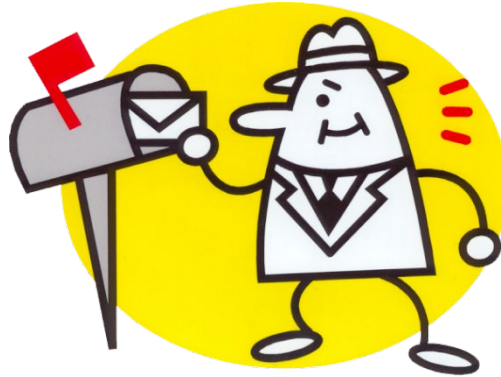


# LEGAL MAILBAG – SEPTEMBER 4, 2025



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*The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: [legalmailbag@casciac.org](mailto:legalmailbag@casciac.org).*

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Dear Legal Mailbag,

I can’t believe that the summer is over. As I get older, time seems to pass more and more quickly, especially when school is not in session. But here we are ...

As the principal of an elementary school, I have met and even conducted informal observations of two teachers we hired over the summer. One of them is outstanding, and I was impressed with both her command of the subject matter and her classroom manner.

By contrast, the other teacher seems hopeless. When I visited his classroom to conduct my informal observation, he was a deer in headlights. His anxiety was palpable as he lectured his students in a rapid, staccato style. Opening day jitters are understandable, but it is hard for me to imagine that this new teacher will ever be successful.

In my school law class, I learned that newly-employed teachers are not covered by the Teacher Tenure Act until they have been employed for at least ninety calendar days. Am I correct in my understanding that we can simply cut him loose before the ninety calendar days are up? I already have a draft letter on my computer.

Signed,  
*Good-bye and Good Riddance*

Dear Good-bye:

While you seem quick to judge, you are correct that the Teacher Tenure Act does not apply to certificated personnel until they have been employed for at least ninety calendar days. Therefore, the initial period of employment serves as a “super probation period” during which the superintendent may terminate the new teacher’s employment without following the procedures set forth in the Teacher Tenure Act.

That said, your draft letter of termination is not the answer. While the Teacher Tenure Act does not apply to the employment of this teacher for the first ninety calendar days, the teacher has due process rights that must be considered. The United States Supreme Court has ruled that a reasonable expectation of continued employment constitutes a property interest. We all remember the admonition in the Fifth and Fourteenth Amendments that the government shall not “deprive any person of life, liberty, or property, without due process of law.” The question thus is what process is due in this situation? Again, we find the answer in a decision of the United States Supreme Court. In *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), the Court ruled that public employees who have an expectation of continued employment are entitled to an informal hearing before school officials may terminate their employment.

Here, Legal Mailbag presumes that this teacher was informed that he would be employed for the 2025-2026 school year, and he almost certainly received an annual salary notification setting forth his salary for the year. If such is the case, Legal Mailbag concludes that this new teacher has a reasonable expectation of continued employment through the 2025-2026 school year and the attendant right to due process before his employment is terminated.

In this context, the required informal hearing (which we now call a *Loudermill* hearing) includes telling the employee why the school district is considering termination of his employment and then giving the teacher an opportunity to respond before you and the superintendent make a final decision. Moreover, the teacher has the right to union representation at that informal hearing. Once you and the superintendent have conducted the informal hearing, however, you may go ahead and terminate the new teacher’s employment, and the teacher being terminated would have no right to appeal that decision (except on due process grounds).

Legal Mailbag hopes that you will be more patient in your judgments, given the challenges of finding qualified teachers. However, if significant problems continue, by conducting a *Loudermill* hearing before making a final decision, you and your superintendent will have a way to part company with this new teacher before he achieves status as a “teacher” under the Teacher Tenure Act.