

# Frequently Asked Questions

## Tennessee Teacher Tenure

### **1. How do teachers become eligible for tenure in Tennessee?**

For a director of schools to recommend a teacher be granted tenure by the local board of education, the teacher must first be eligible under the law. Pursuant to T.C.A. § 49-5-503, any teacher who meets the following requirements is eligible for tenure status:

- (1) Has a degree from an approved four-year college or any career and technical teacher who has the equivalent amount of training established and licensed by the state board of education;
- (2) Holds a valid teacher license, issued by the state board of education, based on training covering the subjects or grades taught;
- (3) Has completed a probationary period of five (5) school years or not less than forty-five (45) months within the last seven-year period, the last two (2) years being employed in a regular teaching position rather than an interim teaching position; and
- (4) Has received evaluations demonstrating a level of overall effectiveness (LOE) of "above expectations" or "significantly above expectations" as provided in the evaluation guidelines and rules adopted by the state board of education pursuant to § 49-1-302, during the last two (2) years of the probationary period; provided, however, that a teacher who has met all other requirements for tenure eligibility but has not acquired an official evaluation score during the last one (1) or two (2) years of the probationary period due to an approved extended leave; transfer to another school or position within the school district; unavailable data due to the cancellation of Tennessee Comprehensive Assessment Program (TCAP) tests as a result of the COVID-19 pandemic; or invalidated data due to a successful local level evaluation grievance pursuant to § 49-1-302(d)(2)(A) may utilize the most recent two (2) years of available evaluation scores achieved during the probationary period to meet the provisions of this subdivision(4).

### **2. Which components of the evaluation are used to determine tenure eligibility?**

The LOE, also referred to as the final or official evaluation score, is one measure used to determine tenure eligibility. LOE scores combine student achievement, growth, and qualitative measures.

### **3. When a teacher is eligible for tenure, how may a local board of education grant tenure?**

The director of schools and the local board of education both have required roles in granting tenure to an eligible teacher. First, T.C.A. § 49-2-301(b)(1)(j) requires the director of schools to "recommend to the board teachers who are eligible for tenure or notify such teachers of their failure of reelection pursuant to § 49-5-409." T.C.A. § 49-2-203 (a)(1) then requires the local board of education to "elect, upon the recommendation of the director of schools, teachers who have attained or are eligible for tenure."

Additionally, T.C.A. § 49-5-504(b) provides that once a teacher is eligible for tenure, “the teacher shall be either recommended by the director of schools for tenure or nonrenewed provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.”

**4. *May exceptions be made for teachers who do not have an LOE during the last two (2) years of their probationary period?***

Yes, but only under certain specific circumstances. T.C.A. § 49-5-503(4) authorizes a teacher who has met all other requirements for tenure eligibility but has not acquired an official evaluation score during the last one (1) or two (2) years of the probationary period due to an approved extended leave; transfer to another school or position within the school district; unavailable data due to the cancellation of TCAP tests as a result of the COVID-19 pandemic; or invalidated data due to a successful local level evaluation grievance pursuant to § 49-1-302(d)(2)(A) may utilize the most recent two (2) years of available evaluation scores achieved during the probationary period to meet the LOE requirements for tenure eligibility.

**5. *May a teacher serving the 4th or 5th year of the probationary period in the 2020-2021 school year become eligible for tenure even though the teacher did not have an LOE during the 2019-2020 school year due to the cancellation of the TCAP tests as a result of the COVID-19 pandemic?***

Yes, but only under certain specific circumstances. Due to the cancellation of TCAP tests in the 2019-2020 school year, no teacher had an LOE for that year. Prior to the passage of Chapter 2 of the Public Acts of 2021 (PC 2) during the 1st Extraordinary Session of the 112th General Assembly, teachers serving the 4th or 5th years of their probationary period would not meet the requirement for tenure eligibility of having evaluations demonstrating an LOE of "above expectations" or "significantly above expectations" during the last two (2) years of the probationary period.

PC 2 revised T.C.A. § 49-5-503(4), to allow a teacher who has met all other requirements for tenure eligibility but has not acquired an official evaluation score during the last one (1) or two (2) years of the probationary period due to unavailable data due to the cancellation of TCAP tests as a result of the COVID-19 pandemic to utilize the most recent two (2) years of available evaluation scores achieved during the probationary period to meet the LOE requirements for tenure eligibility.

