

*** CURRENT THROUGH THE 2011 REGULAR SESSION ***

Title 49 Education
Chapter 5 Personnel
Part 5 Teachers' Tenure

Tenn. Code Ann. § 49-5-503 (2012)

49-5-503. Tenure.

Any teacher who meets all of the following requirements is eligible for "tenure":

- (1) Has a degree from an approved four-year college or any career and technical teacher who has the equivalent amount of training established and licensed by the state board of education;
- (2) Holds a valid teacher license, issued by the state board of education, based on training covering the subjects or grades taught;
- (3) Has completed a probationary period of five (5) school years or not less than forty-five (45) months within the last seven-year period, the last two (2) years being employed in a regular teaching position rather than an interim teaching position;
- (4) Has received evaluations demonstrating an overall performance effectiveness level of "above expectations" or "significantly above expectations" as provided in the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, during the last two (2) years of the probationary period; and
- (5) Is reemployed by the director of schools for service after the probationary period.

HISTORY:Acts 1951, ch. 76, § 3 (Williams, § 2345.3); modified; Acts 1971, ch. 22, §§ 1, 2; 1977, ch. 33, § 1; T.C.A. (orig. ed.), § 49-1402; Acts 1987, ch. 308, § 25; 2011, ch. 70, § 7.

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Tenn. Code Ann. § 49-5-504 (2012)

49-5-504. Probation.

(a) Any teacher, otherwise qualified for tenure status, shall meet the following requirements prior to becoming eligible for tenure status:

(1) Served five (5) school years or not less than forty-five (45) months within a seven-year period as a probationary teacher; and

(2) Received evaluations demonstrating an overall performance effectiveness level of "above expectations" or "significantly above expectations" provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, during the last two (2) years of their probationary period.

(b) Notwithstanding any other law to the contrary, once a teacher is eligible for tenure, the teacher shall be either recommended by the director of schools for tenure or nonrenewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

(c) Time spent on leave of absence, except sick leave as provided in § 49-5-710, shall not be counted as a part of the probationary period.

(d) A teacher who has attained tenure status in a school system and later resigns from the system shall serve a two-year probationary period upon reemployment by the system, unless the probationary period is waived by the board of education upon request of the director of schools. Upon completion of the two-year probationary period, the teacher shall be eligible for tenure and shall be either recommended by the director of schools for tenure or nonrenewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

(e) Any teacher who, after acquiring tenure status, receives two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of "below expectations" or "significantly below expectations," as provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, shall be returned to probationary status by the director of schools until the teacher has received two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of "above expectations" or "significantly above expectations." When a teacher who has returned to probationary status has received two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of "above expectations" or "significantly above expectations," the teacher is again eligible for tenure and shall be either recommended by the director of schools for tenure or nonrenewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

(f) Subsection (e) does not apply to teachers who acquired tenure prior to July 1, 2011.

HISTORY:Acts 1951, ch. 76, §§ 4, 8 (Williams, §§ 2345.4, 2345.8); Acts 1965, ch. 195, § 1; 1973, ch. 298, § 1; T.C.A. (orig. ed.), §§ 49-1403, 49-1406; Acts 1987, ch. 308, § 26; 2006, ch. 574, §§ 1, 2; 2011, ch. 70, § 8.

Tenn. Code Ann. § 49-5-511

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Tenn. Code Ann. § 49-5-511 (2012)

49-5-511. Dismissal or suspension of teachers -- Causes for dismissal -- Position reduction -- Written notice -- Preferred list for employment -- Convictions -- License revocation.

(a) (1) No teacher shall be dismissed or suspended except as provided in this part.

(2) The causes for which a teacher may be dismissed are as follows: incompetence, inefficiency, neglect of duty, unprofessional conduct and insubordination, as defined in § 49-5-501.

(3) A director of schools may suspend a teacher at any time that may seem necessary, pending investigation or final disposition of a case before the board or an appeal. If vindicated or reinstated, the teacher shall be paid the full salary for the period during which the teacher was suspended.

(4) When charges are made to the board of education against a teacher, charging the teacher with offenses that would justify dismissal of the teacher under the terms of this part, the charges shall be made in writing, specifically stating the offenses that are charged, and shall be signed by the party or parties making the charges.

(5) If, in the opinion of the board, charges are of such a nature as to warrant the dismissal of the teacher, the director of schools shall give the teacher a written notice of this decision, together with a copy of the charges and a copy of a form, which shall be provided by the commissioner of education, advising the teacher as to the teacher's legal duties, rights and recourse under the terms of this part.

(b) (1) When it becomes necessary to reduce the number of teaching positions or nonlicensed positions in the system because of a decrease in enrollment or for other good reasons, the board shall be empowered to dismiss such teachers or nonlicensed employees as may be necessary.

(2) The board shall give the teacher or nonlicensed employee written notice of dismissal explaining fully the circumstances or conditions making the dismissal necessary.

(3) A tenured teacher who has been dismissed because of abolition of a position shall be placed on a list for reemployment in the first vacancy the teacher is qualified by training and experience to fill. Nothing in this subsection (b) shall be construed to deprive the director of schools of the power to determine the filling of such vacancy on the basis of the director of school's evaluation of the teacher's competence, compatibility and suitability to properly discharge the duties required for the vacant position considered in the light of the best interest of the students in the school where the vacancy exists. The teacher's most recent evaluations may be a factor in such determination.

