

Free tenure law and act 82 term paper example

[Business](#), [Employee](#)



\n[toc title="Table of Contents"]\n

\n \t

1. [Introduction](#) \n \t
2. [Comparing and Contrasting](#) \n \t
3. [References](#) \n

\n[/toc]\n \n

Introduction

In any democratic society, every citizen s entitled to equal basic rights and protection from the

Government. These rights are proposed through bills, formulated into Acts and entrenched in the constitution. In the education sector teachers rights are governed by several laws which if breached has dire consequences. For instance, In United States of America, The Civil Rights Act of 1964, protects teachers in both public and private institutions against sexual, racial or religious discrimination. Other enacted Acts are Age Discrimination in Employment Act of 1967 which protects teachers aged above 40years against age discrimination, Pregnancy Discrimination Act of 1978 which protects rights of pregnant teachers, Tenure law Act 82 and many other laws entrenched in the Education Chapter.

The term tenure has been used in various aspects . Tenure refers to a period in which a person occupies a job position or has possession of something valuable. The holder of the tenure is usually not the owner of the valuable or the permanent holder of the current position. For instance, the term tenure is frequently used in the land aspect where the owner may lease whole or

portion of his land to another person called the tenant. The contractual arrangement between the landholder and the owner were referred as the tenures. In public offices, the period in which a person serves a certain position is referred to as tenure. Tenure is formed through a legal process where legal elements of a contract are adhered. The agreement also bears the benefits and consequences in case of violation of the stipulated guidelines. (Mahwah and Lawrence, 2000)

In the academic sector, tenure refers an appointment of teacher or a faculty head for a period whose ending is not specified. This status protects the teacher from inappropriate dismissal and can seek redress through the courts in case the binding rules are violated. The tenure of any educationist is inscribed by a set of rules that are lawfully recognized under the tenure law. . (Mahwah and Lawrence, 2000)

The law sets stringent rules for termination for teachers whether they have tenure or not. The law stipulates the reasons for dismissal of an education professional and the legal procedures to be followed before a decision is made. These rules are usually written in school codes, court rules and also rules derive from the power of collective bargain by relevant stakeholders who deliberate on contentious issues . The agreement from collective bargain platform is endorsed to act as precedence in future. The law covers substantial reasons that could prompt dismissal of an educational officer or a low ranking teacher. As articulated under section 1112 of the law, some of these reasons are; Deliberate negligence of duties, persistent violation of school laws, physical or mental incapacitation and immorality. In case a teacher is to be dismissed, the administration must refer and act within the

guidelines of the law. (Levin, 2011)

Act 82 of 2012 became legally applicable in June 2012. The law restructures the current provisions to order the school administrators to ensure that employees are able to reporting instances of arrest or convictions of crime and transgression. Further the Act clarifies on the person who should undergo background scrutiny and the requirement that one member of staff be certified in CPR. The Act seeks to reduce the negligence by teachers who fail to inform their employers of their misfortunes beyond or within working hours, thus subjecting the school to undue suffering. (Pennsylvania Department of Education, April)

The Act adjusts the provisions of Act 24 to include a directive for employees to report circumstances of arrest or convictions of section III (e) within 72 hours if the happening of the event . The report should be filed on PDE form 6004. Beside s any other misdemeanors of first degree rating that were not considered in Section III (e) should be reported within the said provision. The Act states, “ If an employer rationally believes that an employee failed to report an arrest or conviction for any criminal activity rated as first degree, employers have the responsibility to urge employees to put forward a background check.” Within the provisions of Act 24, prospective employees were barred from any employment for a period of not less than 10 years from the period they are released from jail and five years in case of conviction of a second crime. Act 82 has amended the provisions to include the current employees who may be involved in any act that attains the threshold of a crime and misrepresents the code of conduct of the employing entity. The Act further states that every school district should have

profession in performing cardiopulmonary recovery tests during the school working hours. This Provision covers all institutions limited to cyber charter schools, vocational charter schools non-public and public schools and elementary institutions.

Comparing and Contrasting

Both provisions of the law revolve around the conduct of the employees and their employers in their places of work. Tenure law protects employees from arbitrary dismissal by their employees due to misconduct. It provides the employees a chance to defend their actions and be informed of the actions to be taken against them. Act 82 confines the employees to account for their acts by informing their employers their predicaments before and while employed. Both provisions provides affair platform for employees to tell their side of the story and the employers are guided by the law on the level of disciplinary action to be taken against the misdemeanor committed.

