

NOTE

For a more information regarding termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts); and DFBA and DFBB (Term Contracts).

WITHHOLDING INFORMATION

An attempt by any School employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension in accordance with applicable policies. (See DFAA, DFBA, DFCA)

Education Code 26.008(b)

REGISTRY OF PERSONS NOT ELIGIBLE FOR EMPLOYMENT

The School shall discharge or refuse to hire an individual listed on TEA's Do Not Hire Registry. [See DBAA]

Education Code 22.092

DISCHARGE OF CONVICTED EMPLOYEE

The School shall terminate the employment of an employee if the School obtains information through a criminal history record information (CHRI) review that the employee has been convicted of:

- A felony under Penal Code Title 5, including but not limited to, offenses against a person, including criminal homicide, kidnapping and unlawful restraint, sexual offenses and assaultive offenses.
- An offense which requires the employee to register as a sex offender under Code of Criminal Procedure Chapter 62; or
- An offense that is equivalent to those listed in a and b above under the laws of another state or federal law; and
- The victim was under the age of 18 or enrolled in a public school at the time of the offense.

EXCEPTION

The School is not required to terminate the employment of an employee who committed an offense under a above if:

- The date of the offense is more than 30 years before June 15, 2007 (June 14, 1977 or before); and
- The employee satisfied all terms of the court order entered on conviction.

CERTIFICATION TO THE COMMISSIONER

The Superintendent shall certify to the Commissioner that the School has complied with the above provisions once each school year.

SANCTIONS

SBEC may impose a sanction on an educator who does not discharge an employee who is not eligible to be employed under Education Code 22.092 [see DBAA] if the educator knew the employee had been adjudicated for or convicted of having an inappropriate relationship with a minor in accordance with Education Code 21.009(e), or knew or should have known through a CHRI review, that the employee had been convicted or placed on deferred adjudication community supervision for an offense described above.

SBEC may impose a sanction on a superintendent who falsely or inaccurately certified to the Commissioner that the School had complied with Education Code 22.085.

TERMINATION FOR FAILURE TO DISCLOSE

The School may terminate the employment of an employee if it obtains information of the employee's conviction of a felony or a misdemeanor involving moral turpitude that the employee did not disclose to State Board of Educator Certification (SBEC) or the School.

An employee whose employment is terminated on these grounds is considered to have been terminated for misconduct for purposes of Labor Code 207.044 (unemployment compensation).

CERTAIN OFFENSES AGAINST STUDENTS

If the School receives notice that SBEC has revoked the certification of an educator based on their conviction of a felony under Penal Code Title 5 or an offense requiring registration as a sex offender, and the victim is under 18 years of age, the School will:

MANDATORY TERMINATION

1. Immediately remove the employee whose certificate has been revoked from the campus or administrative office, as applicable, to prevent the individual from having any contact with a student; and
2. If the individual is employed under a probationary or term contract, the School will:
 - a. Suspend the individual without pay;
 - b. Provide the individual with written notice that

their contract is void (see NOTICE to EMPLOYEE, below); and

- c. Terminate the employment of the individual as soon as practicable.

Education Code 21.058(a), (c)

**DISCRETIONARY
TERMINATION**

If the School becomes aware that an employee under a probationary or term contract has been convicted or received deferred adjudication for a felony offense, and the individual is not subject to the mandatory termination provision above, the School may:

1. Suspend the employee without pay;
2. Provide the employee with written notice that their contract is void (see NOTICE TO EMPLOYEE, below); and
3. Terminate the individual's employment as soon as practicable.

Education Code 21.058(c-1)

**NOTICE TO
EMPLOYEE**

An employee's probationary or term contract is void if the School provides written notice to the person, under the mandatory or discretionary termination provisions above, that their contract is void.

Education Code 21.058(c-2)

NO APPEAL

Action taken by the School under the mandatory or discretionary terminations provisions above is not subject to the appeal, notice and hearing requirements under Education Code Chapter 21.

Education Code 21.058(e)

**INVALID OR
EXPIRED
CERTIFICATION**

A term contract is void if the employee:

1. Does not hold a valid certificate or permit issued by SBEC;
2. Fails to fulfill the requirements necessary to renew or extend their temporary, probationary, or emergency certificate or any other certificate or permit issued under Education Code 21, Subchapter B, Certification of

Educators; or

3. Fails to comply with any requirements regarding criminal history reviews outlined in Education Code Chapter 22, Subchapter C if the failure results in suspension or revocation of the employee's certificate.

Education Code 21.0031(a)

The School may terminate an employee on a probationary contract for any of the reasons listed above.

Education code 21.103, 21.104

A certificate or permit is not considered to have expired if:

1. The employee has completed the requirements for renewal of the certificate or permit.
2. The employee submitted their request for renewal before the expiration date; and
3. The expiration date of the certificate or permit is before the date SBEC takes action to approve the renewal.

Education Code 21.0031

**TEXAS SCHOOL
FOR THE DEAF'S
OPTIONS**

If the School has knowledge that an employee's contract is void due to a failure to hold a valid certificate or permit issued by SBEC, as outlined in Education Code 21.0031, the School may:

1. Terminate the employment of the individual;
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 that does not require a contract under Education Code 21.002. The employee may receive the existing rate of pay or a reduced rate.

The employee is not entitled to the minimum salary prescribed by Education Code 21.402.

Education Code 21.0031(b)

EXCEPTION

The School will not terminate or suspend an employee under 21.0031(b) due to their lack of a valid certificate or permit, or failure to renew or extend a certificate or permit, if:

1. The employee requests an extension from SBEC to renew, extend or otherwise validate the certificate or permit; and
2. The employee takes the necessary steps to renew, extend or otherwise validate the certificate or permit not later than the tenth day after the date the contract becomes void.

Education Code 21.0031(b-1)

**NO APPEAL OR
CHAPTER 21
HEARING**

The School's decision under Education Code 21.0031(b-1) is not subject to appeal, notice or hearing requirements under Education Code Ch 21.

APPLICABILITY

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

Education Code 21.0031; Nunez v. Simms, 341 F3d 385 (5th Cir. 2003)

REPORT TO SBEC

The Superintendent shall report the educator's termination to SBEC if the educator:

- Has a criminal record and the School learned of it by a means other than the criminal history clearinghouse;
- Was terminated based on evidence that they abused or otherwise committed an unlawful act with a student or minor;
- Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;
- Possessed, transferred, sold, or distributed a controlled substance (Chapter 481, Health and Safety Code or 21 U.S.C. Section 801 et seq.);

- Illegally transferred, appropriated, or expended funds or other property of the School;
- Attempted (fraudulently or other unauthorized means) to obtain or alter a professional certificate or license for the purposes of attaining a promotion or additional pay;
- Committed all or part of a criminal offense on the School's property or at a school-sponsored event;
- Resigned and there is evidence that they engaged in misconduct as described above; or
- Engaged in conduct that violates the assessment instrument security procedures established under Education Code Section 39.0301.

Education Code 21.006

FALSIFICATION OF MILITARY RECORD

The School may terminate the employment of an employee (contract or at-will) if the School determines that the employee gained employment or any related benefit based on falsified records or otherwise misrepresented any information regarding the employee's military record as outlined in Penal Code 32.54, Fraudulent or Fictitious Military Record. The School will make this determination on a reasonable factual basis.

Any employment contract entered into between the School and the employee who falsified or otherwise misrepresented their military record is void and unenforceable as against public policy under Labor Code Chapter 105

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