TENNESSEE TEACHER
TENURE LAW
CHAPTER 5
PERSONNEL
Part 5 – Teachers’ Tenure Law

Part 5 — Teachers' Tenure

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As used in this part, unless the context otherwise requires:

(1) “Abolition of position” means a regular bona fide elimination of a position for sufficient, just and nondiscriminatory reasons;

(2) “Board” means the local board of education holding jurisdiction in its respective territory. In the event that a school system operates without a board of education, the authority which performs the functions usually performed by a board shall be indicated by the word “board”;

(3) “Conduct unbecoming to a member of the teaching profession” may consist of, but not be limited to, one (1) or more of the following:

(A) Immorality;

(B) Conviction of a felony or a crime involving moral turpitude;

(C) Dishonesty, unreliability, continued willful failure or refusal to pay one's just and honest debts;

(D) Disregard of the code of ethics of the Tennessee Education Association in such manner as to make one obnoxious as a member of the profession; or

(E) Improper use of narcotics or intoxicants;

(4) “Director of schools” refers to the local director of schools, or to any other officer performing the functions of a director of schools;

(5) “Incompetence” means being incapable, lacking adequate power, capacity or ability to carry out the duties and responsibilities of the position. This may apply to physical, mental, educational, emotional or other personal conditions. It may include lack of training or experience; evident unfitness for service; physical, mental or emotional condition making teacher unfit to instruct or associate with children; or inability to command respect from subordinates or to secure cooperation of those with whom the teacher must work;

(6) “Inefficiency” means being below the standards of efficiency maintained by others currently employed by the board for similar work, or habitually tardy, inaccurate, or wanting in effective performance of duties;

(7) “Insubordination” may consist of:
(A) Refusal or continued failure to obey the school laws of Tennessee, or to comply with the rules and regulations of the board, or to carry out specific assignments made by the board, the director of schools or the principal, each acting within its own jurisdiction, when such rules, regulations and assignments are reasonable and not discriminatory;

(B) Failure to participate in an in-service training program as set up by the local board of education and approved by the state board of education;

(C) Treason, or any effort to sabotage or overthrow the government of the United States; or

(D) Refusal by the teacher to disclose to the board whether or not such teacher is, or has been, a member of the communist or any other party which advocates the overthrow of the government;

(8) “Neglect of duty” means gross or repeated failure to perform duties and responsibilities which reasonably can be expected of one in such capacity, or continued unexcused or unnecessary absence from duty;

(9) “Probation” is a condition and period of trial during which a teacher is under observation to determine such teacher's fitness for tenure status;

(10) “Teacher” includes teachers, supervisors, principals, director of schools and all other certificated personnel employed by any local board of education, for service in public, elementary and secondary schools in Tennessee, supported in whole or in part by state or federal funds;

(11) (A) “Tenure” indicates the statutory requirements, conditions, relations and provisions in this part, under which a teacher employed by a board holds a position as a teacher under the jurisdiction of the board. Administrative and supervisory personnel shall have tenure as teachers and not necessarily tenure in the specific type of position in which they may be employed;

(B) “Limited tenure” is a form of tenure under which a teacher may have a position for a limited period of time and may extend such tenure for a like period of time by meeting certain requirements set forth in this part;

(C) “Permanent tenure” refers to a term and condition of tenure, extending from the time when the teacher acquires the status of permanent tenure until such time as the teacher arrives at the maximum age set forth in this part, resigns, retires or is dismissed under provisions of this part; and

(12) “Transfer” means removal from one (1) position to another position under jurisdiction of the same board.
49-5-502. Construction with other statutes. —

(a) The Teachers' Continuing Contract Law, § 49-5-409, shall not be construed to be affected by the provisions of this part, except that the continuing contract law shall not apply to teachers who have acquired permanent or limited tenure under this part.

(b) (1) This part shall not affect the operation of local or private tenure acts in operation on March 1, 1951, applying to counties, municipalities or special school districts.

(2) This part shall not be operative in any such county, municipality or special school district so long as such local or private act remains in effect.

(3) This part shall become operative in any system where there is, on March 1, 1951, a local tenure law in effect, if and when the local law becomes inoperative.

