

Additions shown in ***bold italic highlighted text***  
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## Certificated Personnel

BP 4116(a)

### NONTENURED/TENURED STATUS

The School Board recognizes that new teachers need training, assistance and evaluations designed to increase their competency as teachers and to ensure that the best qualified staff is retained by the district.

*(cf. 4115 - Evaluation)*

*(cf. 4117.4 - Dismissal)*

*(cf. 4117.6 - Nonretention)*

*(cf. 4131 - Staff Development)*

Note: In Fairbanks North Star Borough Sch. Dist. v. NEA-Alaska (1991) the Supreme Court held that counting a combination of sequential fractions of years to obtain two full years of service, as provided in 4 AAC 18.900 (b) (2), conflicts with the "full" year requirement of AS 14.20.150. Therefore 4 AAC 18.900 (b) (2) is invalid as currently written. A teacher who teaches part time less than an entire school year cannot count that portion or fraction of a year toward tenure. In contrast, this situation must be distinguished with a teacher teaching "part time" during the entire school year. A teacher teaching the entire year, but on a part time basis, is allowed to count that year toward tenure. See State v. Redman. The following policy is drafted in light of these two cases interpreting the requirements of the tenure statute.

Note: The following language governing acquisition of tenure applies to all regularly certificated teachers hired or rehired by the district on or after August 16, 1996. Teachers teaching under a preliminary, revocable, or subject matter expert limited certificate do acquire service years for purposes of determining tenure. However, tenure may not be granted to these individuals until a regular certificate has been issued. AS 14.20.015 – 14.20.022.

Retired teachers hired under AS 14.20.135 due to teacher shortages are not eligible to acquire, maintain, or reacquire tenure.

A teacher who has been employed by the district continuously for three consecutive school years and who is then rehired for the next succeeding school year shall achieve tenure in the district at the beginning of the fourth year, provided the teacher performs a day of teaching services in the fourth year, and further provided the teacher received a satisfactory performance evaluation in the third year.

*(cf. 4112.10 Employment of Retired Teachers)*

Note: The following language sets forth state law governing portability of tenure. Alaska Statute 14.20.150, as amended in 1998, establishes criteria that a previously tenured teacher must meet in order to acquire tenure in your district. The criteria are different depending upon whether the teacher previously acquired tenure in your district or another district.

Additions shown in **bold italic highlighted text**

Deletions shown in ~~strikethrough text~~

## Certificated Personnel

BP 4116(b)

### NONTENURED/TENURED STATUS (continued)

Note: A break in service which begins on or after the last instructional day of the school year but before the first instructional day of the next school year will be considered to have lasted no longer than one year if the teacher is employed on the first instructional day of the next consecutive school year. AS 14.20.150(d).

#### *Legal Reference:*

##### ALASKA STATUTES

*14.20.010-.040 Teacher certification*

*14.20.147 Transfer or absorption of attendance area or federal agency school*

*14.20.150 Acquisition of tenure rights*

*14.20.155 Effect of tenure rights*

*14.20.160 Loss of tenure rights*

*14.20.165 Restoration of tenure rights*

*14.20.210 Authority of school board or department to adopt by laws*

*14.20.215 Definitions*

##### ALASKA ADMINISTRATIVE CODE

*4 AAC 12.010-.900 Certification of professional teachers*

*4 AAC 18.027 Acquisition of tenure rights: less than full-time teachers*

*4 AAC 18.900 Definitions*

*Fairbanks North Star Borough School District v. NEA - Alaska, 817 P.2d 923 (Alaska 1991)*

*State v. Redman, 491 P.2d 157 (Alaska 1971)*

*Revised 3/04*

*Reviewed 10/2007*

Additions shown in **bold italic highlighted text**  
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## Certificated Personnel

BP 4117.2

### RESIGNATION

The Superintendent is authorized to accept the written resignation of any employee on behalf of the School Board, and the resignation shall become effective immediately upon acceptance by the Superintendent. A resignation presented to and accepted by the Superintendent may not be withdrawn by the employee.

