
Note: The provisions of this policy apply to a district of innovation under Education Code, Chapter 12A. [See AF]

Misconduct of Noncertified Employees

Education Code 22.093 applies to a district employee who does not hold certification issued by the State Board for Educator Certification (SBEC) or a school district teaching permit.

Notice to TEA of Termination or Resignation

A superintendent shall notify the Texas Education Agency (TEA) if an employee was terminated or resigned and there is evidence that the employee:

1. Abused or otherwise committed an unlawful act with a student or minor; or
2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

Investigation

A superintendent shall complete an investigation of an employee that involves evidence that the employee may have engaged in misconduct described above, despite the employee's resignation from employment before completion of the investigation.

Principal Notification

A principal must notify the superintendent not later than the seventh business day after the date of an employee's termination or resignation following an alleged incident of misconduct described above.

Deadline to Report

A superintendent must notify TEA by filing a report not later than the seventh business day after the date the superintendent receives a report from a principal or knew about an employee's termination of employment or resignation following an alleged incident of misconduct described above.

Form of Report

The report must be in writing and in a form prescribed by the commissioner of education. The name of a student or minor who is the victim of abuse or unlawful conduct by an employee must be included in the report, but the name of the student or minor is not public information under the Public Information Act (PIA).

Notice to the Board and Employee

A superintendent shall notify the board and the employee of the filing of the report.

Immunity

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

Sanctions for Failure to Report

The commissioner shall refer an educator who fails to file a report to SBEC, who will determine whether to impose sanctions against the educator.

Criminal Offense

A superintendent commits an offense if the superintendent fails to timely file the report with intent to conceal an employee's criminal record or alleged incident of misconduct.

A principal commits an offense if the principal fails to timely provide notice with intent to conceal an employee's alleged incident of misconduct.

An offense under Education Code 22.093(k) is a state jail felony.

Review of District Records

The commissioner may review district records to ensure compliance with the requirement to report misconduct.

Education Code 22.093