




STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
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710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

BILL HASLAM
GOVERNOR

KEVIN S. HUFFMAN
COMMISSIONER

MEMORANDUM

TO: Any teacher notified by a local board of education that charges have been filed against them warranting their dismissal under the Tennessee Teacher Tenure Law.

FROM: Kevin S. Huffman, Commissioner 

SUBJECT: Dismissal of Tenured Teachers

This statement is made in compliance with Tenn. Code Ann. § 49-5-511 and shall accompany the copy of the charges against any teacher who is given written notice of such nature as to warrant their dismissal. It is the purpose of this statement to advise such teacher of their legal rights, duties and recourse under the terms of the Teacher Tenure Law (Title 49, Chapter 5, Part 5 of the Tennessee Code).

Tenn. Code Ann. § 49-5-512 provides:

Dismissal or suspension – Hearing – Appeal.

- (a) A tenured teacher, who receives notification of charges pursuant to § 49-5-511 may, within thirty (30) days after receipt of the notice, demand a full and complete hearing on the charges before an impartial hearing officer selected by the board, as follows:
- (1) The teacher shall give written notice to the director of schools of the teacher's request for a hearing;
 - (2) The director of schools shall, within five (5) days after receipt of the request, name an impartial hearing officer who shall be responsible for notifying the parties of the hearing officer's assignment. The hearing officer shall 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, which in no event shall be set later than thirty (30) days following receipt of notice demanding 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, to 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;
 - (3) For the purposes of this part, "impartial" means that the selected hearing officer shall have no history of employment with the board or director of schools, no relationship with any board member and no relationship with the teacher or representatives of the teacher;
 - (4) All parties shall have the right to be represented by counsel, the opportunity to call and subpoena witnesses, the opportunity to examine all witnesses, the right to require that all testimony be given under oath and the right to have evidence deemed relevant by the submitting party included in the record of the hearing, even if objected to by the opposing party;
 - (5) All witnesses shall be entitled to the witness fees and mileage provided by law, which fees and mileage shall be paid by the party issuing a subpoena or calling the witnesses to testify;
 - (6) The impartial hearing officer shall administer oaths to witnesses, who testify under oath;
 - (7) A record of the hearing, either by transcript, recording or as is otherwise agreed by the parties shall be prepared if the decision of the hearing officer is appealed, and all decisions of the hearing officer shall be reduced to writing and included in the record, together with all evidence otherwise submitted;
 - (8) On request of either party to the hearing, witnesses may be barred from the hearing except as they are called to testify. The hearing may be private at the request of the teacher or in the discretion of the hearing officer; and
 - (9) At appropriate stages of the hearing, the hearing officer may give the parties the full opportunity to file briefs, proposed findings of fact and conclusions of law and proposed initial or final orders. The hearing officer shall, within ten (10) days of closing the hearing, decide what disposition to make of the case and shall

immediately thereafter give the board and the teacher written findings of fact, conclusions of law and a concise and explicit statement of the outcome of the decision.

- (b) The director of schools or other school officials shall not be held liable, personally or officially, when performing their duties in prosecuting charges against any teacher or teachers under this part.
- (c) (1) If the affected teacher desires to appeal from a decision rendered in whole or in part in favor of the school system, the teacher shall first exhaust the administrative remedy of appealing the decision to the board of education within ten (10) working days of the hearing officer's delivery of the written findings of fact, conclusions and decision to the affected employee.
(2) Upon written notice of appeal, the director of schools shall prepare a copy of the proceedings, transcript, documentary and other evidence presented and transmit the copy to the board within twenty (20) working days of receipt of notice of appeal.
(3) The board shall hear the appeal on the record and no new evidence shall be introduced. The affected employee may appear in person or by counsel and argue why the decision should be modified or reversed. The board may sustain the decision, send the record back if additional evidence is necessary, revise the penalty or reverse the decision. Before any findings and decision are sustained or punishment inflicted, a majority of the membership of the board shall concur in sustaining the charges and decision. The board shall render its decision on the appeal within ten (10) working days after the conclusion of the hearing.
(4) Any party dissatisfied with the decision rendered by the board shall have the right to appeal to the chancery court in the county where the school system is located within thirty (30) days after receipt of the dated notice of the decision of the board. It shall be the duty of the board to cause the entire record and other evidence in the case to be transmitted to the court. The review of the court shall be de novo on the record of the hearing held by the hearing officer and reviewed by the board.
(5) The director of schools shall also have the right to appeal any adverse ruling by the hearing officer to the board under the same conditions as set out in this subsection (c).

Tenn. Code Ann. § 49-5-513 provides:

Judicial Review.

- (a) A teacher under permanent tenure or limited tenure status who is dismissed or suspended by action of the board may petition for a writ of certiorari from the chancery court of the county where the teacher is employed.
- (b) The petition shall be filed within thirty (30) days from the receipt by the teacher of notice of the decision of the board. The petition shall state briefly the issues involved in the cause, the substance of the order of the board, or the respects in which the petitioner claims the order of the board is erroneous, and praying for an accordant review. The petition shall be addressed to the presiding chancellor and shall name as defendants the members of the board and such other parties of record, if such, as were involved in the hearing before the board.
- (c) The petitioner shall give bond for costs as in other chancery suits or oaths of paupers in lieu.
- (d) Upon the filing of the petition, the clerk and master shall immediately send, by registered return receipt mail, to the chair of the board, a notice of the filing of the petition and a certified copy of the petition. The clerk shall also send a similar notice to the last known post office address of each other party named as defendant. In lieu of notice by registered mail, subpoena to answer may be served personally on each defendant, as in other chancery cases.
- (e) The filing of the petition shall suspend the order of the board pending a decision by the chancellor, but the teacher shall not be permitted to return to teaching pending final disposition of the appeal.
- (f) All defendants named in the petition desiring to make defense shall do so by answer, in which grounds of demurrer shall be incorporated, to the petition within thirty (30) days from the date of the filing of the petition, unless the time be extended by the court. Any other person who may be affected by the decision to be made by the court may, upon proper leave given, intervene and file an answer in the cause. Amendments may be granted as in other chancery procedures.
- (g) The cause shall stand for trial and shall be heard and determined at the earliest practical date, as one having precedence over other litigation, except suits involving state, county or municipal revenue. The review of the court shall be limited to the written record of the hearing before the board and any evidence or exhibits submitted at the hearing. Additional evidence or testimony shall not be admitted except as to establish arbitrary or capricious action or violation of statutory or constitutional rights by the board.
- (h) The chancellor shall reduce the chancellor's findings of fact and conclusions of law to writing and make them parts of the record.
- (i) Any party dissatisfied with the decree of the court may appeal as provided by the Tennessee rules of appellate procedure, where the cause shall be heard on the transcript of the record from the chancery court.