49-5-503. Types of tenure. —

There are two (2) types of tenure for teachers who are now or hereafter employed in the public schools, as follows:

(1) “Limited tenure” applies to any teacher who is not classified as having “permanent tenure,” but who, prior to September 1, 1972:

   (A) Has completed two (2) years of college (but less than bachelor's degree), and holds a valid professional license covering the grades or subjects taught, or holds a valid examination license covering the grades or subjects taught regardless of the number of years of college completed;

   (B) Completes a probationary period of three (3) school years or not less than twenty-seven (27) months within a five-year period, the last school year to be as a regularly employed teacher; and

   (C) Is then reemployed by the board for service after the probationary period and maintains continuous “limited tenure” status thereafter; and

(2) “Permanent tenure” applies to any teacher who:

   (A) Has a degree from an approved four-year college or to any vocational teacher who has the equivalent amount of training established and licensed by the state board of education;

   (B) Holds a valid professional license based on training covering the subjects or grades taught;
(C) Has completed a probationary period of three (3) school years or not less than twenty-seven (27) months within the last five-year period, the last year to be employed as a regular teacher; and

(D) Is reemployed by the board for service after the probationary period.

49-5-504. Probation. —

(a) Any teacher, otherwise qualified for “permanent tenure” status or “limited tenure” status shall serve three (3) years or not less than twenty-seven (27) months within a five-year period as a probationary teacher before acquiring “permanent tenure” status or “limited tenure” status.

(b) Notwithstanding any other provision to the contrary, upon the completion of the statutory probationary period, any teacher eligible for tenure status shall be either recommended by the director of schools for tenure or non-renewed; 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 one-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 one-year probationary period, the teacher shall be eligible for tenure and shall be either recommended by the director of schools for tenure or non-renewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

49-5-505. Limited tenure. —

(a) “Limited tenure” status shall be for a period of three (3) years. Acquiring not less than eighteen (18) quarter hours of college credit during the three-year period of “limited tenure” entitles the teacher to renewal of the teacher's tenure status, and upon receiving proper statement from the college, verifying credits received, the board shall extend the teacher's tenure status for another three-year period.

(b) A limited tenure teacher shall become a permanent tenure teacher when the teacher earns a bachelor's degree and has otherwise complied with the provisions of this part.

(c) A teacher on “limited tenure” who fails, during any three-year period, to meet the foregoing requirements of acquiring at least eighteen (18) quarter hours' credit shall automatically lose “limited tenure” status and shall not be eligible to again attain “limited tenure” status in any local school system.
(d) Only those teachers who have attained “limited tenure” status prior to September 1, 1972, and who continuously maintain the requirement of this section are covered by the provisions of this section.

(e) The director of schools of each county, city and special school system shall establish a roster of “limited tenure” teachers in the director of schools' respective school system as of September 1, 1972, and shall provide a copy of the roster to the commissioner of education and notify each person on the roster, prior to December 31, 1972, of the provisions pertaining to retaining “limited tenure” status.

49-5-506. Local standards may apply. —

The local board of education has the authority to set standards of employment or to maintain educational requirements of the personnel in service over and above those required by the state board of education whenever the board is in position to support the superior program; provided, that such requirements are general in their application and have the approval of the state board of education.

49-5-507. Retirement age. [Repealed.]

49-5-508. Breach of contract — Effect on tenure. —

(a) A teacher shall give the director of schools notice of resignation at least thirty (30) days in advance of the effective date of the resignation. A teacher who fails to give such notice, in the absence of justifiable mitigating circumstances, shall forfeit all tenure status under this part; provided, that the board may waive the thirty (30) days' notice requirement and permit a teacher to resign in good standing.

(b) Any teacher who breaks a contract with a board of education without a justifiable reason as listed in this section shall not be given permanent tenure status in any other school system in this state, until such teacher has met all of the requirements in such system for attaining such permanent status plus the serving of five (5) continuous years in lieu of the three (3) continuous years required in § 49-5-503; provided, that the local board of education against which such teacher has broken a contract informs the commissioner of education of such breach of contract and requests the commissioner to so notify all local boards of education in this state. Such local board of education may later inform the commissioner that it is no longer holding the breach of contract against the teacher, in which event such local board of education shall request the commissioner to so notify all local boards of education in this state. If and when such local board of education informs the commissioner that it is no longer holding the breach of contract against the teacher, the penalty in this subsection against such teacher shall immediately become ineffective, null and void.

(c) The conditions under which it is permissible to break a contract with a local board of education are as follows:
(1) The incapacity on the part of the teacher to perform the contract as evidenced by the certified statement of a physician approved by the local board of education;

(2) The drafting of the teacher into military service by a selective service board; or

(3) The release by the local board of education of the teacher from the contract which the teacher has entered into with such local board of education.

49-5-509. Teacher transferred to another system. —

Tenured teachers moving to another system shall serve the regular probationary period in the new system. The local board of education, upon the recommendation of the director of schools, may waive this requirement and grant tenure status or shorten the probationary period, as it sees fit.