In tenure law, Provisions of dismissal of a teacher based on immorality defined immorality as conduct which contravenes the acceptable norms of a society and sets a bad precedence to the youths, whom the teacher is required to be a role model. (Mahwah and Lawrence, 2000) To sustain these allegations, the school district is required to prove the three elements stated above. The act stipulates immoral acts as issue of false statements, criminal activities such as terroristic threat, misappropriation of funds, writing peculiar letters to students, sexual harassment towards students and use of profane language and dressing inappropriately to expose body parts. Act82, section 5 require every employee to provide detailed information of his/her current criminal offences within the time of the event happening. . This is to

ensure evaluation to base the subject for dismissal. (Pennsylvania Department of Education, April)

Tenure law mandates school District board as the “controlling board”.

Likewise, Act82 mandates local districts to develop rating tools as require by the district board. Tenure law does not consider the dismissal of a teacher on performance grounds . Instead it highlights only misconduct as reason for dismissal . Act82 requires that an overall teachers evaluation will be based on a 50% evaluation rating on student performance in other activities and not limited on scores only (section1123). Further teachers shall be rated under three categories: Distinguished, Proficient, Needs improvement and Failing. Rating of Distinguished and proficient will be satisfactory to the board. No teacher shall be rated “Needs improvement” or “Failing” based on students score only. (Teacher Evaluation law).

Tenure law applies only to tenure teachers while Act82 applies to both tenured and non-tenured professional employees in traditional schools, intermediate units and schools that teach vocational training. (Act 82).

Tenure law requires that teachers will be evaluated annually. This evaluation will be based on class activities and students performance. If the teacher is rated ineffective or of low standard he or she shall be provided with an individualized development plan which shall be followed to make improvement. To complement this Law, (Tenure lawsec38. 93) Act 82 requires that teachers, principals and non-educational teachers shall be evaluated on an annual basis with Fifty percent evaluation covering students’ performance trend.

Tenure Law requires that charges against any teacher shall be made in

writing by the claimant to the controlling board, through the secretary. Copy of the charge shall be forwarded to the teacher. It will be the discretion of the board to dismiss or proceed with the charges within a period of 10 days (Sec38. 102) In contrast; Act 82 requires that all prospective and current teachers report any instances of arrest or conviction before or during their tenure. However, it does not stipulate the cause of action on those involved especially during their tenure.

Act82 only states about the employee reporting to the employer of any felony he or she may have committed before or during the tenure but does not stipulate the consequences of revealing such upon confirmation. In contrast, Tenure law states that misbehavior of any teacher is subject relieve of duty or responsibility and eventual dismissal from work. For instance the General assembly grants the school permission tom dismiss any teacher who perform an act that sustains the merit of deliberate abscond of responsibility even if he or she is a first time offender. While the Tenure law deals with only those wrong committed during ones tenure, Act 82 requires that current and prospective employees reveal their past and current activities that have resulted in misrepresentation of their entities inappropriately. (Wurmnest, 2000).

In my view, both provisions are very applicable especially to the current working system that has been infiltrated by bureaucracy and stringent rules that curtail freedom of expression. Employees are wrongly accused for wrongs committed by their bosses and subjected to arbitrary dismissal. Tenure law stipulates the main reasons that could lead to dismissal of an employee subject to prove of the guidelines provided in the Act. These

provisions of the law contribute significantly in the performance of the school. Teachers are cautioned against deliberate negligence of duties as this, upon fulfillment of basic guidelines attracts punishment not limited to dismissal from duty. In addition, the law protects students from sexual harassment by teachers and senior education officers as this attracts immediate dismissal upon proof. Besides, the courts requires that employees are rated before being dismissed on grounds of incompetency .

Incompetency ranges from physical inability to perform duties, lack of interest to teach in the stipulated mode of teaching and lack of sufficient knowledge on the subject.

I believe that the provisions have come of age and should be adopted in developing nations where the bureaucracy supersedes democracy in places of work. Employees are never given a chance to defend their acts and are dismissed without being informed of their rights as culprits. In tenure law, for one to be convicted, certain elements must be considered to assess the gravity of the matter and whether it is appropriate to attract the greatest punishment of dismissal. Act82 is imperative in cautioning teaching institutions from employees who have continued bad behavior in their previous tenures. The act requirement that prospective employees update their previous acts of felony forms an open ground for assessing the coherence of their duty performance and their bad acts. The school administration shall be informed on whether to admit or reject the prospective employee request for a job.

In conclusion, these laws should be subjected to frequent scrutiny to accommodate the current trend in the education sector especially the rapid

increase of pregnancy case among pupils. Intimate affairs between members of staff and the students should be another reason for dismissal that should be included in the law under very stringent consequences.

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