

1971 O. A. G.

OFFICIAL OPINION NO. 16

July 8, 1971

Hon. Leo A. Voisard  
State Representative  
R. R. 2, Box 30  
Burlington Drive  
Muncie, Indiana 47302

Dear Representative Voisard:

Your letter of June 21, 1971, has been received requesting an Official Opinion as to whether a teacher on tenure can be replaced if he does not return a signed contract.

ANALYSIS

Consideration of your question relates to a prior opinion of this office, 1969 OAG No. 21, page 66, which states that the local school corporation may set a "reasonable time" by which properly-executed contracts shall be returned to the school office to signify acceptance. Your letter does not signify that a "reasonable time" has elapsed; however, this will be assumed.

The foregoing Official Opinion was issued in respect to teachers generally. Tenure teachers by virtue of having served the requisite consecutive years under regular contract are given separate and specific statutory treatment.

It has been the law in Indiana for many years that Tenure teachers can only have their rights cancelled pursuant to the specific detailed procedural specifications in Acts of 1927, Ch. 97, Sec. 2, as amended, as found in Burns' (1970 Repl.), Sec. 28-4512, I.C. 21-6-11-1. The grounds of cancellation must be pursuant to written charges of "insubordination." This involves the failure to obey a positive, reasonable order made by the school corporation. *This statute requires written charges to be filed against the teacher and a hearing held before the school board.*

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### CONCLUSION

It is therefore my official opinion that a public school teacher on tenure can be replaced if he willfully refuses to return his contract within a reasonable time, but only provided the necessary statutory procedural steps are followed; which means the teacher on tenure would be entitled to have written charges filed against him and a formal hearing before the appropriate school board for such alleged infraction.