49-5-510. Transfers within system. —

The director of schools, when necessary to the efficient operation of the school system, may transfer a teacher from one location to another within the school system, or from one type of work to another for which the teacher is qualified and licensed; provided, that transfers shall be acted upon in accordance with board policy and any locally negotiated agreement.

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 which would justify dismissal of the teacher under the terms of this part, 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.
(5) If, in the opinion of the board, charges are of such 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 position shall be placed on a preferred 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 fitness of such teacher for reemployment in such vacancy on the basis of the director of school’s evaluation of such teacher's competence, compatibility and suitability to properly discharge the duties required in such vacancy considered in the light of the best interest of the students in the school where the vacancy exists; provided, however, that the action shall be in accordance with board policy and any locally negotiated agreement.

(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 such notification. The teacher receiving such 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 the provisions of 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 the provisions of 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

49-5-512. Dismissal or suspension — Hearing — Tenured teachers in certain counties and directors of schools. —

(a) A teacher, having received notice of charges pursuant to § 49-5-511, may, within thirty (30) days after receipt of notice, demand a hearing before 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 request, indicate the place of such hearing and set a convenient date, which date shall not be later than thirty (30) days following receipt of notice demanding a hearing;

(3) The teacher may appear at the hearing and plead the teacher's cause in person or by counsel;

(4) The teacher may present witnesses, and shall have full opportunity to present the teacher's contentions and to support them with evidence and argument. The teacher shall be allowed a full, complete, and impartial hearing before the board, including the right to have evidence deemed relevant by the teacher included in the record of the hearing, even if objected to by the person conducting the hearing;

(5) The chair of the board conducting the hearing is hereby empowered to issue subpoenas for witnesses to compel their attendance at hearings authorized under this section. All parties to the proceeding shall have the right to have subpoenas issued by the chair of the board to compel the attendance of all witnesses deemed by such parties to be necessary, for a full and complete hearing. All witnesses shall be entitled to the witness fees and mileage provided by law for legal witnesses, which fees and mileage shall be paid as a part of the costs of such proceeding. The costs of such proceeding shall be paid by the losing party;

(6) The chair of the board shall administer oaths to witnesses, who shall 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 action of the board is appealed, and all actions of the board shall be reduced to writing and included in the record, together with all evidence otherwise submitted;

(8) On request of either party to the trial, 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 board; and
(9) The board shall within ten (10) days decide what disposition to make of the case and shall immediately thereafter give the teacher written notice of its findings and 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) In any county with a metropolitan form of government and a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent census, a tenured teacher receiving notification of dismissal charges pursuant to § 49-5-511, may, within thirty (30) days after receipt of the notice, demand a hearing on the dismissal charges.

(2) (A) The tenured teacher shall be entitled to a full and complete hearing before an impartial hearing officer selected by the board.

(B) The teacher shall have the right to be represented by counsel, the opportunity to call and subpoena witnesses, the opportunity to examine all witnesses, and the right to require that all testimony be given under oath.

(C) For the purposes of subdivision (c)(2)(A), “impartial” means that the selected hearing officer shall have no history of employment with the board, no service in any capacity with the board or the metropolitan government, no relationship with any board member, and no relationship with the teacher or representatives of the teacher.

(3) At the conclusion of the hearing, the hearing officer shall reduce to written form all factual findings and decisions related to the charges. The hearing officer's decision shall be delivered to the affected employee and the board within ten (10) days following the close of the hearing.

(4) 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.

(5) 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.

(6) 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.

(7) 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 twenty (20) working days after receipt of the dated notice of the decision of the board of education. 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.

(8) 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 are set out in this subsection.

49-5-513. Judicial review. —

(a) A teacher under “permanent tenure” or “limited tenure” status who is dismissed or suspended by action of the board may petition for a writ of certiorari from the chancery court of the county where the teacher is employed.

(b) The petition shall be filed within thirty (30) days from the receipt by the teacher of notice of the decision of the board. The petition shall state briefly the issues involved in the cause, the substance of the order of the board, or the respects in which the petitioner claims the order of the board is erroneous, and praying for an accordant review. The petition shall be addressed to the presiding chancellor and shall name as defendants the members of the board and such other parties of record, if such, as were involved in the hearing before the board.

(c) The petitioner shall give bond for costs as in other chancery suits or oaths of paupers in lieu.

(d) Upon the filing of the petition, the clerk and master shall immediately send, by registered return receipt mail, to the chair of the board, a notice of the filing of the petition and a certified copy thereof. The clerk shall also send a similar notice to the last known post office address of each other party named as defendant. In lieu of notice by registered mail, subpoena to answer may be served personally on each defendant, as in other chancery cases.

