

EMPLOYMENT PRACTICES
TERM CONTRACTS

DCA
(LEGAL)

PROPERTY INTEREST A contract of employment with the college district creates a property interest in the position only for the period of time stated in the contract. Such a contract creates no property interest of any kind beyond the period of time stated in the contract. *Perry v. Sindermann*, 408 U.S. 593 (1972); *Board of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972)

ADMINISTRATOR
CONTRACTS The governing board of an institution of higher education, including a college district, may enter into an employment contract with an administrator who is to be paid in whole or in part from appropriated funds only if, before the date the contract is executed, the governing board determines that the contract is in the best interest of the institution.

A contract entered into by the governing board under this section may not:

1. Provide for employment for more than three years;
2. Allow for severance or other payments on the termination of the contract to exceed an amount equal to the discounted net present cash value of the contract on termination at a market interest rate agreed upon in the contract;
3. Allow for development leave that is inconsistent with Education Code 51.105; or
4. Award tenure in any way that varies from the institution's general policy on the award of tenure.

The institution of higher education may not pay a salary to a person who is reassigned from an administrative position to a faculty or other position at the institution that exceeds the salary of other persons with similar qualifications performing similar duties.

Education Code 51.948(a)–(c)

“Administrator” means a person who has significant administrative duties relating to the operation of the institution, including the operation of a department, college, program, or other subdivision of the institution. *Education Code 51.948(g)(1)*

FACULTY CONTRACTS
“CONTRACT” “Contract” means an agreement between an institution of higher education or its authorized agent and a faculty member that establishes the terms of the faculty member's employment, including the faculty member's responsibilities and salary, for an academic year. *Education Code 51.943(a)(1)*

“FACULTY MEMBER” “Faculty member” means a person who is employed full time by an institution of higher education as a member of the faculty whose

primary duties include teaching or research. The term does not include:

1. A person employed in the classified personnel system of the institution or a person employed in a similar type of position if the institution does not have a classified personnel system; or
2. A person who holds faculty rank but who spends a majority of the person's time for the institution engaged in managerial or supervisory activities, including a chancellor, vice chancellor, president, vice president, provost, associate or assistant provost, dean, or associate or assistant dean.

Education Code 51.943(a)(2)

OFFER DEADLINE

Except as provided by Education Code 51.943(c), an institution of higher education, including a college district that determines it is in its best interest to reappoint a faculty member for the next academic year shall offer the faculty member a written contract for that academic year not later than 30 days before the first day of the academic year. *Education Code 51.943(b)*

For the purposes of this section, an institution of higher education is not required to provide an annual contract to tenure or tenure-track faculty but must provide tenure and tenure-track faculty with any written notification required in the institution's tenure policy of a change in a term of employment according to the policies of the institution, but no later than the 30th day prior to the change. *Education Code 51.943(c)*

This section does not prohibit an institution of higher education from entering into a contract with a faculty member for a period longer than an academic year. *Education Code 51.943 (f)*

NOTICE IF UNABLE
TO COMPLY

If the institution of higher education is unable to comply with Education Code 51.943(b), the institution shall:

1. Provide the faculty member with written notification that the institution is unable to comply;
2. Include in the written notification reasons for its inability to comply; and
3. Specify in the written notification a time by which it will offer a written contract to the faculty member for the applicable academic year.

Education Code 51.943(d)

FAILURE TO OFFER

If the institution does not offer the faculty member a written contract before the 61st day after the first day of the academic year and the

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institution retains the faculty member for that academic year without a written contract, the institution must retain the faculty member for that academic year under terms and conditions, including terms governing the faculty member's compensation, that are at least as favorable to the faculty member's employment for the preceding academic year, unless the institution and the faculty member subsequently enter into a different written contract. *Education Code 51.943(e)*

NO ADDITIONAL
RIGHTS

Nothing in this section shall be deemed to provide a faculty member who does not hold tenure additional rights, privileges, or remedies or to provide an expectation of continued employment beyond the period of a faculty member's current contract. *Education Code 51.943(g)*