

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL**

**March 20, 2026**

**Opinion No. 26-04**

**Reduction-in-Force Provisions in Tenn. Code Ann. § 49-5-511(b)**

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Senator Kyle of Memphis submitted a series of eleven questions regarding the reduction-in-force provisions of Tenn. Code Ann. § 49-5-511(b). The questions are set forth below with the opinion following each question. Where more than one question covers the same topic, they have been combined.

**ANALYSIS**

**Question 1 and 2**

When a reduction in teaching positions becomes necessary within a Local Education Agency (LEA), what statutory rights are afforded to tenured teachers?

Does the most current version of the statute afford any protections to non-tenured teachers?

**Opinions 1 and 2**

Tennessee Code Annotated § 49-5-511(b), which sets forth procedures and rights when a reduction in force (RIF) becomes necessary, makes no distinction for tenured or non-tenured teachers; the same protections are afforded to both. That statute gives teachers the following statutory protections:

- (1) a dismissal due to a reduction in force is tied to level of effectiveness determined by performance evaluations under Tenn. Code Ann. 49-1-302;
- (2) the teacher must receive written notice of dismissal with full explanation of circumstances and conditions making dismissal necessary; and
- (3) certain teachers are placed on a reemployment list based on their effectiveness ratings.

It should be noted that tenured teachers may be dismissed only by the LEA. The authority to dismiss tenured teachers has not been delegated by statute to the director of schools. Tenn. Code. Ann. § 49-2-301(b)(1)(EE); *see Kelley v. Shelby Cnty. Bd. of Educ.*, 198 F. Supp. 3d 842, 853 (W.D. Tenn. 2016).

### **Question 3**

What are the key differences between the 2012 and 2014 versions of Tenn. Code Ann. § 49-5-511?

### **Opinion 3**

Which statutory differences are most important likely depends on the reader. Therefore, we are providing a full comparison of the two versions to the requester.

### **Question 4**

In the event of a Reduction in Force (RIF), may non-tenured teachers be displaced by tenured teachers?

### **Opinion 4**

Potentially yes. The LEA is empowered to dismiss teachers and non-licensed employees based on their “level of effectiveness,” which may result in non-tenured teachers being displaced by tenured teachers in a RIF situation. Tenn. Code Ann. § 49-5-511(b)(1).

### **Question 5**

Regarding Tenn. Code Ann. § 49-5-511(b)(4)(A), (B), what is the statutory interpretation of the term “preferred list” for employment? Since “preferred” is not explicitly defined in the Tennessee Code, does it take on its ordinary and natural meaning?

### **Opinion 5**

The phrases “the preferred list for employment” and “list for reemployment” appear in Tenn. Code Ann. § 49-5-511(b)(3) and (4) and are synonymous. To construe a statute,<sup>1</sup> “we must decide ‘how a reasonable reader, fully competent in the language, would have understood the text at the time it was issued.’” *State v. Deberry*, 651 S.W.3d 918, 924 (2022) (quoting ANTONIN SCALIA & BRIAN A. GARNER, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 33 (2012)). And we must give statutory words their “natural and ordinary meaning in the context in which they appear and in light of the statute’s general purpose.” *Ellithorpe v. Weismark*, 479 S.W.3d 818, 827 (Tenn. 2015) (cleaned up). Subsection (b)(3) refers to the “list for reemployment” on which certain teachers must be placed when dismissed due to a reduction of force. Subsection (b)(4) then refers to the terms of the employee’s “right to remain on the preferred list.” These two consecutive subsections plainly contemplate the same list.

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<sup>1</sup> The Tennessee Court of Appeals has construed the term “preferred list” on multiple occasions but only as to earlier versions of the statute. See *Lee v. Franklin Special Sch. Dist. Bd. of Educ.*, 237 S.W.3d 322 (Tenn. Ct. App. 2007). Effective July 1, 2014, subsection (b)(3) was amended to remove the phrase “in the first vacancy the teacher is qualified by training and experience to fill” after “list for reemployment.” Compare Tenn. Code Ann. § 49-5-511(b)(3) (2012) with § 49-5-511(b)(3) (2014). This amendment changed the fundamental purpose of the list and thus the interpretation of “preferred” in subsection (b)(4). Cases like *Lee* therefore have limited application to the interpretative task at hand.

