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# Tenure

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Table of Contents

<b>Tenure .....</b>	<b>3</b>
<b>Private Acts of 1949 Chapter 384 .....</b>	<b>3</b>

# Tenure

## Private Acts of 1949 Chapter 384

**SECTION 1.** That in all counties of this State having a population of not less than 31,130 and not more than 31,135 according to the Federal Census of 1940, or any subsequent Federal Census, Civil Service or Permanent Tenure shall apply to all employees of the Boards of Education of said counties occupying the positions or principals, teachers, supervisors, clerks, secretaries, stenographers, and chief maintenance men; provided, that no persons occupying the positions of principals, teachers, or supervisors shall be deemed to be under civil service or permanent tenure unless they have been employed by the Board of Education of the counties coming within the provisions of this Act for the third year from the time of their appointment or employment; and, provided further, that no persons occupying the positions of clerks, secretaries, stenographers, or chief maintenance men shall be deemed to be under civil service or permanent tenure until after they have occupied such positions for a period of two years from the time of their appointment or employment.

**SEC. 2.** That, upon election, the Superintendent of Schools of any of the counties coming within the provisions of this Act shall have the right to recommend supervisors and successors thereof, for employment as such by the Board of Education of his county pursuant to TCA Section 49-214 (1), such supervisors and successors thereof to be recommended from certified personnel employed by the Board of Education of his county. In recommending and employing a supervisory staff, the Superintendent of Schools and Board of Education may replace a supervisory employee made subject to civil service or permanent tenure by the provisions of this Act, by changing such employee to a teaching position within the county. Such employee shall receive a salary appropriate to that teaching position, considering his degrees held and years of teaching and supervisory service. Provided, however, that the provisions of this section regarding the replacement of supervisors and the changing of such supervisors to a teaching position with a salary appropriate to that teaching position shall not apply to those who, at the date this law becomes effective, are currently tenured personnel. That in all other instances, neither the Board of Education, nor any member thereof, nor the Superintendent of Schools, nor any other official of the Board or Department of Education of any of the counties coming within the provisions of this Act, shall have any right to dismiss, discharge, demote or change any employee made subject to civil service or permanent tenure by the provisions of this Act, from one position or class to another position or class within the Department of Education of said counties at a reduced salary, unless and until charges as specified herein shall have first been filed and sustained against such employee in the manner hereinafter provided; provided, however, that in making up the school budget the Board of Education of any such counties ascertain that there is a surplusage of employees in the system, by reason of a natural diminution of the number of pupils in any school, or otherwise, the Board of Education of any such counties may reduce the number of employees in the system to the number required by first dismissing any or all of those who have not been appointed or employed for the third year in the case of principals, teachers, or supervisors, or for the period of two years in the case of clerks, secretaries, stenographers or chief maintenance men, from the time of their appointment or employment. If the reduction so made is inadequate or insufficient in the opinion of the Board of Education of any of such counties, the Board may then dismiss civil service employees without charges being filed or sustained, but such dismissals shall be made according to seniority of service.

As amended by:

Private Acts of 1982, Chapter 295

**SEC. 3.** That employees under civil service or permanent tenure by the provisions of this Act may be suspended, discharged from service, demoted or fined not exceeding an amount equal to one-twelfth of one month's salary, upon conviction of any crime, or for inefficiency, incompetency, neglect of duty, use of narcotics or intoxicating liquors, insubordination, immorality, conduct unbecoming to their profession, failure or refusal to pay his or her taxes, or failure or refusal to pay his or her honest debts, in the following manner:

- (a) The principal, or any ten patrons of the same school may file charges against any teacher subject hereinafter defined "against any such employee." Anyone filing such charges against any teacher and it shall be proved such charges are without foundation, said persons shall be subject to the liabilities and penalties as further set forth in this Act. Such charges shall be in writing but may be in any written form and no charge shall ever be dismissed because lacking in form. A copy of such charges shall be delivered to the employee so charged, and a certificate of the principal stating that he has delivered a copy of such charges shall be sufficient evidence of the fact of delivery. No charge shall ever be dismissed for insufficiency, and any charge may be amended at any time, but if the said charge is amended after the employee has testified, the employee shall be given a reasonable time in which to make defense to the amended charge. The principal of any school may

file charges against the principal of any other school, and the Superintendent of Schools of any such Board of Education or counties shall have the right to request in writing the principal of any school to prefer charges against any employee of the Board of Education of such county or counties, and upon the failure or refusal of any such principal to prefer such charges he or she shall be guilty of neglect of duty and may be proceeded against under the provisions of the civil service or permanent tenure laws of any such county coming within the provisions of this Act.