[Example 1: Teacher in 5th year of probationary period who does not nullify score in 2020-2021 school year](#)

The 2020-2021 school year is the 5th year of Ms. Johnson’s probationary period. The LOE scores for each year of her probationary period are reflected below:

Year 1: 2016-2017 - LOE - 3

Year 2: 2017-2018 - LOE - 4

Year 3: 2018-2019 - LOE - 5

Year 4: 2019-2020 - No LOE - testing cancelled based on the COVID-19 pandemic

Year 5: 2020-2021 - LOE - 5

Ms. Johnson is eligible for tenure at the end of her probationary period. Because testing was cancelled during the 4th year of Ms. Johnson's probationary period due to COVID-19 and she did not receive an LOE that year, the law allows her to utilize the most recent two (2) years of available LOEs achieved during her probationary period to meet the LOE requirements for tenure eligibility. Ms. Johnson is eligible for tenure based on her scores of five (5) in the 2020-2021 and 2018-2019 school years. Her director of schools may recommend her for tenure and her local board of education may vote to grant her tenure.

[Example 2: Teacher in 5th year of probationary period who does nullify score in 2020-2021 school year](#)

2020-2021 is the 5th year of Mr. Smith's probationary period. The LOE scores for each year of his probationary period are reflected below:

Year 1: 2016-2017 - LOE - 3

Year 2: 2017-2018 - LOE - 4

Year 3: 2018-2019 - LOE - 5

Year 4: 2019-2020 - No LOE - testing cancelled based on the COVID-19 pandemic

Year 5: 2020-2021 - LOE - 3 (but he nullified his score, so it is not available)

Mr. Smith is eligible for tenure at the end of her probationary period. Mr. Smith nullified his LOE in 2020-2021 pursuant to the Department of Education's process so that score is deemed unavailable. However, because testing was cancelled in 2019-2020 due to COVID-19, the law allows Mr. Smith to utilize the most recent two (2) years of available LOEs achieved during his probationary period to meet the LOE requirements for tenure eligibility. Based on his LOE scores in 2017-2018 and 2018-2019, he is eligible for tenure after serving the 5th year of his probationary period in 2020-2021.

[Example 3: Teacher in 4th year of their probationary period in 2020-2021 who will serve the 5th year of their probationary period in the 2021-2022 school year](#)

The 2021-2022 school year is the 5th year of Ms. Jones' probationary period. The LOE scores for each year of her probationary period are reflected below:

Year 1: 2017-2018 - LOE - 4

Year 2: 2018-2019 - LOE - 4

Year 3: 2019-2020 - No LOE - testing cancelled based on the COVID-19 pandemic

Year 4: 2020-2021 - LOE - 4 (but she nullified her score, so it is not available)

Year 5: 2021-2022 - LOE - 5

Ms. Jones is not eligible for tenure at the end of her probationary period in 2021-2022. Ms. Jones nullified her LOE in 2020-2021. T.C.A. § 49-5-503(4) only allows a teacher to utilize the most recent two (2) years of available evaluation scores achieved during the probationary period to meet the LOE requirements for tenure eligibility if the teacher has met all other requirements for tenure eligibility but has not acquired an official evaluation score during the last **one (1) or two (2) years of the probationary period** due to:

- Unavailable data due to the cancellation of TCAP tests as a result of the COVID-19 pandemic;
- An approved extended leave;
- Transfer to another school or position within the school district; or
- Invalidated data due to a successful local level grievance pursuant to T.C.A. § 49-1-302(d)(2)(A).

The cancellation of TCAP tests due to the COVID-19 pandemic occurred during the 3rd year of Ms. Jones' probationary period. She does not meet any of the other requirements of the law to be eligible to utilize her most recent two (2) years of available evaluation scores during the probationary period, so the law does not authorize her to utilize prior LOE scores for tenure eligibility. If she had not nullified her 2020-2021 year score of four (4), she would have been eligible.

Alternatively, if Ms. Jones had not nullified her LOE score in Year four (4) (2020-2021), but rather had been on an approved maternity leave during the 2020-2021 school year, or if she had invalidated her 2020-2021 LOE score due to a successful local level grievance, then she would be eligible under the law to utilize her most recent two (2) years of LOE scores from 2018-2019 and 2017-2018 to become eligible for tenure.

**6. Does the five-year probationary period need to be served consecutively?**

No. The five (5) years do not have to be consecutive but must be served within a seven-year period.

**7. What is the deadline for local boards of education to make tenure decisions?**

T.C.A. § 49-5-409 requires nontenured teachers be notified that their contract will not be renewed for the next school year within five (5) business days following the last instructional day for the school year. This is generally referred to as "nonrenewal." Tenure decisions are separate from nonrenewal decisions and may only take place upon a teacher becoming eligible for tenure. Tenure decisions cannot be made until all information required to be used to determine a teacher's eligibility, including an LOE for the year, is available.

