

DATE:	August 15, 2019
SUBJECT:	Changes to Reporting Requirements and Creation of the Registry of Persons Ineligible to Work in Public Schools
CATEGORY:	Informational
NEXT STEPS:	Share with appropriate staff

The 86th Texas Legislative Session brought important statutory changes to the requirements for public and private school administrators to report employee misconduct to TEA and created a registry of persons ineligible to work in public schools.

Reporting Requirements

Effective September 1, 2019, superintendents or directors of school districts, districts of innovation, charter schools, regional education service centers, and shared services arrangements are required to report to the commissioner when **any non-certified employee** resigns or is terminated and there is evidence that the employee:

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

This requirement is created by the new Texas Education Code §22.093. Additionally, school administrators are still required to report certified educators to the State Board of Educator Certification (SBEC) under Texas Education Code §21.006.

Principals are required to report to superintendents within seven business days of an employee resigning or being terminated following an incident of misconduct. Superintendents must report to the commissioner within seven business days after the superintendent receives a report from a principal or otherwise knows that the employee has resigned or been terminated. Administrators who report in good faith receive immunity from civil and criminal liability under Texas Education Code §22.093(h). Administrators who fail to report are subject to sanction by SBEC and to criminal liability, a state jail felony under Texas Education Code §22.093(k). TEA will be developing a new internet portal to allow superintendents and directors to report securely, confidentially, and efficiently.

The new Texas Education Code §21.0062 also requires a chief administrative officer of a private school to notify SBEC if a private school educator resigns or is terminated following an incident of misconduct. More information about private school reporting requirements will be posted to the TEA website and discussed in the TEA webinar on this topic.

Due Process

After a superintendent reports a non-certified employee to the commissioner, the employee will be given an opportunity to respond and to request a hearing. If the employee does not show cause why TEA should not investigate the allegations in the report, the employee is identified on the TEA website as being under investigation. TEA will then investigate the allegations raised in the report from the superintendent. After the investigation and hearing are complete, the commissioner will make a final determination regarding the allegations. If the commissioner finds that the evidence does not support the allegations, the employee's name will be removed from the TEA website. If the commissioner determines the allegations are true, the employee's name will be added to the registry of persons ineligible to work in public schools, which will be available on the TEA website.

Do Not Hire Registry

The registry of persons ineligible to work in public schools will be comprised of:

- Non-certified employees reported by superintendents or directors of public schools and adjudicated by the commissioner, as described above;
- Previously certified educators from which the SBEC has revoked educator certificates for being involved in a romantic relationship with or soliciting or engaging in sexual contact with a student or minor, or abusing or otherwise committing an unlawful act with a student or minor; and
- Employees of charter schools or public schools that TEA determines are not eligible for employment under Texas Education Code §§22.0932 and 22.0833.

School districts, districts of innovation, charter schools, regional education service centers and shared services arrangements must fire or refuse to hire any individual listed on the registry of persons ineligible to work in public schools. Failure to do so can result in a material violation of a charter school's charter, termination of a district's designation as a district of innovation, a special accreditation investigation and resulting sanctions for a school district, and SBEC discipline of individual certified administrators.

Both the registry and reporting portal will be launched in early 2020. Expect future correspondence about these topics from TEA staff. After the registry is launched, school districts should check the registry periodically as a best practice to ensure that none of their employees has been added to it.

To relieve superintendents and directors of the responsibility to report to SBEC-certified educators who resign after allegations have been investigated and determined to be false, new Texas Education Code §21.006(c-2) allows a superintendent or director of a public school to **not** report a certified educator accused of being involved in a romantic relationship with or soliciting or engaging in sexual contact with a student or minor, or abusing or otherwise committing an unlawful act with a student or minor, if the superintendent or director completes

an investigation before the educator resigns or is terminated and determines that the educator did not engage in the alleged misconduct.

Thank you for your attention to these matters.

David Rodriguez

Director, Educator Investigations