(b) After the filing of charges as hereinbefore set out, the employee charged shall be entitled to a hearing before the Superintendent of Schools. Pending this hearing, the employee may be suspended by the Superintendent, but charges shall be filed and a copy thereof furnished the employee within twenty-four hours after such suspension. The Superintendent of Schools shall hear all charges within five days after a copy of such charges have been furnished the employee so charged, unless the hearing is further postponed at the request of, or with the consent of, the employee under charge. At such hearing the employee under charge may appear and defend in his own right, or he may appear and defend by counsel. The Superintendent shall render his decision within ten days after the conclusion of the hearing, exclusive of the day of hearing.

(c) Any person dissatisfied with the decision of the Superintendent shall have the right to appeal therefrom to the Board of Education of such county, within three days thereafter, excluding the day upon which such decision is rendered. Upon written notice of such appeal being given to the Superintendent it shall be his duty to prepare a copy of the proceedings, evidence, etc., before him and transmit the same to the Board of Education of any such county, who shall hear the appeal on such record. No new evidence shall be introduced, but the Board may send the record back if they are of the opinion that additional evidence is necessary to reach a correct decision.

(d) The Superintendent shall issue writs of subpoena on request of either party to compel attendance of witnesses to testify at the hearing of such investigation; such subpoena shall be signed by him and be served by any Constable, the Sheriff or any Deputy Sheriff of said county, and shall be obeyed by the witnesses in the same manner as subpoenas issued by Justices of the Peace or the clerks of Common Law Courts of this State under the general statutes of Tennessee, and any failure to obey such subpoenas may be enforced in the same manner and to the same extent as is now provided by law for the enforcement or the punishment for failure to obey subpoenas issued by Justices of the Peace or the clerks of the Common Law Courts of this State. The cost of the service of such subpoenas by any lawful officer shall be the same as provided by existing laws for services of like character and shall be paid by the Board of Education of any such county. The Superintendent is authorized and empowered to administer oath to the witnesses and parties at such hearings. Such hearings shall be held at such places in said counties as may be designated by the said Superintendent and shall be public unless private hearings are agreeable to the Superintendent and employee so charged, regardless of whether such hearing is being conducted before the Superintendent or the Board of Education. The decision of the Board of Education shall be final; except that anyone who may be aggrieved by such order, judgment or decision of said Board may have such action reviewed by the Courts to the extent and in the manner provided by Sections 27-901 to 27-914 inclusive of the Tennessee Code Annotated.

As amended by: Private Acts of 1957, Chapter 90

**SEC. 4.** That if on final disposition of the case the employee so charged is not dismissed nor suspended on final hearing, any unpaid salary accruing during his or her suspension before final hearing shall be paid in full by the Board of Education of such county.

**SEC. 4-A.** That the provisions of this Act shall not apply to teachers living outside of the State of Tennessee. The probationary period begins for all teachers from the date this Act becomes law. All teachers coming under the poll tax age must have a poll tax receipt for the preceding year before signing a contract.

**SEC. 5.** That if any sentence, clause, or section of this Act be held unconstitutional, or the application of this Act be held unconstitutional, with respect to any person or circumstance, such holding shall not affect any other person or circumstance.

**SEC. 6.** That all laws or parts of laws in conflict with this Act be, and they are, hereby repealed, and that this Act take effect from and after January 1, 1950, the public welfare requiring it.

Passed: March 29, 1949.

**COMPILER'S NOTE:** The transfer of a high school principal from one high school to another with a reduction in salary but without timely notice or charges was termed a demotion and prohibited under this act in State, ex rel. John F. Taylor v. Rasnake, 209 Tenn. 229, 352 S.W.2d 427 (1961), and was further distinguished in State, ex rel. Pemberton v. Wilson, 481 S.W.2d 767 (1972).

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