

How to Fire A Teacher

Changes in law aren't needed to
immediately rid a school system of
underperforming faculty

The Myth

“Teachers earn tenure – a lifetime guarantee of employment – after just three years of satisfactory evaluations.”

Terminology is Important – Florida Does Not Have “Tenure” in K-12

- Only in Hillsborough, Volusia and Duval Counties may teachers earn “tenure” pursuant to special acts of the Legislature
- “Tenure” is a statutorily created permanent status which may not be removed except in accordance with the statute
- In 1982, “tenure,” which existed in the form of never-ending continuing contracts, was abolished for public school teachers in Florida (Chapter 82-242, Laws of Florida)
- All other public school teachers serve pursuant to professional service contracts which must be annually reviewed and are subject to annual non-renewal decisions (Section 1012.33, Florida Statutes) based upon performance (primarily on student progress)

The Current Legal Requirements

Read the Law – Disregard the Myth

- During the first 3 years of probationary employment (which a School Board may extend to 4 years):
 - A teacher may be terminated for any reason or no reason during the first 97 days (half year) of the first year
 - [Section 1012.33(3)(a)4, Florida Statutes]
 - At the end of each of the probationary years, a teacher may be terminated for any reason or no reason
 - [Section 1012.33(3)(a)2, Florida Statutes, requiring 3 years of probationary contracts (which may be extended by a School Board to 4 years)]
 - There is no process available to a teacher under Florida law to contest such action [Lake County Education Association v. School Board of Lake County, 360 So. 2d 1280, 1285 (Fla. 2nd DCA, 1978)]

Current Law Allows for Immediate Removal of an Incompetent Teacher

Read the Law – Disregard the Myth

- An incompetent teacher may be immediately removed from the classroom
 - Section 1012.33(6)(a), Florida Statutes [provides that a teacher “may be suspended or dismissed at any time” (emphasis added) for “just cause,” defined in Section 1012.33(1)(a), Florida Statutes, to include “incompetency”]

The Statutory Dismissal Process Can Be Swift

Read the Law – Disregard the Myth

- The current legal process to remove an incompetent teacher [Section 1012.33(6)(a), Florida Statutes] is not complex and provides that:
 - Any teacher may be immediately, summarily removed from the classroom and suspended by the School Board without pay
 - Written notice must be provided to the teacher listing the reasons for the action taken for removal from the classroom and termination (tell them why they are being fired)
 - The teacher has 15 days to contest the reasons which are provided
 - If requested within the 15 day period, the teacher is entitled to a hearing before the School Board or an administrative law judge (at the School Board's choice) within 60 days (during which time the teacher remains suspended without pay and out of the classroom) to challenge the reasons for dismissal

Student Performance is the Measure

Read the Law – Disregard the Myth

- In firing a teacher, student performance is the key criteria:
 - The assessment procedure for instructional personnel must be primarily based on the performance of students [Section 1012.34(3), Florida Statutes]
 - Annual assessments “must primarily use data and indicators of improvement in student performance assessed annually” [Section 1012.34(3)(a), Florida Statutes]
- Elimination of the requirement for cause to dismiss will not improve education – it will simply allow administrators to shirk their responsibilities to assess performance and to instead “play favorites” in retaining staff

Current Law Requires Addressing Marginal Teacher Performance

- Current law [Section 1012.33(3)(e) and (f), Florida Statutes] requires remediation of a teacher who has minor performance problems which do not elevate to the level of incompetence
 - If a performance evaluation identifies weaknesses, the Superintendent of Schools is required to take action:
 - Notify the teacher of the performance deficiencies
 - Provide assistance to remediate the identified performance deficiencies during the next school term
 - If the deficiencies are not corrected, terminate the teacher

Teachers Must Be Assessed Annually

- Current law describes the assessment procedures which must be followed:
 - An assessment must be completed at least once each year [Section 1012.34(3)(a), Florida Statutes]
 - If an employee is not performing satisfactorily, the evaluator must:
 - Meet with the employee to discuss deficiencies and provide assistance
 - Place employee on probationary status for 90 days
 - If performance is not improved, the Superintendent can recommend termination of the teacher to the School Board
 - [Section 1012.34(3)(d), Florida Statutes]

Why the Myth Persists

- The cry for “tenure reform” emanates from groups complaining about laws which don’t permit the quick and relatively simple process of firing a nonperforming teacher – not a problem under Florida law
- Principals don’t like to fire teachers
 - If there is an incompetent teacher in a classroom, however, there is then an incompetent administrator in charge of the school
- Administrators have been reduced in number and tasked with more work
 - They don’t have the time to effectively evaluate or assist teachers

The Law is Not the Problem

If it is the intent of the Legislature to further demoralize educators by making their continued employment subject to the whim and caprice of a school administrator, rather than basing retention decisions on student performance and the other assessment factors prescribed in current law, then the elimination of due process contained in the “reform” legislation (currently Senate Bill 6) will accomplish that goal