(e) The filing of such petition shall suspend the order of the board pending a decision by the chancellor, but the teacher shall not be permitted to return to teaching pending final disposition of the appeal.
(f) All defendants named in the petition, desiring to make defense, shall do so by answer (in which grounds of demurrer shall be incorporated) to the petition within thirty (30) days from the date of the filing of the petition, unless the time be extended by the court. Any other person who may be affected by the decision to be made by the court may, upon proper leave given, intervene and file an answer in the cause. Amendments may be granted as in other chancery procedure.

(g) The cause shall stand for trial and shall be heard and determined at the earliest practical date, as one having precedence over other litigation, except suits involving state, county or municipal revenue. The review of the court shall be limited to the written record of the hearing before the board and any evidence or exhibits submitted at such hearing. Additional evidence or testimony shall not be admitted except as to establish arbitrary or capricious action or violation of statutory or constitutional rights by the board.

(h) The chancellor shall reduce the chancellor's findings of fact and conclusions of law to writing and make them parts of the record.

(i) Any party dissatisfied with the decree of the court may appeal as provided by the Tennessee Rules of Appellate Procedure, where the cause shall be heard on the transcript of the record from the chancery court.

49-5-514. Merger of local with state tenure system. —

(a) (1) Should it be desired to incorporate any local teacher tenure system into the state system, the board having jurisdiction over the teachers under such local system shall publish in some newspaper of general circulation in the town or county in which such local tenure system is located a notice of its intent to apply for admission to the state teacher tenure system, and, in such notice, shall fix the date for a hearing thereon, which date shall not be less than ten (10) days after the first publication of the notice.

(2) Upon the day fixed by such notice for such hearing, which hearing may be adjourned from time to time if deemed necessary, the board shall hear interested parties who shall have the right to appear in person or by counsel upon the advisability of such entry or merger into the state system.

(3) After the local board of education concludes its hearing, the board shall conduct a referendum of the teachers within the local teacher tenure system, and if a majority of the teachers vote in favor of merging with the state system, then the board shall request such merger and shall forward a certified copy of the result of the referendum to the commissioner of education for consideration.

(4) If the commissioner should approve such merger, then the commissioner shall give proper notice thereof and at the end of ten (10) days from the giving of such public notice of acceptance, such local tenure system shall be merged with and become a part of the state teacher tenure system, and the members of such local tenure system shall
thereupon be entitled to all the benefits of such state tenure system to the same extent as though they had been members thereof from its inception.

(b) As used in this section:

(1) “Board” means any county board of education in a county operating under a local teacher tenure act or any municipal board of education in a city operating under such act; and

(2) “Local teacher tenure systems” means any teacher tenure system applicable only to a county or to a city or town and authorized by special act of the general assembly.

49-5-515. Establishment of system for teachers not previously covered. —

(a) The state board of education is hereby authorized and directed to establish a system of tenure for teachers in schools and institutions under its jurisdiction.

(b) The board shall promulgate and publish reasonable rules and regulations for the establishment of a tenure system for such teachers, and has the power to promulgate and publish such rules and regulations as are deemed reasonably necessary for the establishment of such tenure system, which shall include, but not be limited to, standards and requirements concerning:

(1) The minimum qualifications of teachers eligible for tenure;
(2) The types of tenure;
(3) Leaves of absence;
(4) Time of termination of tenure;
(5) Transfers within the system;
(6) Credit for time served in other school systems within the state;
(7) Grounds and procedures concerning suspensions and dismissals;
(8) Investigations;
(9) Suspensions pending investigations; and
(10) Such other subjects as are deemed by the board to be reasonably related to teacher's tenure.

(c) The rules and regulations shall be adopted by a formal resolution by a majority of the membership, and the same shall be signed by a majority of the members of the state
board of education as certified by the chair and attested by the executive secretary of the board, and otherwise they shall be approved and filed in the manner required by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) After giving written notice of charges against any teacher, the board shall hold a hearing in the same manner and shall have the same powers as provided in § 49-5-512; provided, that where such section refers to the director of schools, for the purpose of this part, reference shall be made to the chair of the state board of education.

(e) A teacher shall be entitled to a judicial review of the action of the board for the same purposes and in the same manner provided by § 49-5-513.

(f) As used in this section, “teacher” means any person employed by the state board of education in a full-time position as an administrative officer or teacher in a school or other educational institution except a college or university; provided, that “teacher,” as defined in this section, does not apply to the principal or chief administrative officer of such school or institution.

(g) No teacher under the provisions of this section shall be guaranteed continuity of employment in a particular assignment or position.

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