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TEACHER GUIDE

Tenure, Termination and Transfer



The Alberta
Teachers' Association

Tenure, Termination and Transfer

Tenure

A teacher on a continuing contract has rights conveyed by law and is protected from unjust contract termination. A teacher on a probationary contract has similar rights up to the point the contract expires.

According to the *School Act*, a school board must prove that it acted "reasonably" in terminating a teacher's contract. Specifically, a board must follow statutory procedures, must adhere to the rules of natural justice and must have a valid reason for termination.

Termination of Employment

Reasons for a board to terminate a teacher's contract may include serious misconduct, incompetence, neglect of duty, conviction of a criminal offence and redundancy. If terminating a teacher's contract, the administration must issue a notice of intent to terminate, specifying the reasons in writing, and the teacher must be offered a hearing before the trustees or the superintendent. Principals do not terminate contracts.

Teachers should always contact the Association to discuss rights in their specific situation before resigning or accepting a termination. Upon request, a member of Association staff will help the teacher prepare for the hearing and will accompany or represent the teacher. Should the hearing be unsuccessful, the teacher will receive 30 days' written notice that his or her contract will be terminated. Such notice may not be given in the 30 days preceding or during a vacation period of 14 days or more.

After the hearing, the teacher has 21 days in which to file an appeal to a Board of Reference. The appeal must be made in writing to the minister (copy to the other party) and accompanied by a \$250 deposit payable by the teacher. After filing the appeal, the Association normally provides legal counsel.

Should a teacher wish to terminate an existing contract, he or she must provide the school board with 30 days' written notice unless the resignation is accepted by mutual consent. Thirty days' notice

cannot be given in the 30 days before or during a vacation period of 14 days or more.

Board of Reference

The Board of Reference is selected from a panel of labour arbitrators approved by the lieutenant-governor-in-council. The Board of Reference can make any investigation considered necessary, but must give both parties the opportunity to be heard.

Normally, both parties are represented by legal counsel, and all evidence is given under oath. The Board of Reference may decide to (a) support the teacher's appeal through reinstatement, (b) support the board's termination, (c) order a severance payment, (d) order the recovery of salary or (e) issue any other order the Board of Reference deems appropriate.

A settlement may be negotiated at any time before the Board of Reference decides the case.

Transfer

At any time during a school year, a superintendent may, upon giving seven days' notice in writing, transfer a teacher from one school to another.

Should the teacher object, he or she shall, within seven calendar days, request a hearing before the board. Upon request, the Association will provide assistance. If the teacher protests, the transfer is not effective until the hearing has taken place.

The board must give the teacher at least 14 days to prepare for the transfer hearing unless the teacher agrees in writing to an earlier date.

If, following the hearing, the school board decides to uphold the transfer and the teacher does not wish to comply, that teacher may resign after giving 30 days' notice to the board.