

# Van Buren County 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>12/10/15</b>
		Rescinds: <b>5.201</b>	Issued: <b>08/20/14</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  
3 investigation or final disposition of a case before the board or an appeal. If the matter under investigation  
4 is not the subject of an ongoing criminal investigation or a department of children's services  
5 investigation, and if no charges for dismissal have been made, a suspension pending investigation shall  
6 not exceed ninety (90) days in duration. Under no circumstances shall the director of schools suspend a  
7 non-tenured teacher with pay. If vindicated or reinstated, the non-tenured teacher shall be paid full salary  
8 for the period of suspension.

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

10 A director of schools/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)  
12 provided with written notice, including the reasons for the suspension along with an explanation of the  
13 evidence; (2) given an opportunity to respond to the director at a recorded conference, if requested within  
14 five (5) days; and (3) given a written decision of the suspension within ten (10) days. Both parties may  
15 be represented by counsel at the conference, which shall be recorded.

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

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

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

22 The Board will appoint an impartial hearing officer to conduct such hearings. The hearing officer will  
23 hear the 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  
30 appeal the decision to the Board within ten (10) working days of the hearing officer rendering the written  
31 decision to the employee. Written notice of appeal to the Board shall be given to the director of schools.

1 Within twenty (20) days' of receipt of notice, the director shall prepare a copy of the proceedings,  
2 transcript, documentary and other evidence presented and provide the Board a copy of the same.

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

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

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

12 The director of schools shall also have the right to appeal any adverse ruling by the Hearing Officer in  
13 same manner as the non-tenured teacher.

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

## 17 **NONRENEWAL**

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

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

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

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

## 30 **RESIGNATION**

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

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

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

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

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

## 12 **RETIREMENT**

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

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

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

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

- 27 1. The director of schools of the employing system must certify in writing that no other qualified  
28 individuals are available to fill the position;
- 29 2. The Commissioner of Education must certify that the employing school system serves an area  
30 that lacks qualified teachers to serve in the position to be filled;
- 31 3. The retired teacher must hold a valid license and shall not be entitled to tenure status;
- 32 4. The retired teacher shall not be eligible to accrue additional retirement benefits, accrue leave or  
33 receive medical insurance coverage; and
- 34 5. The salary paid to the retired member shall not be less than the rate of compensation set by the  
35 Board for teachers with no experience filling similar positions, nor more than eighty-five percent  
36 (85%) of the rate of compensation set by Board for teachers with comparable training and years  
37 of experience filling similar positions.

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

- 1 *non-tenured teachers 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