**8. Can teachers who received tenure after July 1, 2011, lose tenure status?**

Yes. Pursuant to T.C.A. § 49-5-504(e), any teacher who, after acquiring tenure status, receives two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of "below expectations" or "significantly below expectations," as provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302, **shall** be returned to probationary status by the director of schools until the teacher has received two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of "above expectations" or "significantly above expectations."

**9. *May teachers who were granted tenure prior to July 2011 lose tenure based on evaluations?***

No. T.C.A. § 49-5-504(f) prohibits teachers who were granted tenure prior to July 1, 2011, from being returned to probationary status based on evaluations. However, teachers who were granted tenure prior to July 2011 could be terminated for inefficiency as provided in T.C.A. § 49-5-511(a)(2). "Inefficiency" is defined by § 49-5-501(6) to include, "having evaluations demonstrating an overall performance effectiveness level that is "below expectations" or "significantly below expectations" as provided in the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302."

**10. *Can a teacher who loses tenure status due to poor evaluations ever regain tenure?***

Yes. T.C.A. § 49-5-504(e) provides that when a teacher who has returned to probationary status receives two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of "above expectations" or "significantly above expectations," the teacher is again **eligible** for tenure and shall be either recommended by the director of schools for tenure or nonrenewed provided, however, that the teacher cannot be continued in employment if tenure is not granted by the local board of education.

**11. *Can a teacher be rehired after five (5) years if they have never been eligible for tenure?***

Yes. T.C.A. § 49-5-504 (b) provides that once a teacher is **eligible** for tenure, "the teacher shall be either recommended by the director of schools for tenure or nonrenewed provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education." However, a teacher may continue teaching on a year-to-year contract as a probationary teacher until the teacher is eligible for tenure. This could continue indefinitely if the teacher never meets all of the eligibility requirements for tenure.

**12. *If a nontenured teacher transfers from one local education agency (LEA) to another, may the new LEA count the probationary years served at the previous LEA when calculating whether the five-year probationary requirement has been met by the teacher?***

Yes. T.C.A. § 49-5-504 (a) states that, "if a teacher transfers from one LEA in this state to another LEA, the LEA from which the teacher transfers shall send to the LEA to which the teacher transfers the results of the teacher's last five (5) evaluations or the results of all evaluations, if fewer than five (5) are available."

Additionally, the statute also provides that "a transferring teacher who is tenured or a transferring teacher who is nontenured and has five (5) or more years of prior service shall serve the regular probationary period in the new LEA, unless the local board of education, upon the recommendation of the director of schools, waives the probationary period requirement and grants tenure status or shortens the probationary period." Finally, the law states that, "if a nontenured teacher who does not have five (5) years of prior service transfers to an LEA, then tenure shall not be granted until the teacher has served at least five (5) years when service in both LEAs is counted."

**13. *May an LEA waive the probationary period and grant tenure upon employment to a teacher who previously attained tenure in another LEA?***

Yes, but tenure is not automatically transferable. It is a director of schools and local board of education decision. See the answer to question 11.

**14. *Can a teacher who transfers to a new LEA and is allowed by the new LEA to transfer tenure earned in the previous LEA ever lose tenure status?***

It depends on when tenure was originally granted. A teacher who was granted tenure originally prior to July 1, 2011, and then is authorized to transfer their tenure status to a new LEA, may not lose tenure status. However, a teacher who is granted tenure after July 1, 2011, and then is authorized to transfer their tenure status to a new LEA is subject to the requirements in T.C.A. § 49-5-504(e) for maintaining tenure status. Such teacher shall be returned to probationary status after receiving two (2) consecutive years of evaluations demonstrating an overall performance effectiveness level of “below expectations” or “significantly below expectations,” as provided by the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302.

**15. *What happens to a teacher’s tenure status if the teacher resigns in good standing and returns to the local education agency (LEA) at a later date?***

T.C.A. §49-5-504 provides that a teacher who has been awarded tenure status in an LEA, whether that was before or after July 1, 2011, and later resigns from the LEA, shall serve a two-year probationary period upon reemployment by the same LEA, unless the probationary period is waived by the board of education upon request of the director of schools. Upon completion of the two-year probationary period, the teacher shall be eligible for tenure and shall be either recommended by the director of schools for tenure or nonrenewed provided, however, that the teacher cannot be continued in employment if tenure is not granted by the board of education.

**Contact Tennessee Department of Education General Counsel Christy Ballard at 615.741.2921 or [Christy.Ballard@tn.gov](mailto:Christy.Ballard@tn.gov) for questions.**