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

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  
4 investigation is not the subject of an ongoing criminal investigation or a Department of Children's  
5 Services investigation, and if no charges for dismissal have been made, a suspension pending  
6 investigation shall not exceed ninety (90) days in duration. Under no circumstances shall the Director  
7 of Schools suspend a non-tenured teacher with pay. If vindicated or reinstated, the non-tenured teacher  
8 shall be paid full salary 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 a teacher 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 of Schools at a recorded conference, if  
14 requested within five (5) days; and (3) given a written decision of the suspension within ten (10) days.  
15 Both parties may be represented by counsel at the conference, which shall be recorded.

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

19 **DISMISSAL OR SUSPENSION GREATER THAN THREE DAYS<sup>2</sup>**

20 The Director of Schools may dismiss or suspend for more than three (3) days any non-tenured teacher  
21 during the contract year for incompetence, inefficiency, insubordination, improper conduct, or neglect  
22 of duty after giving the non-tenured teacher, in writing, due notice of the charges.

23 The Director of Schools shall give the non-tenured teacher an opportunity for a full and complete  
24 hearing before an impartial hearing officer.

25 The Board will appoint an impartial hearing officer to conduct such hearings. The hearing officer will  
26 hear the case, and the teacher shall have the right to:

- 27 1. Be represented by counsel;  
28  
29 2. Call and subpoena witnesses;  
30

1           3. Examine all witnesses; and

2

3           4. Require that all testimony be given under oath.

4 Factual findings and decisions in all dismissal cases shall be reduced to written form and delivered to  
5 the affected teacher within ten (10) working days following the close of the hearing. The teacher may  
6 appeal the decision to the Board within ten (10) working days of the hearing officer rendering the  
7 written decision to the teacher. Written notice of appeal to the Board shall be given to the Director of  
8 Schools. Within twenty (20) working days of receipt of notice, the Director of Schools shall prepare a  
9 copy of the proceedings, transcript, documentary, and other evidence presented and provide the Board  
10 a copy of the same.

11 The Director of Schools shall also have the right to appeal any adverse ruling by the hearing officer in  
12 the same manner as the non-tenured teacher.

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

16           1. Sustain the decision;

17

18           2. Send the record back if additional evidence is necessary; or

19

20           3. Revise the penalty or reverse the decision.

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

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

## 27 **NONRENEWAL**

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

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

33 The Director of Schools is under no obligation to re-employ non-tenured teachers at the end of their  
34 contract period. If the Director of Schools determines not to renew the contract of a non-tenured  
35 teacher, the following action shall be taken:

36           1. The Board shall be notified at the next regular board meeting; and

- 1           2. Written notice of non-renewal shall be hand delivered or sent to the teacher by registered mail  
2           so that it will be received by the teacher within five (5) business days following the last  
3           instructional day for the school year.<sup>3</sup>

#### 4   **RESIGNATION**

5   A teacher shall give the Director of Schools notice of resignation at least thirty (30) days before the  
6   effective date of the resignation.<sup>4</sup> The Board may waive the thirty (30) days notice requirement and  
7   permit a teacher to resign in good standing.

8   The conditions under which it is permissible to break a contract with the Board are as follows:<sup>5</sup>

- 9           1. The incapacity on the part of the teacher to perform the contract as evidenced by the certified  
10          statement of a physician approved by the Board;
- 11           2. The drafting of a teacher into military service by a selective service board; and
- 12           3. The release by the Board of the teacher from the contract which the teacher has entered into  
13          with the Board.
- 14           3. The release by the Board of the teacher from the contract which the teacher has entered into  
15          with the Board.

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

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

#### 24   **RETIREMENT**

25   Retirement is a termination of services under conditions which will allow the teacher to draw benefits  
26   from retirement plans and/or Social Security benefits.

27   Teachers eligible for retirement benefits may elect to retire at any age according to the provisions of  
28   the retirement system. Central office personnel shall assist teachers in securing retirement benefits;  
29   however, it shall be the responsibility of the retiring teacher to provide verification of eligibility in  
30   writing from the Tennessee Consolidated Retirement System (TCRS) to the central office. It shall be  
31   the responsibility of the retiring teacher to file for benefits.

32   Teachers who retire under TCRS may be employed up to one hundred twenty (120) days per year  
33   without loss of retirement benefits. Retired teachers may substitute teach for additional days if the  
34   Director of Schools certifies in writing to the Division of Retirement that no other qualified personnel  
35   are available to substitute teach.<sup>8</sup>

36   The Director of Schools may employ teachers retired for at least one (1) year for full-time employment  
37   as a Kindergarten through twelfth (K-12) grade teacher on a year-to-year basis. Retirement benefits

1 will not be lost or suspended under certain conditions which include, but are not limited to, the  
2 following:<sup>9</sup>

- 3 1. The Director of Schools of the employing district shall certify in writing that no other qualified  
4 individuals are available to fill the position;
- 5  
6 2. The Commissioner of Education shall certify that the employing school district serves an area  
7 that lacks qualified teachers to serve in the position to be filled;
- 8  
9 3. The retired teacher shall hold a valid license and shall not be entitled to tenure status;
- 10  
11 4. The retired teacher shall not be eligible to accrue additional retirement benefits, accrue leave, or  
12 receive medical insurance coverage; and
- 13  
14 5. The salary paid to the retired teacher shall not be less than the rate of compensation set by the  
15 Board for teachers with no experience filling similar positions or more than eighty-five percent  
16 (85%) of the rate of compensation set by the Board for teachers with comparable training and  
17 years of experience filling similar positions.

18 *(Note: Nonrenewal of non-tenured teachers after the contract year is not suspension or dismissal and*  
19 *does NOT follow the suspension/dismissal guidelines outlined in this policy. Rather, nonrenewal of*  
20 *non-tenured teachers after the contract year follows the nonrenewal guidelines 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
4. TCA 49-5-508
5. TCA 49-5-411(a)
6. TCA 49-5-706
7. TCA 49-5-411(b)(4); Public Acts of 2019, Chapter No.  
248
8. TCA 8-36-805
9. TCA 8-36-821

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Cross References

- Public Hearings 1.401  
Recommendations and File Transfers 5.203