~~Resignations shall be submitted in writing and directed to the School Board in care of the Superintendent of Schools. The employee shall specify the effective date of resignation. The Board shall fix the effective date of resignation, which may not be later than the close of the school year.~~

Note: The Alaska Professional Teaching Practices Commission recommends that districts adopt a policy addressing **which addresses the situation of** a teacher's request to leave a position **resign** during the teacher's contract term **or abandoning the position without notice. The PTPC further recommends a policy that addresses what procedures the school district will follow when recruiting a teacher currently under contract with another district, including a teacher who has not obtained a written release from that district.** The PTPC will implement possible sanctions against a teacher who unilaterally breaches his or her employment contract.

A certificated staff member should provide notice as early as possible to the district when the staff member knows that he or she does not plan to return for the following school year. The district will **may** agree to release a certificated staff member who ~~terminates~~ **has signed** a contract provided notice is given to the district, in writing, post-marked [OPTION 1: thirty calendar days prior to the staff member's first contract day of the school year OR OPTION 2: **on or before June 30<sup>th</sup>**].

If a certificated employee leaves the employ of the District during the school year without obtaining acceptance of his/her resignation, leaves before the effective date of the resignation, or the district learns the staff member has contracted with another district without obtaining a written release, the Superintendent may report this fact, with supporting evidence, to the Professional Teaching Practices Commission.

***The district will not contract with a certificated staff member under contract with another district unless the staff member provides a written release from the current employer. If the district contracts with a certificated staff member who has not disclosed that he/she is under contract with another school district, the district reserves the right to terminate the contract for material misrepresentation and to file a PTPC complaint.***

Legal Reference:

ALASKA ADMINISTRATIVE CODE

4 AAC 18.010 Teachers' and administrators' contracts

Revised 3/04, 3/09

Reviewed 11/07

Additions shown in ***bold italic highlighted text***  
Deletions shown in ~~strikethrough text~~

## Certificated Personnel

BP 4117.3

### PERSONNEL REDUCTION

The School Board may determine that a reduction in certificated personnel is necessary due to declining enrollment.

The Board shall authorize the Superintendent or designee to lay off employees in accordance with law, district procedures, and any applicable collective bargaining provisions.

*(cf. 4117.6 - Nonretention)*

Prior to layoff of any tenured teacher, the Board shall adopt a layoff plan. The plan will identify academic and other programs the district will maintain in implementing the plan. The plan will also include procedures for layoff and recall of tenured teachers.

Note: The district may place a tenured teacher on layoff status only after the district has given notice of nonretention to all nontenured teachers. However, a district may retain a nontenured teacher and place on layoff status a tenured teacher if there is no tenured teacher in the district who is “qualified” to replace the nontenured teacher. AS 14.20.177 The qualifications of teachers for purposes of layoff are set forth in AS 14.20.177. This statute contains provisions which must be consulted in making a determination of whether a tenured teacher is qualified for the position.

Any tenured teacher laid off pursuant to the Board’s layoff plan is entitled to a hiring preference for three years following the layoff. The hiring preference applies to vacant teaching positions for which the teacher is qualified. A teacher who declines an offer of employment from the district will lose the hiring preference unless the teacher is contractually bound to teach elsewhere.

Note: The Board may not enter into a collective bargaining agreement with the teachers’ union which contains terms conflicting with the layoff rights and procedures set forth in AS 14.20.177. This does not affect a collective bargaining agreement in effect on August 16, 1996.

#### *Legal Reference:*

##### ALASKA STATUTES

*14.20.140 Notification of nonretention*

*14.20.145 Automatic re-employment*

*14.20.175 Nonretention*

*14.20.180 Procedure and hearing upon notice of dismissal or nonretention*

*14.20.215 Definitions*

*23.40.070 Declaration of Policy (PERA)*

##### ALASKA ADMINISTRATIVE CODE

*4 AAC 18.010 Teachers' and administrators' contracts*

*Reviewed 11/07*

Additions shown in ***bold italic highlighted text***  
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## Certificated Personnel

AR **BP** 4117.4

## DISMISSAL

Employees shall not be deprived of their position during the school year except when cause for the dismissal can be shown. Employees shall be accorded their due process rights provided by law.

