

TERMINATION OF CONTRACT

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(LEGAL)

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Note: For a detailed treatment of termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts), DFBA and DFBB (Term Contracts), and DFCA (Continuing Contracts).

WITHHOLDING
INFORMATION

An attempt by any District employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts), 21.156 (continuing contracts), and 21.211 (term contracts). *Education Code 26.008(b)*

CRIMINAL OFFENSES

The District may discharge an employee if the District obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the State Board for Educator Certification (SBEC) or the District. An employee discharged under this section is considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation). *Education Code 22.085*

CERTAIN OFFENSES
AGAINST CHILDREN

A district that receives notice under Education Code Section 21.058(b) of the revocation of a certificate issued under Chapter 21, Subchapter B, shall:

1. Immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student [see DK]; and
2. As soon as practicable, terminate the employment of the person in accordance with the person's contract and with Education Code Chapter 21, Subchapter B.

These removal and termination requirements apply only to a conviction of a felony under Penal Code Title 5 or an offense for which the person must register as a sex offender, and only if the victim of the offense is under 18 years of age.

Education Code 21.058

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FALURE OF
CERTIFICATION

An employee's probationary, term, or continuing contract under Education Code Chapter 21 is void if the employee:

1. Does not hold a certificate or permit issued by SBEC; or
2. Fails to fulfill the requirements necessary to extend the employee's temporary or emergency certificate or permit.

DISTRICT'S OPTIONS

After an employee receives notice that the employee's contract is void the District may:

1. Terminate the employee;
2. Suspend the employee with or without pay; or
3. Retain the employee for the remainder of the school year on an at-will employment basis in a position other than classroom teacher at the employee's existing rate of pay or at a reduced rate; and

An employee whose contract is void is not entitled to the minimum salary prescribed by Education Code 21.402.

NO APPEAL OR
CHAPTER 21
HEARING

A District's decision under Education Code 21.0031(b) is not subject to appeal under Education Code Chapter 21, and the notice and hearing requirements of this chapter do not apply to the decision.

APPLICABILITY

These void contract provisions do not affect the rights and remedies of a party in an at-will employment relationship and do not apply to a certified teacher assigned to teach a subject for which the teacher is not certified.

Education Code 21.0031; Nunez v. Simms, 341 F.3D 385 (5th Cir. 2003)

REPORT TO SBEC

In addition to the reporting requirement under Family Code 261.101 [see FFG], the Superintendent shall promptly notify SBEC if the Superintendent has reasonable cause to believe that:

CRIMINAL RECORD

1. An educator employed by or seeking employment by the District has a criminal record;

RESIGNATION

2. The educator resigned and reasonable evidence supports a recommendation by the Superintendent to terminate the educator based on a determination that the educator engaged in misconduct described in 3(a)-(e), below [see DFE]; or

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3. An educator's employment at the District was terminated based on a determination that the educator:

- a. Abused or otherwise committed an unlawful act with a student or minor;
- b. Possessed, transferred, sold, or distributed a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 U.S.C. Section 801 et seq.;
- c. Illegally transferred, appropriated, or expended funds or other property of the District;
- d. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or
- e. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event.

"Abuse" has the meaning assigned by Family Code 261.001 and includes any sexual conduct involving an educator and a student or minor.

REPORTS

The Superintendent must file a report with SBEC within seven calendar days after first learning about an alleged incident of misconduct described in items 1-3, above. The report must be in writing and in a form prescribed by SBEC.

A superintendent who is required to file a report, but fails to timely do so, is subject to sanctions.

The Superintendent shall notify the Board and the educator of the filing of the report.

IMMUNITY

A superintendent who in good faith and while acting in an official capacity files a report with SBEC is immune from civil or criminal liability that might otherwise be incurred or imposed.

Education Code 21.006, 19 TAC 249.14

Bellevue ISD
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