

Hardeman County Board of Education

Monitoring: Review: Annually, in January	Descriptor Term: Separation Practices for Tenured Teachers	Descriptor Code: 5.200	Issued Date: 08/17/17
		Rescinds: 5.200	Issued: 08/14/14

1 **SUSPENSION PENDING AN INVESTIGATION¹**

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 dismissal
5 have been made, a suspension pending investigation shall not exceed ninety (90) days in duration. Under no
6 circumstances shall the director of schools suspend a teacher with pay. If vindicated or reinstated, the teacher shall
7 be paid full salary for the period of suspension.

8 **SUSPENSION OF THREE DAYS OR LESS^{2,3}**

9 The director of schools or his/her 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 with
11 written notice, including the reasons for the suspension along with an explanation of the evidence; (2) given an
12 opportunity to respond to the director at a conference, if requested within five (5) days; and (3) given a written
13 decision of the suspension within ten (10) days. Both parties may be represented by counsel at the conference,
14 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 DAYS⁴**

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

21 When charges are made against a tenured teacher, charging the teacher with offenses which may justify dismissal
22 or a suspension greater than three days, the charges shall be made in writing, specifically stating the offenses
23 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 dismissal 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 copy
26 of the charges against the teacher, and a copy of a form provided by the Commissioner of Education advising the
27 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 of
7 the proceedings.

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

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

20 RESIGNATION

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

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

- 26 1. The incapacity on the part of the teacher to perform the contract as evidenced by the certified statement
27 of a physician approved by the board; or
- 28 2. The release by the board of the teacher from the contract which the teacher has entered into with the
29 board.⁶

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

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

37 RETIREMENT

38 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 elect
2 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 additional days if the director of schools certifies
8 in writing to the board that no other qualified personnel are available to substitute teach.⁹
- 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:¹⁰
- 12 1. The director of schools of the employing system must certify in writing that no other qualified individuals
13 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 for
20 teachers with no experience filling similar positions, nor more than eighty-five percent (85%) of the rate
21 of compensation set by board for teachers with comparable training and years of experience filling
22 similar positions.

 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—513
5. TCA 49-5-508(a)
6. TCA 49-5-508(c)
7. TCA 49-5-706
8. TCA 49-5-411(b)
9. Public Acts of 2017, Chapter No. 287
10. TCA 8-36-821

 Cross References

Recommendations and File Transfers 5.203