

Employment Contracts

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Introduction

Chapter 21 of the Texas Education Code (TEC) requires certain full-time professional and administrative employees and school nurses be employed by a probationary, term, or continuing employment contract. These contracts are often referred to as Chapter 21 contracts. The law mandates specific rights and administrative procedures for each type of Chapter 21 contract. Professionals entitled to one of these types of contracts generally include the following:

- Classroom teachers
- Counselors
- Nurses (RN)
- Principals
- Librarians
- Other professional and administrative positions that require a certificate issued by the State Board for Educator Certification (SBEC) (e.g., diagnosticians, athletic directors)

Positions that do not require employment contracts include those held by part-time personnel, professional and administrative personnel who are licensed but not certified (except school nurses), and positions that do not require a license or certificate. Classroom teachers on school district teaching permits, paraprofessionals, and auxiliary personnel need not be employed by contract. These employees may be employed at will, by a non-Chapter 21 contract, or by any method the district chooses. Employment of part-time educators can be documented with a [letter agreement](#). A flow chart to assist with [determining contract entitlement](#) is included in the *HR Library*.

An employment contract, like any other contract, is a legally binding obligation that can be broken only under strict terms and conditions. A district cannot end the employment contract during its term without good cause and due process. An employee cannot abandon his or her contract during the school year without risking possible suspension of his or her certificate. The three types of Chapter 21 employment contracts and the type of contract commonly used for



noncertified professionals are described below, as well as addenda that address specific conditions of employment. All school districts should consult with their local school attorney before adopting any particular form of employment contract.

Probationary Contracts

All certified professionals and nurses who are new to a district or who have not been employed by the district for two consecutive years after August 28, 1967, must be employed under a probationary contract during their first year of employment (TEC §21.102(a)). Chapter 21 provides the following exceptions to this requirement:

- Former teachers who have had at least a two-year lapse in employment may be hired under a probationary contract.
- A person with public school experience as a principal or classroom teacher may be employed under a term contract even if the person is being employed by the district for the first time and would otherwise be required to be hired under a probationary contract (TEC §21.202(b)).

A probationary contract gives the district an opportunity to evaluate a new employee and end his or her employment without the legal rigors and expense that other types of contracts require. A probationary contract can be terminated by the district at the end of its term without good cause, a due process hearing, or the right to appeal. However, the district must provide an employee whose probationary contract is being terminated with written notice of the board's decision to terminate the contract 45 days before the last day of instruction.

For experienced personnel who are new to the district and have been employed in public education for at least five years of the eight years preceding district employment, the probationary contract cannot be more than one year. After one year, the district must decide either to terminate the contract or offer the employee a term or continuing contract. For less-experienced personnel, the probationary contract can be extended each year for three years with an option to extend the contract to a fourth year if the district is in doubt about giving the individual a term or continuing contract (e.g., lacking certification or performance issue). By local policy, the board can require a one-, two-, or three-year minimum probationary period for all new hires with less than five of the last eight years of experience. A [sample probationary contract](#) is available in the HR Library.

A decision issued by the commissioner of education (*Young v. Lipan ISD*, June 18, 1996) defines the term *year* for the purposes of a probationary contract as a full school year. A teacher who is hired in the middle of a school year can be given another probationary contract at the end of the partial year and continue employment under a probationary contract until he or she completes an entire school year.

Term Contracts

If a probationary contract employee completes his or her probationary period and remains employed by the district, Chapter 21 requires the district to issue a term or continuing contract. The words “term contract” mean a contract of employment between a school district and a teacher that is set for a fixed term. “Teacher” includes superintendent, principals, classroom teachers, counselors, nurses, or other full-time professional employees who are required to hold a certificate.

Terms of employment can be set for any period of time up to a maximum of five years. Most contracts for classroom teachers are fixed for a term of one school year. Some employees receive contracts for a term of more than one year (see [Multiple-Year Contracts](#) below). Each district defines the term of the contract and the length of the work year for each position. Contracts must require at least 10 months of service in a year and may require up to 12 months of service. State law requires a minimum number of days of service for 10-month contracts only. All other work schedules are set by the district.

A Chapter 21 term contract can be nonrenewed at the end of its term for reasons defined by the board in policy, with timely written notice 45 days before the last day of instruction, and with the right to a hearing and appeal. Otherwise, term contracts must be renewed and reissued each year or at the end of each term if the contract is longer than one year.

Other Contracts for Noncertified Personnel. Chapter 21 dictates the contract renewal and nonrenewal rights of certified educators and nurses. Noncertified employees may also be employed using term contracts; however, Chapter 21 does not apply and all rights are determined solely by the terms of the employment contract itself. An example of a [contract for noncertified professional personnel](#) is included in the *HR Library*. The model contract for noncertified personnel specifically states that the employee has no rights to continued employment beyond the term of the contract and that the district can choose not to renew the contract for any reason.

Continuing Contracts

A statutory continuing contract in Texas public schools is similar to tenure rights. A continuing contract is a contract with no expiration date; it will continue until the employee resigns, retires, is released or discharged for good cause, or is returned to probationary status in accordance with law. Continuing contracts are not renewed like term contracts because the term never expires. Continuing contracts can only be terminated for good cause. A continuing contract employee faced with termination has specific rights with regard to notice, a hearing before an independent hearing examiner, and is entitled to appeal the decision of the local board.