(cf. 4116 - Probationary/Permanent Status)

(cf. 4117.6 - Nonretention)

Note: While nontenured teachers do not have the hearing rights accorded tenure teachers in AS 14.20.180, the Alaska Supreme court in Nichols v. Eckert affirmed the constitutional due process rights of nontenured teachers to a hearing prior to dismissal.

### *Legal References:*

#### ALASKA STATUTES

14.20.140 Notification of nonretention

14.20.145 Automatic re-employment

14.20.170 Dismissal

14.20.175 Nonretention

14.20.180 Procedure and hearing upon notice of dismissal or nonretention

14.20.205 Judicial review

14.20.215 Definitions

#### ALASKA ADMINISTRATIVE CODE

4 AAC Teachers' and administrators' contracts

Nichols v. Eckers, 504 P. 2d 1359 (Alaska 1973)

Kenai Peninsula Borough Bd of Education v. Brown, 691 P. 2d 1034 (Alaska 1984)

Reviewed 11/07

Additions shown in ***bold italic highlighted text***

Deletions shown in ~~strikethrough text~~

## All Personnel

BP 4117.5  
4217.5  
4317.5

## TERMINATION AGREEMENTS

Note: The Board should not enter into termination agreements without legal advice in light of Anchorage School District v. Anchorage Daily News which found that a district's settlement agreement could not be kept confidential under Alaska public records law.

The School Board believes that it is incumbent upon school districts to provide a truthful account of the reasons why an employee has left district employment. The Board therefore does not look with favor on termination settlement agreements which prevent the district from giving prospective employers this information. If a termination agreement is made, the Superintendent or designee shall inform prospective employers that such an agreement has been made and may give out information as provided for in the agreement.

*(cf. 4112.61 - Employment References)*

In all cases in which an employee's conduct warrants probable cause for the suspension or revocation of the employee's teaching credential, the Superintendent or designee shall report the employee's suspension, termination or resignation to the Professional Teaching Practices Commission.

*Legal Reference:*

*Anchorage School District v. Anchorage Daily News, 779 P.2d 1991 (Alaska 1989)*

*Reviewed 11/2007*

Additions shown in ***bold italic highlighted text***  
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## Certificated Personnel

BP 4117.6

### NONRETENTION

The Superintendent or designee shall provide the Board with recommendations regarding the nonretention of certificated employees.

The Board may decide not to rehire a nontenured employee at the end of their first, second or third year of employment and give written notice of its decision to the employee at any time during the year. If the Board does not give nontenured teachers written notice of nonretention by the last day of the school term, the employee shall be rehired for the following year.

Nonretention of nontenured teachers may be based on any cause deemed adequate by the Superintendent or designee or, if an informal Board hearing is held, any cause deemed adequate by the Board. The Superintendent or designee shall establish administrative regulations providing an informal hearing before the Board upon teacher request.

The nonretention of tenured teachers shall comply with the cause and procedural requirements specified in law, including notice of nonretention before May 15.

*(4112.1 - Contracts)*  
*(cf. 4117.4 - Dismissal)*  
*(cf. 4116 - Nontenured/Tenured Status)*  
*(cf. 4117.3 - Personnel Reduction)*

#### *Legal Reference:*

##### ALASKA STATUTES

*14.20.140 Notification of nonretention*  
*14.20.145 Automatic re-employment*  
*14.20.175 Nonretention*  
*14.20.180 Procedure and hearing upon notice of dismissal or nonretention*  
*14.20.210 Authority of school board or department to adopt bylaws*

*Revised 4/17/99, 09/06, 11/14*  
*Reviewed 11/2007*

Additions shown in ***bold italic highlighted text***  
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## Certificated Personnel

AR 4117.6(a)

### INFORMAL HEARING FOR NONRETENTION OF NONTENURED STAFF

Note: This regulation provides informal hearing procedures for nontenured staff who are nonretained. Pursuant to AS 14.21.075, 14.20.175 a nonretained nontenured teacher may request an informal hearing by the Board. That statute also provides that the Board, by bylaw or regulation, define the procedure under which the informal hearing can be requested and obtained.

