

# The TRUTH about TENURE

It's maligned, misunderstood, and myth-ridden. So what IS teacher tenure, really? Read on.

In Montana, k-12 teachers are the only employees with a three-year probation period. During that time, they can be fired for no reason, with no explanation. All other employees have a probation period of a few months to a year.

*Editor's note:* This article was inspired by a young Montana teacher and friend who informed me with assurance that tenure gives teachers “a job for life.”

Stunned, I said, “Who told you that?!” “One of my college professors,” she said. “Holy smoke,” I said. “That’s absolutely not true. All tenure means is that your employer has to give a good reason for firing you. But you can’t get tenure until you’ve completed three years of teaching in the same district. Until then, they can fire you without giving any reason at all. Every other employee in Montana has a probation period of six months to a year. For teachers, it’s *three years*.”

My young teacher friend thought this over. “Well,” she said hotly, “why do *we* have to wait so long?”

A question for another conversation. Meantime, this fact sheet is for that young teacher and the countless other people who are misinformed about tenure.

*Sanna Porte, MEA-MFT Communications Director*

## Myth & maligning

• In Montana and nationwide, myths about teacher tenure abound. Widespread misunderstanding has contributed to attacks on tenure from anti-public education politicians and others. (It doesn’t help that slanted films such as “Waiting for Superman” and “Won’t Back Down” portray tenure as a villain that keeps “bad” teachers in the classroom.)

• Several states have passed laws abolishing or weakening teacher tenure. Some Montana legislators have tried to pass bills attacking teacher tenure. MEA-MFT stopped these attacks, thanks to thousands of our members who called and e-mailed legislators, telling them the truth about teacher tenure. But the attacks will continue.

• We have our work cut out for us to hang onto teacher tenure. So it’s important to understand what tenure is and isn’t.

## Tenure: just the facts

**1** **What’s in a name?** “Tenure” by any other name simply means that schools can’t fire teachers without a legitimate reason. That’s called “just cause” or “good cause.” Tenure requires administrators to notify teachers of performance problems and give them a fair hearing before firing them. That’s called “due process.”

• Almost all states have laws requiring school districts to follow fair procedures when dismissing experienced teachers. These laws are generally referred to as “tenure” laws.

• Montana’s k-12 teacher tenure law dates way back to 1913, when the state legislature allowed tenure for teachers hired for two consecutive years.

**2** **What’s the purpose of tenure?** Tenure simply ensures that employers can’t fire (terminate) teachers for personal or political reasons that have nothing to do with classroom effectiveness or integrity.

Without tenure, good teachers could be (and have been) fired for bogus reasons, including:

- Failing to start a school board member’s child on the basketball team;
- Displaying the “wrong” political yard sign;
- Being the “wrong” age or “wrong” gender, or attending the “wrong” church;
- Teaching a subject that a student, parent, or administrator considers too controversial;
- Voicing an opinion about a particular teaching method or curriculum choice;

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- Being a whistleblower on inappropriate conduct by an administrator;
- Refusing to alter a grade;
- Being more senior and more expensive to employ than younger teachers.

**3** **Teacher tenure is NOT a guarantee of a job.** Not for any period of time, let alone a lifetime, as some people claim.

• Tenure merely gives teachers the same protection that other employees have. But there's a big difference between teachers and other employees in Montana:

• Montana state law (the Wrongful Discharge Act) protects all employees except k-12 teachers from unfair dismissal after they pass a probation period, usually six months, sometimes up to a year.

• But it takes **three years** for a Montana k-12 teacher to get tenure! This means teachers, and only teachers, have a three-year probation period. All other employees, private and public sector, enjoy a probation period of a few months to a year.

• Until teachers sign their fourth consecutive contract with a single school district, they can be nonrenewed (terminated) for no reason and without a hearing.

• In effect, the person who bags your groceries gets "tenure" after a few months, while teachers have to wait three years.

• Every time a teacher moves to a new school district, he or she must start from scratch and earn the right to tenure protection all over again. (Three more years of probation!)

• If Montana got rid of tenure, teachers, alone among all other employees, would have no rights whatsoever when it comes to dismissal.

• Who would choose a career in teaching without these rights?

**4** **Tenure does NOT protect incompetent teachers.** It protects good teachers from unfair dismissal.

• Tenured teachers can be fired at any time if the school district can show good cause. "It's not hard to fire an incompetent teacher," explains former MEA-MFT Member Rights Director J.C. Weingartner. "But it's up to the school district to document the teacher's shortcomings." The school district's evaluation process must point out the teacher's deficiencies and outline what the teacher must do to correct the problems. It's not rocket science.

• **The problem is that many school administrators fail to evaluate teachers properly.** They fail to follow the process spelled out in the contract, says Weingartner. Some fail to evaluate at all. "If you're not evaluated, you can't correct a problem you don't know you have," he says.

• "MEA-MFT has never advocated for an incompetent teacher," Weingartner says. "We won't protect an incompetent employee, but we will protect the contract. If the contract says the employer has to evaluate employees twice a year, and the employer fails to do so, we have to enforce the contract for the sake of the rest of the employees."

**5** **If an administrator can show good cause for firing a teacher, the union can't save the teacher's job (and wouldn't if it could).**

• No one—not parents, not students, not school districts, not taxpayers, not teachers themselves, and certainly not teachers' unions—no one wants unskilled or ineffective teachers in any classroom.

• Getting rid of teachers' rights to a just and fair due process doesn't help anything or anyone.

**6** **Examples of good teachers getting fired for bad reasons:**

• A nontenured teacher in New York was fired for filing a grievance challenging his principal's decision not to discipline a student who had thrown books at the teacher during class.<sup>ii</sup>

• A nontenured teacher in Ohio was fired for selecting "controversial" books (*Fahrenheit 451* and *Siddhartha*) for her high school English class.<sup>iii</sup>

• In Alabama, a nontenured high school teacher was terminated for expressing concerns about the fairness of cheerleader tryouts.<sup>v</sup>

• A nontenured special education teacher who worked for a New York school was dismissed because she complained about discriminatory and illegal conduct toward the school's special needs students.<sup>vi</sup>

• In Michigan, a nontenured special education teacher was fired for complaining about the size of her teaching caseload.<sup>vii</sup>

• A nontenured special education teacher in Alabama was fired for complaining about the school district's violations of the Individuals with Disabilities Education Act.<sup>x</sup>

<sup>ii</sup> Weintraub v. Board of Educ. of City School Dist. of City of New York, 593 F.3d 196 (2d Cir. 2010).

<sup>iii</sup> Evans-Marshall v. Board of Educ. of Tipp City Exempted Village Sch. Dist., 624 F.3d 332 (6th Cir. 2010).

<sup>v</sup> Gilder-Lucas v. Elmore County Bd. of Educ., 186 F. App'x 885 (11th Cir. 2006).

<sup>vi</sup> Rodriguez v. International Leadership Charter School, 2009 WL 860622 (S.D.N.Y. 2009).

<sup>x</sup> Miller v. Houston County Bd. of Educ. 2008 WL 696874 (M.D. Ala. 2008).

**Spread the truth! Tenure makes it possible for good teachers to make teaching a career. And that's good for our kids.**