Subsection(b)(3) requires that “[a] teacher rated in the three (3) highest categories based on evaluations pursuant to § 49-1-302” and dismissed due to a reduction in force, be placed on a list for reemployment. Subsection (b)(4) then requires that the teacher remain on the list until “accepting a bona fide offer for reemployment for a comparable position within the LEA” or “rejects four (4) bona fide offers for reemployment for comparable positions within the LEA.” The phrase “preferred list” describes the “list for reemployment,” and permits teachers to remain on the list until certain, enumerated conditions are met. *Id.* No distinction is made between tenured and non-tenured teachers. Nor can rank or order be attributed to the way teachers are selected from the list for comparable positions within the LEA for offers of reemployment.

The use of the undefined word “preferred” to describe the list of teachers in § 49-5-511(b)(4) indicates that teachers who receive the highest ratings on their evaluations under § 49-1-302 are to be considered more favorably over less effective teachers who are rated lower based on the same evaluations. *See Davis v. Reilly*, 683 S.W.3d 739, 743 (Tenn. 2024) (“When the statute does not define a term, we may look to authoritative dictionaries”); PREFERRED, BLACK’S LAW DICTIONARY (12th ed. 2024) (“Possessing or accorded a priority or privilege; favored”). Thus, the terms “list for reemployment” and “preferred list for employment” indicate that the teachers appear on this list because of their level of performance and should be favored by the LEA over less effective teachers.

Based on the foregoing analysis, the phrases “the preferred list for employment” and “list for reemployment” mean a list of teachers “rated in the three (3) highest categories based on evaluations pursuant to § 49-1-302,” regardless of tenure status, who should be considered for employment by the LEA over other candidates when filling comparable positions within the LEA. The preference given to employees on the “preferred list” in Tenn. Code Ann. § 49-5-511(b)(3) is not absolute, however, as that subsection preserves a director of schools’ broad discretion in determining how to fill vacancies, and “a principal may refuse to accept the placement or transfer of a teacher by the director of schools to the principal’s school.”

### **Questions 6 and 7**

Is it a statutory requirement that teachers be placed on the preferred list for employment at the time of their dismissal?

Are LEAs obligated under the statute to include non-tenured teachers on the preferred list for employment?

### **Opinions 6 and 7**

If certain conditions are met, yes. A teacher has a right to be included on the preferred list for employment only if “it becomes necessary to reduce the number of teaching positions or nonlicensed positions in the system because of a decrease in enrollment or for other good reasons” and that teacher is “rated in the three (3) highest categories based on evaluations pursuant to § 49-1-302” and “has been dismissed because of abolition of a position.” Tenn. Code Ann. § 49-5-511(b)(3).

### **Question 8**

Do tenured teachers listed on the preferred list have statutory priority or preferential rights to reemployment over nontenured teachers, including new hires, teachers on transitional licenses or waivers, or individuals employed without a valid teaching license?

### **Opinion 8**

No. Section 49-5-511 does not distinguish between tenured and nontenured teachers.

### **Question 9**

Can tenured teachers be dismissed prior to the conclusion of the academic year as a result of a Reduction in Force?

### **Opinion 9**

Yes. The board is empowered to dismiss teachers—tenured or otherwise—“[w]hen it becomes necessary to reduce the number of teaching positions” due to an enrollment decrease or other good reasons. Tenn. Code Ann. § 49-5-511(b)(1). The statute does not address when the reduction in force occurs.

### **Question 10**

Is the Director of Schools required to assess the competence, capability, and suitability of a teacher who has been placed on the preferred list for employment?

### **Opinion 10**

No. But Tenn. Code Ann. § 49-5-511(b)(3) preserves the director of schools’ “power to determine the filling of [a] vacancy on the basis of the director of schools’ evaluation of the teacher’s competence, compatibility, and suitability . . . in light of the best interest of the students in the school where the vacancy exists.” In other words, the director of schools has the *power* to assess competence, capability, and suitability of a teacher but has no *requirement* to.

### **Question 11**

Is the evaluation of a teacher’s competence, capability, and suitability by the Director of Schools distinct from the performance evaluation conducted pursuant to Tenn. Code Ann. § 49-1-302?

### **Opinion 11**

Yes. The first sentence of Tenn. Code Ann. § 49-5-511(b)(3) refers to the § 49-1-302 evaluation and requires that teachers rated in the three highest categories be placed on a list for reemployment. Sentence two states, “Nothing in this subsection (b) shall be construed to deprive the director of schools of the power to determine the filling of such vacancy on the basis of the director of schools’ evaluation of the teacher’s competence, compatibility, and suitability to properly discharge the duties required for the vacant position considered in the light of the best interest of the students in the school where the vacancy exists.” The second sentence recognizes

the director of schools' ability to exercise independent judgment to evaluate the suitability of a candidate for an open position apart from the § 49-1-302 evaluation.

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