

TEXAS SCHOOL FOR THE DEAF

EMPLOYMENT PRACTICES AT-WILL EMPLOYMENT

DCD

CATEGORIES OF NON-CONTRACT EMPLOYEES	The Board authorizes the Superintendent to hire non-contract employees in the following categories:
REGULAR	Regular employees are hired for positions budgeted for a continuous, indefinite duration on a full-, or part-time, basis.
TEMPORARY	Temporary employees are hired for positions of no longer than six months duration on a full-, or part-time, basis.
SUBSTITUTE	Substitute employees are hired on an hourly, on-call basis for work to be performed as needed. A substitute employee who works in a full-, or part-time, position for one continuous month shall be changed from substitute to temporary status.
AT WILL EMPLOYMENT	<p>The employment-at-will doctrine is the law of Texas, under which an employer has no duty to an employee regarding continuation of employment. <u>Jones v. Legal Copy, Inc.</u>, 846 S.W.2d 922 [Tex. App.—Houston [1st Dist.] 1993, no writ]</p> <p>The employment-at-will doctrine places no duties on an employer regarding an employee's continued employment, and thus bars contract and tort claims based on the decision to discharge an employee. <u>Sabine Pilot Serv., Inc. v. Hauck</u>, 687 S.W.2d 733 (Tex. 1985)</p> <p>In Texas, at-will employment is presumed unless shown otherwise. <u>Gonzales v. Galveston Ind. Sch. Dist.</u>, 865 F.Supp. 1241 (S.D. Tex. 1994)</p> <p>All regular, temporary, and substitute non-contract employees are at-will employees whose employment may be terminated at will and without cause, except as otherwise provided by law. See <u>Garcia v. Reeves County, Texas</u>, 32F.3d 200 (5th Cir. 1994); <u>Irby v. Sullivan</u>, 737 F.2d 1418 (5th Cir. 1984); <u>Winters v. Houston Chronicle Pub. Co.</u>, 795 S.W.2d 723 (Tex. 1990)</p>
EXCEPTION	Regular, temporary and substitute employees cannot be discharged if the sole reason for the discharge is that the employee refused to perform an illegal act, <u>Sabine Pilot Serv., Inc. v. Hauck</u> , 687 S.W.2d 733 (Tex. 1985), or violates any employment discrimination law. 42 U.S.C. § 1983; Americans with Disabilities Act (ADA); Age Discrimination and Employment Act of 1967 (ADEA); Employment Non-Discrimination Act (ENDA); Federal Equal Employment Act of 1964 (Title VII); Equal Pay Act of 1963 (EPA); Civil Rights Act of 1991.
NEPOTISM	The superintendent (to whom a board has delegated final hiring authority to select personnel) is a “public official” with appointment authority for purposes of the nepotism laws. <i>Atty. Gen. Op. GA-123 (2003)</i> [See DBE]
DISMISSAL PROCEDURE	<p>The Superintendent shall develop and implement an administrative procedure which includes a range of progressive disciplinary steps to address employee job performance, including employee dismissal. (See Policy DCDB.)</p> <p>An at-will employment relationship, standing alone without benefit, or recognized exception, triggers no due process requirement nor right. <u>Mott v. Montgomery County, Tex.</u>, 882 S.W. 635, 638 (Tex. App.—Beaumont, 1994).</p>

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REVIEW

Termination of employment is a condition of work that is a proper subject for the grievance process. Fibreboard Paper Products Corp. v. National Labor Relationship Board, 85 S.Ct.398, 402 (1984); Sayre v. Mullins, 681 S.W.2d25 (Tex. 1984) [See DGBA]

NOTE: A temporary or substitute employee may not request review of a dismissal decision through DGBA.

NOTICE TO THE
COMMISSIONER

See policy DF regarding circumstances under which a certified paraprofessional employee's dismissal will be reported to the Commissioner.

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