

## **Frequently Asked Questions Regarding Educators and Coronavirus/COVID-19 – Summer school**

**Question:** *Will a district have to make a new contract with its teachers if they wish for teachers to work beyond the district's school calendar for the 2019-2020 school year?*

**Response:** State law requires that all teachers have a written contract with their director of schools before entering upon their teaching duties. See, Tenn. Code Ann. § 49-5-408. Most Tennessee teachers have either a ten (10), eleven (11), or twelve (12) month contract for each school year. Even if a teacher does not execute a new contract every year, tenure and the continuing contract law dictate that teachers shall remain in their jobs until they have received written notice either from their board of education or director of schools, whichever is appropriate, of their dismissal or reelection. See, Tenn. Code Ann. § 49-5-409. In other words, even if a teacher is not presented with a new contract every school year, they remain under contract. If a school district asks a teacher to perform work beyond that teacher's contract term, the district will need to enter into a contract extension with the teacher. Teachers cannot be compelled to enter into contract extensions.

**Question:** *What does State law say about school calendars, length of term and teacher pay?*

**Response:** Absent a waiver, state law provides that public school system must maintain a term of no less than two hundred (200) days. Tenn. Code Ann. § 49-6-3004. Included in that minimum 200-day term are a minimum of 180 instructional days of not less than six and one-half (6.5) hours in length, though districts may extend their instructional days to at least seven (7) hours in order to accumulate up to 13 so-called stockpile days.<sup>1</sup> *Id.* Moreover, while state law provides that schools cannot start until August 1 each year, it also provides that each LEA's board of education has the option to vote to establish a year round or alternative calendar. *Id.* Therefore, any local school board has the potential to adopt a school term that begins prior to August 1, as well as one that extends year-round.

Whatever term the local school board adopts, and whatever length of school day the board adopts will not impact the amount or timing of payments they receive under the BEP as long as the LEA operates for the full term it adopts. *Id.* Furthermore, the length of term and length of day will not affect the compensation of any teacher employed for the length of that term. *Id.*

**Question:** *What does the law say about teacher duties and length of a teacher's work-day?*

**Response:** State law sets forth the specific duties of a teacher in Tenn. Code Ann. § 49-5-201. The duties all relate to the instruction of students, the supervision of educational assistants assigned to them, the keeping records of attendance, and the service as custodian of school property. A teacher is required to be on duty at least seven (7) hours per day as well as such other time the school administration may

---

<sup>1</sup> Of course, the Tennessee General Assembly waived the 180-day requirement when it enacted Public Chapter 652.

require. With that said, under the Professional Educator's Collaborative Conferencing act of 2011, Tennessee teachers have the right to enter into collaborative conferencing with their LEA's to conference terms and conditions of their employment, including those working conditions that are not already prescribed by law or rules. See, Tenn. Code Ann. § 49-5-608. Local affiliates of TEA are encouraged to take advantage of their ability to engage in meaningful collaboration with their school districts, especially now. The MOU that will result from such collaboration can cover teacher salaries, grievance procedures, Insurance, fringe benefits, and working conditions is a binding contract. See, Tenn. Code Ann. § 49-5-608.

**Question:** *What does the law say about a school district's ability to compel students to attend afterhours or summer school programs?*

**Response:** An LEA has authority to compel students to attend an afterhours or summer program of remedial instruction. See generally Tenn. Code Ann. § 49-6-3021. In order to be compulsory and, therefore, enforceable under the state's attendance and truancy laws, such remedial programming must be delivered at no cost to participants and avoid creating any transportation-related hardship for students. *Id.*

**Question:** *Could a teachers' refusal to accept a summer school or extended teaching opportunity result in a negative impact on the teacher or his/her evaluation?*

**Response:** Yes. The severity of the impact could be anywhere from having a poor rating on the professionalism rubric to an adverse-job action to just being treated less favorably. The kind of defense available (such as filing a grievance, filing a legal claim, etc.) will have to be made on a case-by-case basis. If there is an issue, UniServ staff and local leaders can assist members in determining whether the facts of their situations can be addressed locally or necessitate escalation to TEA Hotline or Legal Services for further review.