



STATE OF TENNESSEE
DEPARTMENT OF EDUCATION

PHIL BREDESEN
GOVERNOR

6th FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

Timothy K. Webb, Ed.D.
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: Timothy K. Webb, Commissioner of Education

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

Tenn. Code Ann. § 49-5-512 provides as follows:

Dismissal or suspension -- Hearing.

(a) A teacher, having received notice of charges pursuant to Tenn. Code Ann. § 49-5-511, may, within thirty (30) days after receipt of notice, demand a hearing before the board, as follows:

- (1) The teacher shall give written notice to the superintendent of the teacher's request for a hearing;
- (2) The superintendent shall, within five (5) days after receipt of request, indicate the place of such hearing and set a convenient date, which date shall not be later than thirty (30) days following receipt of notice demanding a hearing;
- (3) The teacher may appear at the hearing and plead the teacher's cause in person or by counsel;
- (4) The teacher may present witnesses, and shall have full opportunity to present the teacher's contentions and to support them with evidence and argument. The teacher shall be allowed a full, complete, and impartial hearing before the board, including the right to have evidence deemed relevant by the teacher included in the record of the hearing, even if objected to by the person conducting the hearing;
- (5) The chair of the board conducting the hearing is hereby empowered to issue subpoenas for witnesses to compel their attendance at hearings authorized under this section. All parties to the proceeding shall have the right to have subpoenas issued by the chair of the board to compel the attendance of all witnesses deemed by such parties to be necessary, for a full and complete hearing. All witnesses shall be entitled to the witness fees and mileage provided by law for legal witnesses, which fees and mileage shall be paid as a part of the costs of such proceeding. The costs of such proceeding shall be paid by the losing party;
- (6) The chair of the board shall administer oaths to witnesses, who shall 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 action of the board is appealed, and all actions of the board shall be reduced to writing and included in the record, together with all evidence otherwise submitted;
- (8) On request of either party to the trial, 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 board; and **Note: This provision for a private hearing is no longer valid since the enactment of the Sunshine Law, T.C.A. §§ 8-44-101-8-44-201. *Dorrier v. Dark*, 537 S.W.3d 888 (Tenn. 1976).**
- (9) The board shall within ten (10) days decide what disposition to make of the case and shall immediately thereafter give the teacher written notice of its findings and decision.

(b) The superintendent 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.

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Tenn. Code Ann. § 49-5-513 provides as follows:

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 thereof. 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 such 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 procedure.

(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 such 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.

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.

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