
Employment Policy	<p>The executive director is the chief executive officer of the ESC and may employ personnel as necessary to carry out the functions of the ESC. <i>Education Code 8.004</i></p>
School District Superintendent	<p>Any financial benefit received by a school district superintendent for performing personal services for a regional education service center must be approved by the school district board of trustees on a case-by-case basis in an open meeting. For purposes of this provision, the receipt of reimbursement for a reasonable expense is not considered a financial benefit. <i>Education Code 11.201(e)</i></p>
Pre-employment Affidavit	<p>An applicant with an ESC for a certified or licensed position described by Texas Education Code section 21.003(a) or (b) must submit, using a form adopted by the Texas Education Agency (TEA), a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.</p> <p>An applicant who answers affirmatively concerning an inappropriate relationship with a minor must disclose in the affidavit all relevant facts pertaining to the charge, adjudication, or conviction, including, for a charge, whether the charge was determined to be true or false.</p> <p>An applicant is not precluded from being employed based on a disclosed charge if the ESC determines based on the information disclosed in the affidavit that the charge was false.</p> <p>A determination that an employee failed to disclose required information is grounds for termination of employment.</p> <p>The State Board for Educator Certification (SBEC) may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant for a position described by Education Code 21.003(a) or (b) despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor.</p> <p><i>Education Code 21.009</i></p>
TEA Internet Portal	<p>TEA shall develop and maintain an internet portal through which required reports may be confidentially and securely filed and TEA makes available:</p> <ol style="list-style-type: none">1. The registry of persons who are not eligible to be employed in public schools; and2. Information indicating that a person is under investigation. <p><i>Education Code 22.095</i></p>

Registry of Persons
Not Eligible for
Employment

TEA shall maintain and make available through its internet portal a registry of persons who are not eligible to be employed by a district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement.

A district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall discharge or refuse to hire a person listed on the registry.

The registry must list:

1. An employee of an open-enrollment charter school determined by TEA under Education Code 22.0832 as a person who would not be eligible for educator certification based on his or her national criminal history record information (NCHRI);
2. A noncertified person determined by TEA to be not eligible for employment based on the person's criminal history record information (CHRI), as provided by Education Code 22.0833 [see DBAA];
3. A person who is not eligible for employment based on CHRI received by TEA under Education Code 21.058(b) indicating that a certified employee is required to register as a sex offender;
4. A person whose certification or permit is revoked by SBEC on a finding that the person engaged in misconduct described by Education Code 21.006(b)(2)(A) or (A-1) [see DHC]; and
5. A noncertified person who is determined by the commissioner under Education Code 22.094 to have engaged in misconduct described by Education Code 22.093(c)(1)(A) or (B) [see DHD].

Education Code 22.092

**Employee
Information**

The ESC shall ensure that an employee properly completes section 1—"Employee Information and Verification"—on Form I-9 at the time of hire.

**Verification of
Employment
Eligibility**

An ESC must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of initial hiring. If the ESC hires an individual for employment for a duration of less than three

business days, the ESC must verify employment at the time of hire.

2. An ESC shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.
3. When the ESC rehires an individual, the ESC may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.
4. For an individual whose employment authorization expires, not later than the date of expiration.

8 C.F.R. 274a.2(b)(1)(ii), (iii), (vii), (viii)

Social Security Numbers

It shall be unlawful for an ESC to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.

Exceptions

The above provision does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;
2. Any disclosure to an ESC maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or
3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within the ESC's jurisdiction.

Statement of Uses

An ESC that requests disclosure of a social security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

Privacy Act of 1974, Pub. L. No. 93-579, sec. 7(b), 88 Stat. 1896, 1897 (1974)

New Hire Reporting

An ESC shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and social security number of each newly hired employee. The report

shall also contain the ESC's name, address, and employer identification number.

The ESC may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and the ESC's payroll address for mailing of notice to withhold child support.

