

Houston County Board of Education

Monitoring: Review: Annually, in January	Descriptor Term: Separation Practices for Tenured Teachers	Descriptor Code: 5.1012	Issued Date: 08/08/22
		Rescinds:	Issued: 07/08/13; 12/11/17; 09/27/21

SUSPENSION PENDING AN INVESTIGATION¹

The Director of Schools may suspend a teacher at any time that may seem necessary, pending investigation, or final disposition of a case before the Board or an appeal. If the matter under investigation is not the subject of an ongoing criminal investigation or a Department of Children's Services investigation, and if no charges for dismissal have been made, a suspension pending investigation shall not exceed ninety (90) days in duration. Under no circumstances shall the Director of Schools suspend a teacher with pay. If vindicated or reinstated, the teacher shall be paid full salary for the period of suspension.

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

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

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

DISMISSAL OR SUSPENSION GREATER THAN THREE DAYS⁴

When a tenured teacher is charged with offenses that may justify dismissal or a suspension greater than three (3) days, the charges shall be made in writing, specifically stating the offenses that are charged, and shall be signed by the party or parties making the charges.

If, in the opinion of the Board, the charges are of such nature as to warrant the dismissal or a suspension greater than three (3) days of the teacher, the Director of Schools shall give the teacher a written notice of this decision, a copy of the charges against the teacher, and a copy of a form provided by the Commissioner of Education advising the teacher of his/her legal duties, rights, and recourse.

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

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

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

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

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

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

RESIGNATION

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

The conditions under which it is permissible to break a contract with the Board are as follows:⁶

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

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

Upon a breach of contract, the Board, upon a motion recorded in its minutes, may file a complaint with the State Board of Education and request the suspension of a teacher's license. After the State Board of

Education has provided the teacher an opportunity for defense during a hearing, the State Board of Education may suspend the license for no less than thirty (30) days and no more than three hundred sixty-five (365) days.⁸

RETIREMENT

Retirement is a termination of services under conditions that will allow the teacher to draw benefits from retirement plans and/or Social Security benefits. Teachers eligible for retirement benefits may elect to retire at any age according to the provisions of the retirement system.

Central office personnel shall assist teachers in securing retirement benefits; however, it shall be the responsibility of the retiring teacher to provide verification of eligibility by filing online with the Tennessee Consolidated Retirement System (TCRS). It shall be the responsibility of the retiring teacher to file for benefits.

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. TCA 8-36-805
10. TCA 8-36-821

Cross References

Public Hearings 1.401
Teacher Tenure 5.117
Recommendations and File Transfers 5.203