

# Van Buren County Board of Education

Monitoring: <b>Review: Annually, in February</b>	Descriptor Term: <b>Separation Practices for Tenured Teachers</b>	Descriptor Code: <b>5.200</b>	Issued Date: <b>08/20/14</b>
		Rescinds: <b>5.200</b>	Issued: <b>06/21/12</b>

## 1 **SUSPENSION PENDING AN INVESTIGATION**<sup>1</sup>

2 The director of schools may suspend a teacher at any time that may seem necessary, pending investigation or  
3 final disposition of a case before the board or an appeal. If the matter under investigation is not the subject of an  
4 ongoing criminal investigation or a department of children's services investigation, and if no charges for  
5 dismissal have been made, a suspension pending investigation shall not exceed ninety (90) days in duration.  
6 Under no circumstances shall the director of schools suspend a teacher with pay. If vindicated or reinstated, the  
7 teacher shall be paid full salary for the period of suspension.

## 8 **SUSPENSION OF THREE DAYS OR LESS**<sup>2,3,4</sup>

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

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

## 18 **DISMISSAL OR SUSPENSIONS GREATER THAN THREE DAYS**<sup>5</sup>

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

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

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

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

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

1 The hearing officer shall notify the parties, or their attorney, of the officer's assignment and direct the parties or  
2 the attorneys for the parties, or both, to appear before the hearing officer for simplification of issues and the  
3 scheduling of the hearing. That hearing shall be set no later than thirty (30) days following receipt of the initial  
4 request for a hearing. In the discretion of the hearing officer, all or part of any prehearing conference may be  
5 conducted by telephone if each participant has an opportunity to participate, be heard, and to address proof and  
6 evidentiary concerns. The hearing officer is empowered to issue appropriate orders and to regulate the conduct  
7 of the proceedings.

8 Either party may appeal to the Board of Education an adverse ruling by giving written notice of appeal within  
9 ten (10) working days of the hearing officer's delivery of the hearing officer's written findings and conclusions.  
10 The director of schools shall prepare a copy of the proceedings, including all transcripts and evidence,  
11 documentary or otherwise, and transmit the same to the Board within twenty (20) days of the receipt of the  
12 notice of appeal.

13 The Board shall hear the appeal on the record, and no new evidence may be submitted by either party. The  
14 appealing party may appear before the Board to argue why the adverse ruling should be over- turned. In no  
15 event should such argument last more than fifteen (15) minutes, unless the Board should vote to extend  
16 additional time. At the conclusion of the hearing, any member of the Board may vote to sustain the decision of  
17 the Hearing officer, send the record back for additional evidence, revise the penalty or reverse the decision. The  
18 Board shall render its decision within ten (10) working days after the conclusion of the hearing. In the event  
19 that the decision of the Board is appealed to the Chancery court, the Board shall transmit the entire record  
20 prepared by the director and reviewed by the Board to the Chancery court for its review.

## 21 **RESIGNATION**

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

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

- 27 1. The incapacity on the part of the teacher to perform the contract as evidenced by the certified statement  
28 of a physician approved by the Board;
- 29 2. The release by the Board of the teacher from the contract which the teacher has entered into with the  
30 Board.<sup>6</sup>

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

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

## 38 **RETIREMENT**

39 Retirement shall mean a termination of services under conditions which will allow the employee to draw

1 benefits from retirement plans and/or social security benefits. Employees eligible for retirement benefits may  
2 elect to retire at any age according to the provisions of the retirement system.

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

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

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

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 that lacks  
15 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 or receive  
18 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 Board  
20 for teachers with no experience filling similar positions, nor more than eighty-five percent (85%) of the  
21 rate of compensation set by Board for teachers with comparable training and years of experience filling  
22 similar positions.

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#### Legal References

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