|  |
| --- |
| **Metropolitan Nashville Board of Education** |
| Monitoring:**Review: Annually, in January** | Descriptor Term:**Separation Practices for Tenured Teachers** | Descriptor Code:**5.200** | Issued Date: |
| Rescinds:**G-3** | Issued:**08/12/14** |

**SUSPENSION PENDING AN INVESTIGATION**1

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 LESS2,3**

The director of schools or his/her designee may suspend a teacher for incompetence, inefﬁciency, neglect of duty, unprofessional conduct, and insubordination. Before an employee 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 at a conference, if requested within ten (10) 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 SUSPENSIONS GREATER THAN THREE DAYS**4

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.

When charges are made against a tenured teacher, charging the teacher with offenses which may justify dismissal or a suspension greater than three days, the charges shall be made in writing, speciﬁcally stating the offenses which 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 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 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) 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 should vote 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 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:

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 which the teacher has entered into with the board.6

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 Commissioner and request the suspension of a teacher’s license. After the Commissioner has provided the teacher an opportunity for defense during a hearing, the Commissioner may suspend the license for no less than thirty (30) and no more than three hundred sixty-ﬁve (365) days.8

**RETIREMENT**

Retirement shall mean a termination of services under conditions which will allow the employee to draw

beneﬁts from retirement plans and/or social security beneﬁts. Employees eligible for retirement beneﬁts may elect to retire at any age according to the provisions of the retirement system.

Central ofﬁce personnel shall assist employees in securing retirement beneﬁts; however, it shall be the responsibility of the retiring employee to provide veriﬁcation of eligibility in writing from TCRS to the central ofﬁce. It shall be the responsibility of the retiring employee to ﬁle for beneﬁts.

Employees who retire under TCRS may be employed up to one hundred twenty (120) days per year without loss of retirement beneﬁts. Retired teachers may substitute teach for additional days if the director of schools certiﬁes in writing to the division of retirement that no other qualiﬁed personnel are available to substitute teach.9

The director of schools may employ teachers retired for at least one year for full-time employment as a kindergarten through twelfth grade teacher on a year-to-year basis. Retirement beneﬁts will not be lost or suspended under certain conditions, which include but are not limited to the following:10

1. The director of schools of the employing system must certify in writing that no other qualiﬁed individuals are available to ﬁll the position;
2. The Commissioner of Education must certify that the employing school system serves an area that lacks qualiﬁed teachers to serve in the position to be ﬁlled;
3. The retired teacher must hold a valid license and shall not be entitled to tenure status;
4. The retired teacher shall not be eligible to accrue additional retirement beneﬁts, accrue leave, or receive medical insurance coverage; and

|  |  |  |
| --- | --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
| Legal References | Cross 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
 | Recommendations and File Transfers 5.203 |  |

1. The salary paid to the retired member shall not be less than the rate of compensation set by the board for teachers with no experience ﬁlling similar positions, nor more than eighty-ﬁve percent (85%) of the rate of compensation set by board for teachers with comparable training and years of experience ﬁlling similar positions.