

The State of Teacher Tenure has Changed Drastically

By Jill Hay, PAGE General Counsel



As PAGE members are keenly aware, the state of teacher tenure or fair dismissal rights in Georgia for educators has drastically changed over the past several years. The main impetus to this change was that by June 30, 2015, each local system was required by law to notify the state department of education of its intentions to become a Charter, Strategic Waiver or Title 20/No Waiver school system. The basic differences among the three types of systems are as follows:

- A Strategic Waiver School System requests flexibility from certain state laws, rules and regulations in exchange for increased accountability through a contract with the State Board of Education. That contract establishes a framework on accountability, flexibility and consequences.
- A Title 20/No Waiver School System elects not to request flexibility in exchange for accountability, and therefore remains under all current laws, rules and regulations.
- A Charter School System is granted a general waiver exempting it from most state laws, rules and regulations.

WHAT TENURES MEANS AND WHO STILL HAS IT

Under Title 20 of our current state law, there is a provision known as the Fair Dismissal Act (FDA). Once a teacher has signed a fourth-consecutive, full-year, full-time contract by the same employer, he or she enjoys a standing commonly known as “tenure.” Acquiring tenure rights simply means that one has a right to expect continuous employment in that school system. In other words, the school system must renew the tenured teacher’s contract year after year unless good cause to non-renew can be shown in a hearing that is afforded to the teacher under the FDA.

Given the recent changes in Georgia law and in the wake of the *Day v. Floyd County Board of Education*, 333 Ga. App. 144 (2015) decision, which we reported on a year ago, the status of tenure in these three different types of systems is as follows:

- Title 20/No Waiver School System:

Teacher tenure exists under the FDA, which remains unchanged.

- Strategic Waiver School System: Teacher tenure exists under the FDA as long as the system did not request flexibility from it through its contract with the state board.
- Charter School System: Teacher tenure under the FDA does not exist because the system has a general waiver from the law. Therefore, a charter system is not subject to the FDA unless the system’s charter explicitly states that the FDA applies.

BOTTOM LINE FOR OUR MEMBERS

As we approach the time of year for renewals and contract issuances, educators need to take note of the status of their school systems. Currently, there are only two systems in Georgia that are No Waiver School Systems: Buford City and Webster County. Therefore, all other systems are either Charter or Strategic Waiver school systems. The status of Strategic Waiver School Systems and what each district’s contract allows to be waived can be found online at: gadoe.org/external-affairs-and-policy/policy/pages/ie2.aspx. If you are in a Strategic Waiver School System, unless your district asked for flexibility from the FDA in its contract, then the FDA applies. If you are in a Charter School System, then the FDA does not apply and you must research your charter, local policies and contract to determine what due process or fair dismissal rights your system has adopted.

It is our hope that most Charter School Systems will adopt some form of fair dismissal rights for educators that would apply during the term of the one-year contracts, as well as adopt one for educators who have been employed in a district for a specified number of years as it relates to renewal of contracts.

It is extremely important to take note of these policies and determine what rights you would have when considering where you want to teach next school year and with which system you want to sign your next contract with. We know educators want to work for districts that value high-quality, loyal educators and that have policies that will assure fair treatment of their employees. ■

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