Addenda

Districts may wish to add contract provisions to address a specific issue as a condition of employment. For example, when an individual is working on a permit, temporary certificate, or

deficiency plan; or is a retiree. An addendum outlines requirements for the particular situation and becomes a part of the employee's contract. There are two model addenda available in the *HR Library*. The [certification addendum](#) can be used when an employee is not fully certified and the district wants to ensure the employee completes the requirements necessary to obtain a standard or supplemental certificate according to the period established by the district. The [retire/rehire addendum](#) can be used to assign responsibility for obtaining information on the continuation of retirement benefits to the employee.

Disseminating Contracts and Policies

Each employee on a statutory term contract must be given a copy of his or her employment contract and upon request, a copy of the district's employment policies. This legal requirement does not apply to probationary or continuing contract employees, but it is advisable to provide all contract personnel with a copy of their contract and provide them with information on how to access district employment policies at the time of their initial employment and whenever there is a change in any of these documents. Statute requires districts with Web sites to place the employment policies on the district's Web site. In addition, a copy of the employment policies must be available at each school for inspection upon request (TEC §21.204(d)).

Multiple-Year Contracts

Chapter 21 term contracts may be set for any length of time up to five years. One school year is the practical minimum period for contracts because school districts do not want to risk losing staff in the middle of a school year. Contract terms of more than one year, referred to as multiple-year contracts, are commonly offered to upper-level administrative personnel because these positions are generally held accountable for long-term goals and district improvement. Longer terms of employment protection allow these employees an opportunity to implement plans without fear of being fired for controversial or unpopular decisions or when a new board majority is elected. It would be difficult for many districts to recruit experienced administrators from outside the district without offering competitive contract terms. These terms include the length of the contract.

Contract Extension. Term contracts must be renewed or nonrenewed at the end of the term only. For multiple-year contracts, the term of the contract decreases in length each year unless the school board takes action to extend the contract for another year. Extending multiple-year contracts annually is not required by law but is a common practice. By extending the contract each year, the board maintains the same term of employment that was in the original employment agreement. This is commonly done at the time of the administrator's annual performance evaluation to demonstrate the board's continued support and satisfaction with the administrator's job performance.

On the other hand, if the board is not satisfied with the administrator's job performance, then extending the contract another year will limit the options available if the board ultimately decides to end the employment relationship. To end an employment relationship during a multiple-year

contract, the board must either terminate the contract for good cause, nonrenew the contract at the end of its term for reasons specified in policy, seek a resignation from the employee, or buy out the remainder of the employee's term. In the case of superintendents, any severance payment made by the board must also be reported to the commissioner of education and an equal amount will be deducted from the school district's state funding the following year.

Supplemental Duty Assignments

Many classroom teachers have extracurricular or supplemental duty assignments such as coaching or club sponsorships that are not directly related to the regular teaching assignment or teacher contract. Two options for structuring the terms and conditions of employment related to supplemental duty assignments are described here, each with its own advantages and disadvantages. These options include assigning supplemental duties at-will or employing persons on a dual-assignment contract that includes both the teaching and supplemental assignment. The right choice depends on how critical the supplemental duties are to the overall job assignment and how much flexibility the district wants to retain for changing supplemental duty assignments.

Supplemental duty agreements may be handled differently for different assignments. Supplemental duties that are independent of an individual's employment contract with the district, such as yearbook sponsor or UIL competition coach, are generally assigned on an at-will basis to allow reassignment of the duty without affecting the teaching assignment. A sample memo that assigns the supplemental duty and stipend paid is included in the *HR Library* (see, [Sample Notice of Supplemental Duties](#)). The memo should not be used to notify anyone on a dual-assignment contract.

Teachers with other major assignments, such as head football coach or band director, are often hired specifically for their expertise in a supplemental area. They may be employed by a dual-assignment contract as described below, making the two assignments inseparable. Sample dual-assignment contracts available in the *HR Library* include the following:

- [Model Dual-Assignment Probationary Contract](#)
- [Model Dual-Assignment Term Contract](#)

Signing Contracts

Employment contracts issued to employees must be signed by a district representative. In districts where the board retains final authority for hiring contract employees, the official act to hire an individual is the board's vote, which is recorded in board minutes. Someone who had been delegated, permitted, or instructed by the board as a whole to sign on the board's behalf (usually the board president or superintendent) then signs the contract. In districts where the final authority for hiring contract personnel has been delegated to the superintendent, only he or she should sign the employment contract.

Signature Stamps. In either of the situations described above, a signature stamp or computer-generated signature can be used in place of individually signing each contract by hand. Signature stamps should be carefully guarded and used only as authorized (e.g., on contracts). Districts should ensure that a signature stamp is kept in a secure place with limited access and used only for authorized purposes.

Electronic Signatures. Contracts can also be processed electronically including the distribution, signing and return of the contract by the employee. Electronic contracts can be signed electronically by both the district's authorized representative and the employee entering into the contract. See, *Electronic Records*, "[Electronic Transactions and Signatures](#)" for additional information.

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