

What every member should know about...

YOUR TENURE ACT RIGHTS

What is Tenure?

A new teacher in a Michigan school district must serve a probationary period of four years. After four years satisfactory service in an appropriate position, a certificated teacher automatically attains tenure. If a teacher has already attained tenure with another Michigan school district, the probationary period is two years, but school districts have the discretion to waive some or all of that statutory two years.

The purpose of tenure is to provide a measure of job security for teachers, protection against arbitrary employment practices and political or personal patronage, and protection for academic freedom, fostering a classroom environment conducive to learning and open inquiry.

Tenure provides statutory protection for a teacher faced with discharge, demotion, or an unpaid suspension of more than three days. This protection is both procedural and substantive. The school board must follow the procedure mandated by the Tenure Act. The teacher has a right of appeal to the Tenure Commission. The school board must then prove at a Tenure Commission hearing that it had just cause to impose the penalty. The school board may suspend the teacher with pay pending the appeal process, but the teacher cannot be discharged unless and until the Tenure Commission upholds the board's decision.

The Probationary Period

The Tenure Act provides a statutory framework for the probationary period. School districts are required to provide an individualized development plan and evaluations at least yearly based on a minimum of two classroom observations. At least 60 days before the end of the school year the board must provide the probationary teacher with a written notice as to whether or not his or her work has been satisfactory. The notification need not be specific. Failure to provide the required individualized development plan, evaluations, or written notice will be considered conclusive evidence that the teacher's work is satisfactory. A satisfactory rating will entail automatic employment for the following year (unless terminated for economic reasons). A teacher rated satisfactory in the final probationary year must be granted tenure.

Upon receipt of a notice of non-renewal from the school board, the teacher has 20 days to file a Claim of Appeal with the Tenure Commission. The Tenure Commission's review is limited to the timeliness and adequacy of the notice; it cannot review the reasons for an unsatisfactory rating. A probationary teacher can generally be discharged for any reason as long as the discharge is not discriminatory or retaliatory.

Appeals to the Tenure Commission

If you have tenure and are discharged, demoted, or suspended without pay for more than three days, you have a right of appeal to the State Tenure Commission. The School Board does not have to hold a hearing with witnesses; it simply has to consider the charges and record a vote to proceed upon the charges. You must file a claim of appeal within 20 days of receiving notification from the School Board. This time limit is very strict and your appeal will be dismissed if not received in time. If you appeal to the Tenure Commission you cannot be discharged unless and until the school board's decision is upheld. In the meantime, the board can suspend you with pay. If you do not appeal, the school board's decision will stand.

The Tenure Commission will assign an Administrative Law Judge to conduct a hearing. The hearing may be public or private at the teacher's option. The teacher can and should be represented by counsel. Each party will present its case through the testimony of witnesses and the submission of documents. It is for the school board to prove on a balance of probabilities both that misconduct occurred and that the misconduct was just cause for the penalty imposed. Just cause includes incompetence, insubordination, unprofessional conduct, absenteeism, crimes against the Employer, intoxication and disruptive conduct. When incompetence is alleged, the Tenure Commission will consider factors such as the existence of clear professional standards, whether the standards were applied without discrimination, the number and quality of evaluations, the skill of the evaluator, whether specific suggestions and recommendations for improvement were made, whether the teacher was afforded the time and assistance to improve performance, and negative adverse effect on the students.

The Administrative Law Judge will issue a preliminary decision and order. Either party may then file exceptions in writing to any of the findings of fact or law to the Tenure Commission. The Tenure Commission may adopt, modify, or reverse the preliminary decision of the Administrative Law Judge. The whole process is designed to resolve appeals quickly with short time limits at every step, while preserving the teacher's rights to an impartial hearing.

A tenured teacher may be laid off for economic or administrative reasons. A Board's decision to lay off a teacher can be appealed only on the grounds that a reduction in personnel was not necessary, or was arbitrary, in bad faith, or subterfuge for discharge. The Tenure Act provides a right to recall to a suitable vacancy for three years after the layoff. The Tenure Act does not recognize seniority principles except that tenured teachers have priority over probationary teachers, and qualified teachers have priority over unqualified teachers. However, many collective bargaining agreements will have detailed provisions covering layoffs and recall, which can be enforced through the grievance procedure.

This is a broad overview of your rights under the Teachers Tenure Act. It is not intended to be a comprehensive guide. If you think you have an issue that might be covered by the Tenure Act, seek the advice of your union immediately.