

## 49-5-406. Employment application, offer and acceptance.

---

- **(a) (1)** Each local board of education or director of schools, as appropriate, shall require all persons applying for a position as a teacher as defined in § 49-5-501, or for any other position requiring proximity to school children, to file, in writing, in advance of employment, on forms supplied by the commissioner of education or on forms provided by the local board of education or director of schools, as appropriate, an application stating whether the applicant:
  - **(A)** Has been convicted of a misdemeanor or a felony in this state or in any other state;
  - **(B)** Has been dismissed for any of the causes enumerated in § 49-2-203 or § 49-5-511; and
  - **(C)** Has or will provide a copy of a written resignation to the most recent local board where the person was employed at least thirty (30) days prior to the beginning date of the person's employment with the board to which application is being made; provided, that the thirty-day notice may be waived by the local board or director of schools, as appropriate, from which the person is resigning employment. The employing local board or director of schools, as appropriate, may rely upon the information submitted in writing by the applicant relative to the applicant's contractual or resignation status as being valid and accurate to meet the requirements of this section.
    - **(2)**
      - **(A)** Knowingly falsifying information required by subdivision (a)(1) shall be sufficient grounds for termination of employment and shall also constitute a Class A misdemeanor that must be reported to the district attorney general for prosecution.
      - **(B)** The provisions of subdivision (a)(2)(A) shall be conspicuously displayed on forms supplied for implementation of subdivision (a)(1).
      - **(C)** Language conspicuously displayed on such forms shall also advise applicants that the accuracy of the information may be verified by fingerprint and criminal history records check conducted by the Tennessee bureau of investigation pursuant to § 49-5-413(a).
    - **(3)** Subdivision (a)(1) shall not be construed or implemented to compel disclosure of a parking or moving traffic violation if the maximum sanction provided by law for the violation does not include a period of confinement.
- **(b)** Upon the initial employment of a teacher, the local board or director of schools, as appropriate, shall notify the person, in writing, of the person's employment and the conditions of employment. Upon receipt of the employment notification, the person shall have fourteen (14) days within which to accept or reject, in writing, the offered employment. From the date of the written acceptance, the person is considered to be under employment with the local board or director of schools, as appropriate, and is subject to all rights, privileges and duties of this title.
- **(c)** Each local board of education or director of schools, as appropriate, shall provide a copy of subsections (a) and (b) to each teacher upon the person's initial employment or return from leave.
- **(d)** Any person seeking employment in a state educational institution as a director of schools, principal, professor, teacher, tutor, instructor or any other person having in any way the custody and care of students of the public educational institutions of this state is required to make a full disclosure of any prior criminal record and any prior dismissals from employment for cause. A person who violates this subsection (d) commits a Class A misdemeanor. The person shall not be employed and, if employed despite a violation of this subsection (d), shall forfeit office.

**Tennessee Code Annotated § 49-5-409 outlines the responsibility of the district to notify you of the cessation of your contract within five (5) days following the last instructional day. They actually call it "continue in such service" which means it renews without contrary notice.**

## 49-5-409. Teachers -- Continuing contract law -- Termination of contracts.

---

- **(a)** Teachers in service and under control of the public elementary and high schools of this state shall continue in such service until they have received written notice from their board of education or director of schools, as appropriate, of their dismissal or failure of reelection.
- **(b)** The notice must be received within five (5) business days following the last instructional day for the school year to be applicable to the next succeeding school year; provided, that the director of schools may transfer any teacher from one (1) position to another at the director's option. Nothing contained in this section shall affect any rights that may have accrued, or may hereafter accrue, on behalf of any teachers or principals in any local school system under any law providing a tenure of office for the teachers and principals.

- **(c)** Nothing in this section shall prohibit a board from abolishing a position after June 15, for sufficient, just and nondiscriminatory reasons; provided, that the person holding the position is notified immediately in writing stating the reasons for abolishing the position and the person is entitled to the next position that the person is qualified to hold and that opens within the school system during the remainder of the school year. The determination of whether a teacher is qualified for an open position shall be made by the director of schools, and the teacher's most recent evaluations may be a factor in such determination.

**Integrated within the Tennessee statutes are ethically oriented obligations. As an applying teacher, you have a duty to disclose material facts related to competency and qualifications, which is all the more reason to obtain that reference from your former school.**

#### 49-5-1004. Educator's obligations to the education profession.

---

- **(a)** The education profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service. In the belief that the quality of the services of the education profession directly influences the nation and its citizens, the educator shall exert every effort to raise professional standards, to promote a climate that encourages the exercise of professional judgment, to achieve conditions which attract persons worthy of the trust to careers in education, and to assist in preventing the practice of the profession by unqualified persons.
- **(b)** In fulfillment of this obligation to the profession, an educator shall not:
  - **(1)** Deliberately make a false statement or fail to disclose a material fact related to competency and qualifications in an application for a professional position;
  - **(2)** Misrepresent the educator's professional qualifications;
  - **(3)** Assist entry into the profession of a person known to be unqualified in respect to character, education, or other relevant attribute;
  - **(4)** Knowingly make a false statement concerning the qualifications of a candidate for a professional position;
  - **(5)** Assist a noneducator in the unauthorized practice of teaching;
  - **(6)** Disclose information about colleagues obtained in the course of professional service unless the disclosure serves a compelling professional purpose or is required by law;
  - **(7)** Knowingly make false or malicious statements about a colleague; and
  - **(8)** Accept any gratuity, gift, or favor that might impair or appear to influence professional decisions or actions.

**Also, be careful when you resign, because if done improperly, you may lose tenure not only in your local district but throughout the state. See 49-5-508 below.**

#### 49-5-508. Breach of contract -- Effect on tenure.

---

- **(a)** A teacher shall give the director of schools notice of resignation at least thirty (30) days in advance of the effective date of the resignation. A teacher who fails to give such notice, in the absence of justifiable mitigating circumstances, shall forfeit all tenure status under this part; provided, that the board may waive the thirty (30) days' notice requirement and permit a teacher to resign in good standing.
- **(b)** Any teacher who breaks a contract with a board of education without a justifiable reason as listed in subsection (c) shall not be given permanent tenure status in any other school system in this state, until such teacher has met all of the requirements in such system for attaining permanent status plus the serving of five (5) continuous years in lieu of the three (3) continuous years required in § 49-5-503; provided, that the local board of education against which the teacher has broken a contract informs the commissioner of education of the breach of contract and requests the commissioner to so notify all local boards of education in this state. The local board of education may later inform the commissioner that it is no longer holding the breach of contract against the teacher, in which event the local board of education shall request the commissioner to so notify all local boards of education in this state. If and when the local board of education informs the commissioner that it is no longer holding the breach of contract against the teacher, the penalty in this subsection (b) against the teacher shall immediately become ineffective, null and void.
- **(c)** The conditions under which it is permissible to break a contract with a local board of education are as follows:
  - **(1)** The incapacity on the part of the teacher to perform the contract as evidenced by the certified statement of a physician approved by the local board of education;
  - **(2)** The drafting of the teacher into military service by a selective service board; or
  - **(3)** The release by the local board of education of the teacher from the contract that the teacher has entered into with the local board of education.