



TENNESSEE DEPARTMENT OF
EDUCATION
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New Tenure Law

Frequently Asked Questions

Chapter 70 of the public acts of 2011 (PC 70) made significant revisions to the laws regarding tenure for public school teachers in Tennessee. Additionally, Chapter 614 of the public acts of 2012 (PC 614) amended the law regarding teachers who transfer from one local education agency (LEA) to another and how that transfer may impact the teacher's probationary or tenure status. PC 70 and PC 614 are codified in Title 49, Chapter 5, Part 5. The following are frequently asked questions and answers regarding the revisions to the tenure law made in 2011 and 2012:

1. *May teachers who attained tenure prior to July 2011 lose tenure based on evaluations?*

Teachers who attained tenure prior to July 1, 2011 may not be returned to probationary status based on evaluations pursuant to the language in PC 70 that states, "no teacher who acquired tenure status prior to July 1, 2011, shall be returned to probationary status." However, the amended definition of inefficiency would apply to tenured teachers who are dismissed after July 1, 2011, the effective date of PC 70. The prior law contained causes for which a tenured teacher could be dismissed along with the required due process procedures to be followed. PC 70 redefines the cause of inefficiency by adding that the definition of inefficiency includes, but is not limited to, "having evaluations demonstrating an overall performance effectiveness level that is "below expectations" or "significantly below expectations" as provided in the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302."

2. *How do teachers who were not granted tenure prior to July 1, 2011 become eligible for tenure?*

Effective July 1, 2011, teachers shall meet the following requirements prior to becoming eligible for tenure status:

- (1) Served five (5) school years or not less than forty-five (45) months within a seven-year period as a probationary teacher; **and**
- (2) Received evaluations demonstrating an overall performance effectiveness level of "above expectations" or "significantly above expectations" provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, during the last two (2) years of the teacher's probationary period.

3. *Can teachers who receive tenure after July 1, 2011, lose tenure status?*

Yes. Any teacher who, after acquiring tenure status, receives two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of "below expectations" or "significantly below expectations", as provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, **shall** be returned to probationary status by the director of schools until the teacher has received two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of "above expectations" or "significantly above expectations".

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4. Can a teacher who loses tenure status due to poor evaluations ever regain tenure?

Yes. When a teacher who has returned to probationary status receives two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of “above expectations” or “significantly above expectations”, the teacher is again **eligible** for tenure and shall be either recommended by the director of schools for tenure or nonrenewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

5. Can a teacher be rehired after 5 years if they do not receive tenure?

Yes. PC 70 states that once a teacher is **eligible** for tenure, “the teacher shall be either recommended by the director of schools for tenure or nonrenewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.” However, under the provisions of the PC 70, a teacher is not eligible for tenure unless the teacher has served a five year probationary period **and** has received evaluations demonstrating an overall performance effectiveness level of “above expectations” or “significantly above expectations” provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, during the last two (2) years of their probationary period. Therefore, a teacher may continue teaching on a year-to-year contract as a probationary teacher until the teacher is eligible for tenure. This could be indefinitely if the teacher never meets all of the new eligibility requirements. The PC 70 is no different from the prior law in that once a teacher meets the eligibility criteria for tenure, a decision to grant tenure or nonrenew the teacher’s contract must be made.

6. Do probationary years served prior to July 1, 2011, and the passage of PC 70, apply towards a teacher meeting the 5 year probationary requirement for attaining tenure under PC 70?

Yes. Teachers who did not attain tenure status prior to July 1, 2011, must meet the new eligibility requirements for tenure as listed above in question 1. The new requirements include a 5 year probationary period and years taught prior to July 1, 2011 may count toward the 5 year requirement.

7. If a nontenured teacher transfers from one LEA to another may the new LEA count the probationary years served at the previous LEA when calculating if the 5 year probationary requirement has been met by the teacher?