The ESC shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or magnetic media, as determined by the ESC and in a format acceptable to the attorney general.

Deadline

New hire reports are due:

1. Not later than 20 calendar days after the date the ESC hires the employee; or
2. In the case of an ESC transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

Penalties

An ESC that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105.

42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I

At-Will Employment

The employment-at-will doctrine is the law of Texas; it is presumed unless shown otherwise. 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. *Sabine Pilot Serv., Inc. v. Hauck*, 687 S.W. 2d 733 (Tex. 1985); *Jones v. Legal Copy, Inc.*, 846 S.W. 2d 922 [Tex. App.—Houston [1st Dist.] 1993, no writ]; *Gonzales v. Galveston Ind. Sch. Dist.*, 865 F.Supp. 1241 (S.D. Tex. 1994)

Exception

An at-will employee cannot be discharged if the sole reason for the discharge was that the employee refused to perform an illegal act. *Sabine Pilot Serv., Inc. v. Hauck*, 687 S.W. 2d 733 (Tex. 1985)
[See also DAA]

Dismissal of At-Will Employees

Employment for an indefinite term may be terminated at-will and without cause, except as otherwise provided by law. An at-will employment relationship, standing alone without benefit of recognized exception, triggers no due process requirement nor right. *Garcia v. Reeves County, Texas*, 32 F. 3d 200 (5th Cir. 1994); *Mott v. Montgomery County*, 882 S.W. 2d 635, 638 (Tex. App.—Beaumont 1994, writ denied)

Termination of employment is a condition of work that is a proper subject for the grievance process. *Fibreboard Paper Products Corp. v. National Labor Relations Board*, 379 U.S. 203 (1984); *Sayre v. Mullins*, 681 S.W. 2d 25 (Tex. 1984). [See DGBA]

**Retirement
Discrimination**

The board shall not require the retirement of any employee on the basis of age. 29 U.S.C. 631

Retirement System

All personnel employed on a full-time, regular salary basis, including regularly employed bus drivers, shall be members of the Teacher Retirement System of Texas (TRS). *Gov't Code 821.001, 822.001; 34 TAC 25.1, 25.2, 25.4; Atty. Gen. Op. C-749 (1966)*

Notice to TRS

An ESC shall furnish TRS a monthly certified statement of all employment of all TRS service or disability retirees. The certified statement must include information regarding employees of third party entities if the employees are service or disability retirees who were first employed by the third party entity on or after May 24, 2003, and are performing duties or providing services on behalf of or for the benefit of the ESC. The statement shall contain information necessary for the executive director of TRS to classify employment under Government Code 824.602. 34 TAC 31.2

**Employment
Assistance
Prohibited**

An ESC that receives Title I funds shall have regulations or policies that prohibit any individual who is an ESC employee, contractor, or agent, or an ESC, from assisting a school employee in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or ESC knows, or has probable cause to believe, that such ESC employee engaged in sexual misconduct regarding a minor or student in violation of the law.

This requirement shall not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the implementing regulations under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations; and:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee engaged in sexual misconduct regarding a minor or student in violation of the law;
2. The ESC employee has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or

3. The case or investigation remains open and there have been no charges filed against, or indictment of, the school employee within four years of the date on which the information was reported to a law enforcement agency.

20 U.S.C 7926 [See also CHF]

**State Law on
Sanctions**

SBEC may suspend or revoke a certificate, impose other sanctions against the person, or refuse to issue a certificate to the person if:

1. The person assists another person in obtaining employment at a school district, private school, or open-enrollment charter school, other than by the routine transmission of administrative and personnel files; and
2. The person knew that the other person has previously engaged in sexual misconduct with a minor or student in violation of the law.

The commissioner may require a school district to revoke or decline to issue a school district teaching permit under Education Code 21.055 issued to or requested by a person subject to SBEC action above.

Education Code 21.0581; 19 TAC 249.15(b)(13)