

# Lakeland Board of Education

Monitoring: <b>Review: Annually, in February</b>	Descriptor Term: <b>Separation Practices for Non-Tenured Teachers</b>	Descriptor Code: <b>5.201</b>	Issued Date: <b>07/13/15</b>
		Rescinds: <b>5.201</b>	Issued: <b>07/14/14</b>

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

2 The superintendent may suspend a teacher at any time that may seem necessary, pending investigation or final  
3 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) calendar days in  
6 duration. Under no circumstances shall the superintendent suspend a non-tenured teacher with pay. If  
7 vindicated or reinstated, the non-tenured teacher shall be paid full salary for the period of suspension, unless  
8 suspension without pay is deemed to be an appropriate penalty.

## 9 **SUSPENSION OF THREE DAYS OR LESS**<sup>2</sup>

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

## 16 **DISMISSAL OR SUSPENSION GREATER THAN THREE DAYS**

17 The superintendent may dismiss or suspend for more than three working days any non-tenured teacher **during**  
18 **the contract year** for incompetence, inefficiency, insubordination, improper conduct or neglect of duty after  
19 giving the non-tenured teacher, in writing, due notice of the charges.

20 The superintendent shall give the non-tenured teacher an opportunity for a full and complete hearing before an  
21 impartial hearing officer.<sup>2</sup>

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

- 24 1. be represented by counsel;
- 25 2. call and subpoena witnesses;
- 26 3. examine all witnesses; and
- 27 4. require that all testimony be given under oath.

28 Factual findings and decisions in all dismissal cases shall be reduced to written form and delivered to the  
29 affected employee within ten (10) working days following the close of the hearing. The employee may appeal  
30 the decision to the Board within ten (10) working days of the hearing officer rendering the written decision to  
31 the employee. Written notice of appeal to the Board shall be given to the superintendent. Within twenty (20)  
32 working days' of receipt of notice, the superintendent shall prepare a copy of the proceedings, transcript,  
33 documentary and other evidence presented and provide the Board a copy of the same.

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

- 4 1. sustain the decision;
- 5 2. send the record back if additional evidence is necessary; or
- 6 3. revise the penalty or reverse the decision.

7 Before any decision to dismiss is made, a majority of the membership of the Board shall concur in sustaining the  
8 charges. The Board shall render a decision to the appealing party in writing on the appeal within ten (10)  
9 working days after the conclusion of the hearing.

10 The superintendent shall also have the right to appeal any adverse ruling by the Hearing Officer in same manner  
11 as the non-tenured teacher.

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

#### 15 **NONRENEWAL**

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

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

21 The superintendent is under no obligation to re-employ non-tenured teachers at the end of their contract period.  
22 If the superintendent determines not to renew the contract of a non-tenured teacher,<sup>1</sup> the following action shall  
23 be taken:

- 24 1. The Board shall be notified at the next regular board meeting; and
- 25 2. Written notice of non-renewal shall be hand delivered or sent to the employee by registered mail so that  
26 it will be received by the employee within five (5) business days following the last instructional day for  
27 the school year.<sup>3</sup>

#### 28 **RESIGNATION**

29 A teacher shall give the superintendent notice of resignation at least thirty (30) calendar days before the  
30 effective date of the resignation.<sup>4</sup> The Board may waive the thirty (30) days-notice requirement and permit a  
31 teacher to resign in good standing.

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

- 33 1. The incapacity on the part of the teacher to perform the contract as evidenced by the certified statement  
34 of a physician approved by the Board;
- 35 2. The release by the Board of the teacher from the contract which the teacher has entered into with the  
36 Board.

1 Any teacher on leave shall notify the superintendent in writing at least thirty (30) calendar days prior to the date  
2 of return if the teacher does not intend to return to the position from which he/she has taken leave. Failure to  
3 render such notice may be considered a breach of contract.<sup>5</sup>

4 Upon a breach of contract, the Board, upon a motion recorded in its minutes, may file a complaint with the  
5 Commissioner and request the suspension of a teacher's certificate. After the Commissioner has provided the  
6 teacher an opportunity for defense during a hearing, the Commissioner may suspend the certificate for no less  
7 than thirty (30) and no more than three hundred sixty-five (365) calendar days.<sup>6</sup>

## 8 **RETIREMENT**

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

11 Employees eligible for retirement benefits may elect to retire at any age according to the provisions of the  
12 retirement system. Central office personnel shall assist employees in securing retirement benefits; however, it  
13 shall be the responsibility of the retiring employee to provide verification of eligibility in writing from TCRS to  
14 the central office. It shall be the responsibility of the retiring employee to file for benefits.

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

19 The superintendent may employ teachers retired for at least one year for full-time employment as a kindergarten  
20 through twelfth grade teacher on a year-to-year basis. Retirement benefits will not be lost or suspended under  
21 certain conditions, which include but are not limited to the following:<sup>8</sup>

- 22 1. The superintendent of the employing system must certify in writing that no other qualified individuals  
23 are available to fill the position;
- 24 2. The Commissioner of Education must certify that the employing school system serves an area that lacks  
25 qualified teachers to serve in the position to be filled;
- 26 3. The retired teacher must hold a valid license and shall not be entitled to tenure status;
- 27 4. The retired teacher shall not be eligible to accrue additional retirement benefits, accrue leave or receive  
28 medical insurance coverage; and
- 29 5. The salary paid to the retired member shall not be less than the rate of compensation set by the Board  
30 for teachers with no experience filling similar positions, nor more than eighty-five percent (85%) of the  
31 rate of compensation set by Board for teachers with comparable training and years of experience filling  
32 similar positions.

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

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Legal References

1. TCA 49-5-511(a)(3)
2. TCA 49-2-301 (b)(1)(GG), TCA 49-5-512(d)
3. TCA 49-5-409; Public Acts of 2015, Chapter No. 232
4. TCA 49-5-508
5. TCA 49-5-706
6. TCA 49-5-411
7. TCA 8-36-805
8. TCA 8-36-821