

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** probationary period. During that time, they can be fired for no reason, with no explanation. All other employees have a probationary period of a few months to a year.



A school board member in central Montana tells a parent that the school can't fire an ineffective teacher because "the union will sue us." A young teacher in western Montana says she believes tenure gives teachers "a job for life," because a college professor told her so. What gives?

- 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 recently passed laws abolishing or weakening teacher tenure. Others have tried. In Montana, the 2011 legislature saw several bills that attacked teacher tenure. House Majority Leader Tom McGillvray (R-Billings) fired a chilling salvo the very first day of the session, when he announced that his party was gunning for 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."

- All but three states have laws requiring school districts to follow fair procedures when dismissing experienced teachers. These laws are generally referred to as "tenure" laws but in fact, most states some other terminology refer to the status conferred by these laws by ("continuing contract," "fair dismissal," "professional status," etc.)

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

2 **What's the purpose?** 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, proven teachers could be (and are) 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;
- Being a whistleblower on inappropriate conduct by an administrator, another teacher or a student;

- Refusing to alter a grade;
- Being more senior and more expensive to employ than younger teachers.

(See real-life examples of good teachers without tenure being fired for ridiculous reasons on page 2.)

- Without tenure, teachers have no job protection at all.

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.

(Continued)

The Truth About Tenure - Page 2

- But there's a big difference between teachers and other employees: Montana state law (the Wrongful Discharge Act) protects all employees except k-12 teachers from unfair dismissal after they pass a probationary 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 teachers alone, have a *three-year* probationary period, while all other employees—private and public sector—enjoy a probationary period of a few months to a year.

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

- So 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 gets rid of tenure, then teachers, alone among all other employees, will have no rights when it comes to dismissal.

- Who could afford to choose a career in teaching without these rights?

4 Tenure does not protect incompetent teachers. Rather, it protects *competent* teachers from unfair dismissal.

- Tenured teachers can be terminated at any time if the school district is able to show good cause. “It’s not hard to fire an incompetent teacher,” explains 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 out-

line 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, using 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 rest of the employees.”

5 If an administrator can show good cause for firing, 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 not teachers’ unions—no one wants unskilled or ineffective teachers in any classroom,” wrote Mike Picking, president of the Great Falls Education Assoc., and MEA-MFT Field Consultant Jerry Rukavina in a 2011 joint letter to the *Great Falls Tribune*.

- “But the wholesale evaporation of a teacher’s right to a just and fair due process...does not resolve the issue.”

6 Recent examples of good teachers without tenure being 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.ⁱⁱ

- A nontenured teacher in Ohio was fired for selecting controversial books—*Fahrenheit 451* and *Siddhartha*—for her high school English class.ⁱⁱⁱ

- In Alabama, a nontenured high

school teacher was terminated for expressing concerns about the fairness of cheerleader tryouts.^v

- A nontenured special education teacher who worked for a New York charter school was fired because she complained about discriminatory and illegal conduct toward the school’s special needs students.^{vi}

- In Michigan, a nontenured special education teacher was fired for complaining about the size of her teaching caseload.^{vii}

- A nontenured special education teacher in Alabama was fired in retaliation for complaining about the school district’s violations of the Individuals with Disabilities Education Act.^x

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

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

^v Gilder-Lucas v. Elmore County Bd. of Educ., 186 F. App’x 885 (11th Cir. 2006).

^{vi} Rodriguez v. International Leadership Charter School, 2009 WL 860622 (S.D.N.Y. 2009).

^x Miller v. Houston County Bd. of Educ. 2008 WL 696874 (M.D. Ala. 2008).

(Much of the information on this fact sheet comes from Michael D. Simpson, National Education Association Office of General Counsel)

Spread the Truth

Please help combat the misinformation by spreading the truth about teacher tenure!

MEA·MFT

Public Schools, Public Service

1232 E 6th Ave., Helena, MT 59601
www.mea-mft.org