A nontenured teacher may be nonretained for any cause that the employer determines to be adequate. The following procedures shall apply to the nonretention of nontenured teachers. Unless otherwise noted, all days refer to calendar days.

#### Notification

The District shall notify a nontenured teacher of nonretention in accordance with AS 14.20.140(b) and any applicable provisions of the negotiated agreement with certificated staff. Unless an earlier date is set forth in the negotiated agreement, the teacher shall be notified in writing delivered or certified mail postmarked on or before the last day of the school term.

1. Statement of Cause. Within ten (10) days of receipt of the notification of nonretention, the teacher may submit a written request to the Superintendent for a written statement of cause for the nonretention. Failure to submit a timely written request constitutes waiver of this right. On the teacher's timely written request, the Superintendent shall deliver to the teacher a written statement of cause for the nonretention within ten (10) days.
2. Right to Informal Hearing. Within ten (10) days of receipt of the notice of nonretention, a nontenured teacher may submit a written request to the Superintendent for an informal hearing before the School Board. Failure to submit a timely written request constitutes waiver of the right to an informal hearing. The Superintendent shall schedule an informal hearing and shall inform the teacher of the date, time and place of the hearing not less than ten (10) days prior to the informal hearing.
3. Representation. The teacher may appear individually or be represented by a person of the teacher's choosing.
4. Hearing Procedures.
  - a. The informal hearing shall be held in closed session, unless opened by mutual consent.
  - b. The District shall record the informal hearing. On the teacher's written request, a copy shall be provided at the teacher's expense.



Additions shown in ***bold italic highlighted text***  
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## Certificated Personnel

AR 4117.6(b)

### INFORMAL HEARING FOR NONRETENTION OF NONTENURED STAFF (CONTINUED)

- c. The representatives may submit whatever written documents they feel are germane to the arguments they will present, including affidavits. No witnesses may testify, except that the teacher's representative and a representative of District administration shall have the right to make a statement or presentation to the Board. Additionally, the teacher can speak on his or her own behalf, even if represented.
  - d. Any written argument or documentary evidence that the parties expect to present at the informal hearing shall be exchanged by the parties no later than three (3) days prior to the informal hearing.
  - e. The informal hearing shall be scheduled for one hour and shall proceed as follows:
    - i. District administration presentation;
    - ii. Teacher presentation;
    - iii. Rebuttal presentation by District;
    - iv. District closing statement;
    - v. Teacher closing statement;
  - f. The Board may, in its discretion, vary the proceedings.
5. Decision. Following deliberation in executive session, the Board shall render an oral decision to affirm or revoke the notice of nonretention. The decision will be made by majority vote of the Board members participating at the informal hearing. The Board shall issue written notice of its decision within ten (10) days after the hearing.

*Added 6/04*  
*Reviewed 11/2007*

Additions shown in ***bold italic highlighted text***  
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## **Certificated Personnel**

BP 4118

### **SUSPENSION/DISCIPLINARY ACTION**

The School Board expects its employees to perform their duties in accordance with state law and Board policy and administrative regulations.

*(cf. 4119.21 - Codes of Ethics)*

*(cf. 4117.4 - Dismissal)*

*(cf. 4117.6 - Nonretention)*

The Superintendent or designee may take disciplinary action, including verbal warning, written warning, reassignment, suspension with or without pay and dismissal, as the Superintendent deems appropriate and may deviate from the progressive order of disciplinary actions in light of the particular facts and circumstances involved.

The Superintendent or designee shall document all disciplinary actions thoroughly and accurately and shall ensure that such actions are taken in a consistent, nondiscriminatory manner.

*Legal Reference:*

ALASKA STATUTES

*14.20.030 Causes for revocation and suspension*

*14.20.170 Dismissal*

*Reviewed 11/2007*