

# SM SCHOOL DISTRICT: TEACHER PROTECTIONS & BENEFITS



## State Law Protects Teachers' Positions, Pay, & Benefits

TN State Law: "creation of a city school system shall not impair, interrupt or diminish the rights and privileges of a then existing teacher".<sup>1</sup>

"Rights and privileges as used in this section [of the law], includes, but is not limited to, salary, pension or retirement benefits, sick leave accumulation, tenure status and contract rights, whether granted by statute, private act or governmental charter."

Teachers maintain their salary level, pension/retirement benefits, accumulated sick leave, tenure, and step increases.

## State Law: Superintendent Controls Teacher Hiring... No Role for School Board & Town Council<sup>2</sup>

Function	Town Council	Board	Superintendent
Hiring of Superintendent	Approves Budget	Hires	n/a
Hiring of Teachers	No Role	No Role	Decides
Teacher Assignments	No Role	No Role	Decides
Teacher Salaries & Contracts	Approves Budget	Prepares Budget and Approves	Hires
Teacher Tenure	No Role	Approve	Recommends

	Tenured Teachers	Non-Tenured Teachers
Need to Reapply	Possible but not practical <sup>3</sup>	Possible but not practical <sup>3</sup>
Keep Position	Yes	At Superintendent Discretion
Salary	Maintained at least at the same level	Maintained at least at same level
Tenure	Maintained	n/a
Pension/Retirement	Maintained	Maintained
Step Increases	Yes, current contract rights maintained until contract expires	Yes, current contract rights maintained until contract expires
Accumulated Sick Leave	Maintained	Maintained

<sup>3</sup> **From the SSVC Report:** "Theoretically it is possible for a new school board to require reapplication for all employees before being hired into the new school district. However, as was pointed out by the superintendents in Shelby County, this approach would make no sense, and was strongly discouraged by the attorney representing the Memphis municipalities, as it would undermine stability and confidence in the new school board and administration. While the SSVC cannot guarantee what a school board would decide to do in this situation, it seems highly improbable that employees would not be offered the opportunity to remain in their current positions in the schools where they worked before the separate school district was created."

"A provision for retention bonuses has been included in the projected Year 1 budget developed by the SSVC, under the category of startup costs. It is anticipated that a bonus will provide an incentive to keep teachers in the same schools, which in turn will be advantageous in having as little turnover as possible in a time of transition"

"[Note: in a previous progress report, we stated that teachers would be required to apply to retain their positions and tenure. This statement was in error, and was based upon an erroneous statement in the report prepared by Southern Educational Strategies for the City of Bartlett. All that was required in each of the six Shelby County municipal school districts was a letter of intent.]"

## Regarding Teacher Healthcare Benefits from the SSVV Report:

"In order to ensure that there would be adequate funding so that employee health insurance would not be diminished, the SSVV used several resources to research this important benefit. The Memphis municipalities budgeted the cost of their health insurance benefits at approximately \$7,500 per employee. Other small districts across Tennessee were also used for reference and comparison to ensure the SSVV's budgeted amount was in line with or higher than districts of similar size. HCDE currently budgets health benefits at \$9,500 per employee for a high end benefits package. **The SSVV budgeted \$10,590 per employee, which was more than \$1,000 per employee higher than HCDE or any other district used for comparison, in an effort to account for a high end benefits package for a smaller employee base.** Furthermore, there is adequate surplus/flexibility in the budget to allow for further unexpected variations in this expense."



## Footnotes to Key Legal References:

### **<sup>1</sup>Tenn. Code Ann. § 49-5-203 Change in school organization -- Teacher's rights preserved.**

**(a)** The change in the governmental structure of a school system or institution through the process of annexation, unification, consolidation, abolition, reorganization, transfer of the control and operation of a school system or institution to a different type governmental structure, organization or administration, or creation of a city school system shall not impair, interrupt or diminish the rights and privileges of a then existing teacher; and such rights and privileges shall continue without impairment, interruption or diminution.

**(b)** If the teacher becomes the employee of another school system or institution as a result of a change in the governmental structure, then the rights and privileges of the teacher shall continue without impairment, interruption or diminution as obligations of the new government, organization or administration.

**(c)** "Rights and privileges," as used in this section, includes, but is not limited to, salary, pension or retirement benefits, sick leave accumulation, tenure status and contract rights, whether granted by statute, private act or governmental charter.

### **<sup>2</sup>Tenn. Code Ann. § 49-2-203 Boards of Education: Duties and powers.**

**(a)** It is the duty of the local board of education to:

**(1)** Elect, upon the recommendation of the director of schools, teachers who have attained or are eligible for tenure and fix the salaries of and make written contracts with the teachers;

**(14)** (A) Notwithstanding any other public or private act to the contrary, employ a director of schools under a written contract of up to four (4) years' duration, which may be renewed...The school board is the sole authority in appointing a director of schools;

**(4)** Permit school buildings and school property to be used for public, community or recreational purposes under rules, regulations and conditions as prescribed from time to time by the board of education;

**(14)** Cooperate with community organizations in offering extended learning opportunities;

### **<sup>2</sup>Tenn. Code Ann. § 49-2-301 Director of schools.**

**(b)** (1) It is the duty of the board of education to assign to its director of schools the duty to:

**(J)** Recommend to the board teachers who are eligible for tenure or notify such teachers of their failure of reelection pursuant to § 49-5-409;

**(K)** Recommend to the board salaries for teachers in accordance with the salary schedule and the salaries and wages of all other employees nominated by the director of schools;

**(L)** Assign teachers and educational assistants to the several schools;

**(EE)** Within the approved budget and consistent with existing state laws and board policies, employ, transfer, suspend, nonrenew and dismiss all personnel, licensed or otherwise, except as provided in § 49-2-203(a)(1) and in chapter 5, part 5 of this title;

**(FF)** All persons who are employed in a position for which no teaching license is required shall be hired at the will of the director of schools. The local board of education shall develop a policy for dismissing such employees;