Yes. Pursuant to PC 614, “A transferring teacher who is tenured or a transferring teacher who is nontenured and has five (5) or more years of prior service shall serve the regular probationary period in the new LEA, unless the local board of education, upon the recommendation of the director of schools, waives the probationary period requirement and grants tenure status or shortens the probationary period.” Additionally, the law states, “if a nontenured teacher who does not have five (5) years of prior service transfers to an LEA, then tenure shall not be granted until the teacher has served at least five (5) years when service in both LEAs is counted.”

8. Can an LEA waive the probationary period and grant tenure upon employment to a teacher who previously attained tenure in another LEA?

Yes. See the answer to question 5 above.

9. Can a teacher who transfers to a new LEA and is allowed by the new LEA to transfer their tenure status earned in the previous LEA ever lose tenure status?

It depends on when tenure was attained originally. A teacher who attained tenure originally prior to July 1, 2011, and then is authorized to transfer their tenure status to a new LEA, may not lose tenure status. A teacher who

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attains tenure after July 1, 2011 and then is authorized to transfer their tenure status to a new LEA is subject to the requirements in PC 70 for maintaining tenure status. Such teacher shall be returned to probationary status after receiving two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of “below expectations” or “significantly below expectations”, as provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302.

10. What happens to a teacher’s tenure status if the teacher resigns in good standing and returns to the local education agency (LEA) at a later date?

Effective, July 1, 2011, a teacher who has attained tenure status in an LEA, whether that was before July 1, 2011 or after, and later resigns from the LEA shall serve a two-year probationary period upon reemployment by the same LEA, unless the probationary period is waived by the board of education upon request of the director of schools. Upon completion of the two-year probationary period, the teacher shall be eligible for tenure and shall be either recommended by the director of schools for tenure or nonrenewed; provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

11. If a teacher attains tenure in an LEA, resigns in good standing, then returns and regains tenure status in the same LEA can they lose tenure status due to poor evaluations?

It depends on when tenure was attained originally. A teacher who attained tenure originally prior to July 1, 2011, and then regains tenure in the same LEA after serving a 2 year probationary period, may not lose tenure status. A teacher who attains tenure after July 1, 2011, resigns, then returns to the same LEA and regains tenure is subject to the requirements in PC 70 for maintaining tenure status. Such teacher shall be returned to probationary status after receiving two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of “below expectations” or “significantly below expectations”, as provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302.

12. If a teacher receives a partial year exemption during the last two years of their probationary period are they still eligible for tenure?

If a teacher completes his or her five year probationary period and has a partial year exemption during one of the last two years of his or her probationary period then the teacher will not be eligible for tenure until they have two consecutive years of complete data. If a teacher is anticipating complete data that will result in an evaluation score but has not yet received the final data for the current year, do not make a tenure eligibility decision until the final data is returned.

13. Does the five year probationary period need to be served consecutively?

The 5 years do not have to be consecutive but must come within a seven year period.

14. Which components of the evaluation are used to determine tenure eligibility?

The overall level of effectiveness is used to determine tenure eligibility. This is the overall score that combines qualitative measures, growth and achievement.

15. Is June 15th the deadline for making tenure decisions?

The June 15th date referenced in Tenn. Code Ann. 49-5-409, is the date by which a teacher must be notified that his/her contract will not be renewed for the next school year. While nonrenewal and tenure decisions have traditionally always occurred at the same time, tenure decisions have never been legally required to take place in June. Tenure decisions must take place upon a teacher becoming eligible for tenure. (In the past, the only criteria

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was that the teacher finish the 3rd year of teaching and be recommended by the director.) Therefore, by June 15th LEAs should make nonrenewal decisions based on the information they have at the time. Tenure decisions cannot be made until all the information required to be used to determine a teacher's eligibility is available. The bottom line is that nonrenewal decisions must take place by June 15th but the granting of tenure can only take place when the overall evaluation score is available as described above in question #14.

For questions regarding the law, please contact Tennessee Department of Education General Counsel, Christy Ballard at 615.741.2921 or Christy.Ballard@tn.gov.