of schools shall also have the right to appeal any adverse ruling by the Hearing
21 Officer in same manner as the non-tenured teacher.

22
23 Within twenty (20) days after receipt of notice of the decision of the Board, either party may
24 appeal to the chancery court in the county where the school system is located. The Board shall
25 provide the entire record of the hearing to the court.

26 27 **NONRENEWAL**

28
29 Non-tenured teachers are subject to the same rules and regulations and are entitled to the
30 privileges of employment enjoyed by tenured teachers except that they have no claim upon
31 continuing employment or tenure protections.

32
33 The principal is responsible for discussing deficiencies as part of the evaluation process with the
34 non-tenured teacher and providing assistance for overcoming these deficiencies.

35
36 The director of schools is under no obligation to re-employ non-tenured teachers at the end of
37 their contract period. If the director of schools determines not to renew the contract of a non-
38 tenured teacher,¹ the following action shall be taken:

- 39
40 1. The Board shall be notified at the next regular board meeting; and
41 2. Written notice of non-renewal shall be **sent** to the teacher within five (5) business days
42 following the last instructional day, which is defined as the last day of the regular school
43 year for students. The written notice of nonrenewal must be sent by certified mail or
44 overnight carrier to the teacher's physical mailing address on record with the LEA or
45 transmitted via electronic mail to the email address used by the LEA to communicate

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1 with the teacher.⁴ If the reason for nonrenewal is due only to the loss of funding for the
2 position, then the notice shall include a statement listing it as the cause for nonrenewal.⁵
3

4 **RESIGNATION**

5
6 A teacher shall give the director of schools notice of resignation at least thirty (30) days before
7 the effective date of the resignation. A teacher, who fails to give such notice, in the absence of
8 justifiable extenuating circumstances, shall forfeit all tenure status. The Board may waive the
9 thirty (30) days notice requirement and permit a teacher to resign in good standing.

10
11 The conditions under which it is permissible to break a contract with the Board are as follows:

- 12
13 1. The incapacity on the part of the teacher to perform the contract as evidenced by the certified
14 statement of a physician approved by the Board;
15 2. The release by the Board of the teacher from the contract which the teacher has entered into
16 with the Board.⁶
17

18 Any teacher on leave shall notify the director of schools in writing at least thirty (30) days prior
19 to the date of return if the teacher does not intend to return to the position from which he/she has
20 taken leave. Failure to render such notice may be considered a breach of contract.⁷
21

22 Upon a breach of contract, the Board, upon a motion recorded in its minutes, may file a
23 complaint with the Commissioner and request the suspension of a teacher's certificate. After the
24 Commissioner has provided the teacher an opportunity for defense during a hearing, the
25 Commissioner may suspend the certificate for no less than thirty (30) and no more than three
26 hundred sixty-five (365) days.⁸
27

28 **RETIREMENT**

29
30 Retirement shall mean a termination of services under conditions which will allow the employee
31 to draw benefits from retirement plans and/or social security benefits.

32
33 Employees eligible for retirement benefits may elect to retire at any age according to the
34 provisions of the retirement system.

35
36 Central office personnel shall assist employees in securing retirement benefits; however, it shall
37 be the responsibility of the retiring employee to provide verification of eligibility in writing from
38 TCRS to the central office. It shall be the responsibility of the retiring employee to file for
39 benefits.

Legal Reference:

⁴ TCE 49-5-409(a); OP Tenn. Atty. Gen. 97-123 (Sept. 2, 1997); OP Tenn. Atty. Gen. 99-091 (April 12, 1999)

⁵ Public Acts of 2022, Chapter No. 678

⁶ TCA 49-5-508

⁷ TCA 49-5-706

⁸ TCA 49-5-411

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1

2 Employees who retire under TCRS may be employed up to one hundred twenty (120) days per
3 year without loss of retirement benefits. Retired teachers may substitute teach for an additional
4 ninety (90) days if the director of schools certifies in writing to the Board that no other qualified
5 personnel are available to substitute teach.⁹

6

7 The director of schools may employ teachers retired for at least one year for full-time
8 employment as a kindergarten through twelfth grade teacher on a year-to-year basis. Retirement
9 benefits will not be lost or suspended under certain conditions, which include but are not limited
10 to the following:¹⁰

11

12 1. The director of schools of the employing system must certify in writing that no other qualified
13 individuals are available to fill the position;

14 2. The Commissioner of Education must certify that the employing school system serves an area
15 that lacks qualified teachers to serve in the position to be filled;

16 3. The retired teacher must hold a valid license and shall not be entitled to tenure status;

17 4. The retired teacher shall not be eligible to accrue additional retirement benefits, accrue leave
18 or receive medical insurance coverage; and

19 5. The salary paid to the retired member shall not be less than the rate of compensation set by the
20 Board for teachers with no experience filling similar positions, nor more than eighty-five percent
21 (85%) of the rate of compensation set by Board for teachers with comparable training and years
22 of experience filling similar positions.

23

24

25

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

Legal References:

⁹ TCA 8-36-805

¹⁰ TCA 8-36-821