(4) The right to remain on the preferred list for employment shall remain in effect until:

(A) The teacher refuses a bona fide offer of reemployment for a comparable position within the LEA; or

(B) The director, after the teacher has been on the preferred list for reemployment for two (2) consecutive years, notifies the teacher in writing by April 1 of the second consecutive year that the teacher's name will be removed from the list. A written notification to the teacher's last known address shall meet the requirements of the notification. The teacher receiving the notification shall retain the right to stay on the preferred list for reemployment by notifying the director of schools in writing by April 15 of each subsequent year of the desire to stay on the preferred list for reemployment.

(c) (1) Notwithstanding subsection (a), but subject to the appeal and review provisions of §§ 49-5-512 and 49-5-513, any teacher convicted of a felony listed in § 40-35-501(i)(2) or convicted of an offense listed in § 39-17-417 shall be immediately suspended, and dismissed subject to subdivision (c)(2).

(2) If the dismissal of the teacher is upheld in the board and court reviews provided for in §§ 49-5-512 and 49-5-513, the director shall notify in writing the commissioner of education who shall begin licensure revocation proceedings under applicable rules of the state board of education.

HISTORY: Acts 1951, ch. 76, §§ 2, 6, 7, 15 (Williams, §§ 2345.2, 2345.6, 2345.7, 2345.15); Acts 1955, ch. 343, § 2; T.C.A. (orig. ed.), §§ 49-1410, 49-1412 -- 49-1415; Acts 1989, ch. 197, § 1; 1990, ch. 948, § 23; 1999, ch. 43, § 1; 2001, ch. 197, § 1; 2002, ch. 535, § 1; 2008, ch. 612, §§ 1-3; 2011, ch. 70, § 9; 2011, ch. 378, § 3.

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Tenn. Code Ann. § 49-5-512 (2012)

49-5-512. Dismissal or suspension -- Hearing -- Appeal.

(a) A tenured teacher who receives notification of charges pursuant to § 49-5-511 may, within thirty (30) days after receipt of the notice, demand a full and complete hearing on the charges before an impartial hearing officer selected by the board, as follows:

(1) The teacher shall give written notice to the director of schools of the teacher's request for a hearing;

(2) The director of schools shall, within five (5) days after receipt of the request, name an impartial hearing officer who shall be responsible for notifying the parties of the hearing officer's assignment. The hearing officer shall 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, which in no event shall be set later than thirty (30) days following receipt of notice demanding 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, to 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;

(3) For the purposes of this part, "impartial" means that the selected hearing officer shall have no history of employment with the board or director of schools, no relationship with any board member and no relationship with the teacher or representatives of the teacher;

(4) All parties shall have the right to be represented by counsel, the opportunity to call and subpoena witnesses, the opportunity to examine all witnesses, the right to require that all testimony be given under oath and the right to have evidence deemed relevant by the submitting party included in the record of the hearing, even if objected to by the opposing party;

(5) All witnesses shall be entitled to the witness fees and mileage provided by law, which fees and mileage shall be paid by the party issuing a subpoena or calling the witnesses to testify;

(6) The impartial hearing officer shall administer oaths to witnesses, who testify under oath;

(7) A record of the hearing, either by transcript, recording or as is otherwise agreed by the parties shall be prepared if the decision of the hearing officer is appealed, and all decisions of the hearing officer shall be reduced to writing and included in the record, together with all evidence otherwise submitted;

(8) On request of either party to the hearing, witnesses may be barred from the hearing except as they are called to testify. The hearing may be private at the request of the teacher or in the discretion of the hearing officer; and

(9) At appropriate stages of the hearing, the hearing officer may give the parties the full opportunity to file briefs, proposed findings of fact and conclusions of law and proposed initial or final orders. The hearing officer shall, within ten (10) days of closing the hearing, decide what disposition to make of the case and shall immediately thereafter give the board and the teacher written findings of fact, conclusions of law and a concise and explicit statement of the outcome of the decision.

(b) The director of schools or other school officials shall not be held liable, personally or officially, when performing their duties in prosecuting charges against any teacher or teachers under this part.

(c) (1) If the affected teacher desires to appeal from a decision rendered in whole or in part in favor of the school system, the teacher shall first exhaust the administrative remedy of appealing the decision to the board of education within ten (10) working days of the hearing officer's delivery of the written findings of fact, conclusions and decision to the affected employee.

(2) Upon written notice of appeal, the director of schools shall prepare a copy of the proceedings, transcript, documentary and other evidence presented and transmit the copy to the board within twenty (20) working days of receipt of notice of appeal.

(3) The board shall hear the appeal on the record and no new evidence shall be introduced. The affected employee may appear in person or by counsel and argue why the decision should be modified or reversed. The board may sustain the decision, send the record back if additional evidence is necessary, revise the penalty or reverse the decision. Before any findings and decision are sustained or punishment inflicted, a majority of the membership of the board shall concur in sustaining the charges and decision. The board shall render its decision on the appeal within ten (10) working days after the conclusion of the hearing.

(4) Any party dissatisfied with the decision rendered by the board shall have the right to appeal to the chancery court in the county where the school system is located within thirty (30) days after receipt of the dated notice of the decision of the board. It shall be the duty of the board to cause the entire record and other evidence in the case to be transmitted to the court. The review of the court shall be de novo on the record of the hearing held by the hearing officer and reviewed by the board.

(5) The director of schools shall also have the right to appeal any adverse ruling by the hearing officer to the board under the same conditions as set out in this subsection (c).

HISTORY: Acts 1951, ch. 76, § 16 (Williams, § 2345.16); Acts 1972, ch. 588, § 1; T.C.A. (orig. ed.), § 49-1416; Acts 1992, ch. 535, § 83; 2007, ch. 491, § 1; 2009, ch. 353, § 1; 2009, ch. 360, § 1; 2010 (1st Ex. Sess.), ch. 2, § 13; 2010, ch. 925, § 1.