End of the Year Contract Decisions

Protecting and Defending Public Education in South Carolina

Introduction

Spring is a season for renewed energy, sunshine and blooming flowers. For our students, it’s often a time of restlessness and distraction. For our school districts, it’s a time of preparation for the next school year, especially decisions about evaluations and contracts. This flurry of activity can have far reaching impact on the lives and careers of educators; therefore, it’s important that school employees are attentive and understand their rights. The purpose of this paper is to provide general information related to end of the year employment decisions. Do not make a decision about employment based solely on the information in this paper. If you are a member, call The SCEA for guidance.

Contracts

- Continuing Contracts must be issued by April 15.*
- Teachers on leave are responsible for checking their mail, picking up certified mail, and responding.
- Before signing, read carefully and make sure you understand the terms.
- A Continuing Contract teacher who moves into an alternative position should be attentive to the type of contract offered. Other types of contract may not provide due process rights.
- Teachers must sign their contracts by the deadline. Failure to return a contract within the period is a resignation.
- Use caution when signing contracts early. Promises that a teacher will be released if he/she changes his/her mind may not be legally binding.
- Beware of replacement contracts. If the district attempts to replace a contract you have already signed with another one, DON’T sign it until you contact The SCEA for a review.
- If a teacher signs a contract and is then offered a position in a different district, the current district must be willing to release the teacher from the contract that was just signed before the teacher can sign a contract in another district.

Rejecting a Contract or Resigning

- Teachers should not make important employment decisions when stressed, angry, or upset. Call The SCEA and talk to us before rejecting a contract or resigning.
- All “thinking” must be done before submitting a resignation or rejecting a contract. Once the resignation is submitted or the contract is rejected, it’s a “done deal”. Regardless of the circumstances, resignations are VOLUNTARY. Legally, no one can be forced to resign.
- If you are pressured to resign, insist on time to think about it and stand your ground. The decision is too important to make under duress. It is unlikely the district will not grant you this time. However, if the district refuses, ask for time to make a phone call and call The SCEA. If you have no choice but to resign, add a statement to your resignation that you are resigning under duress and not forfeiting your rights.
- Any agreement made in exchange for a resignation should be included in the resignation. You will not likely be able to get this in writing after the fact.

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*unless the General Assembly changes it
Moving to a Different Position

- A certified employee (e.g. teacher) who seeks or is offered a non-certified/classified position (e.g. a teacher aide) may not be able to return to a full time or certified position the following year. Some districts will block the teacher from being considered for a full time teaching position for a period of time like two or three years.

- Teachers who seek and/or accept a TA position may find themselves forced to perform the duties of a teacher, in spite of being hired as a TA and paid as a TA. In this scenario, the district has the advantage. The teacher is an at-will employee with no due process rights. The district can assign the teacher assistant as desired and the teacher may not have any legitimate way to refuse. Members who find themselves in this position should call The SCEA.

- Teachers who accept a part time position or a non-certified position should find out how this will impact benefits, retirement, certificate renewal, and NBC incentives (if applicable).

National Board Certified Teachers Who Change Positions

- A National Board Certified teacher can lose NBC incentive pay by transferring to a position outside of the classroom. There are a variety of positions called “coordinator”, “facilitator”, “coaches”, “specialists”, and so forth. These positions are typically not classroom positions or they may be split between traditional teaching and other duties. Before a NBCT transfers to a new position, he or she should confirm whether the NBC incentive will be affected. Get it in writing!

- To receive the incentive, the educator must be school-based, non-supervisory, non-administrative, work with classroom teachers in an instructional or curriculum coordinator capacity, or any other school based personnel not requiring principal/administrative supervisory certification

- Review the new contract carefully to make sure the contract type is not “administrator”. If you sign an administrator contract, you may lose your NBC incentive, regardless of whether or not you will actually handle administrator duties.

Formal Evaluation & Continuing Contracts

- Teachers who fail their evaluation may or may not be offered a contract for next year. It's a district decision, subject to hearing rights the teachers may have provided by the Teacher Employment Dismissal Act or the State Department of Education Regulations.

- Teachers who change districts may have to undergo formal evaluation in the new district, simply because they are a new hire. An example is Richland Two’s “New in Two” policy.

- Teachers who fail their formal evaluation are not guaranteed an opportunity to go through it again the next year. It’s a district decision.

- If a teacher is notified of formal evaluation for next year, that recommendation follows the teacher if moving to a new school in the same district. If the teacher changes districts, the decision is left up to the new district.

- Teachers must be notified of the district’s intent to formally evaluate them next year before they sign their contract.
Signing a Contract Out of Area, Certification Issues, PACE

- Teachers who sign a contract but are not qualified for the position are taking a risk. Teacher contracts include language that place the responsibility on the teacher being certified for the position.
- If the district grants time to meet certification requirements, the teacher should get it in writing and make sure to get it done!
- If it is discovered later that certification is not in order, the teacher may have to scramble to get certified without enough time to complete the coursework and the district may be unwilling to wait. In addition, the teacher will likely have to pay tuition. Districts may terminate the teacher or reduce his/her salary until certification is in order.
- Teachers from other states should check the state's web site to make sure their certification is in order for the position they are applying for.

The SCEA believes there is a shared responsibility to make sure these hiring mistakes do not occur, but in the end teachers are held legally responsible for making sure they are certified.

Check Your Information

This link (http://www.thescea.org/certification) takes you to the Certification page where you can check your certificate and see information that is reported about you to other districts.

Resigning - Unemployment Benefits

- If losing your job wasn’t your fault (e.g. Induction/Annual Contracts, Reduction in Force/Layoffs) you may be eligible to receive unemployment. Resigning, being terminated, or retiring may disqualify you for unemployment benefits or result in a waiting period.
- The decision to approve or deny unemployment is made by the unemployment office, not the district. However, information provided by your district can cause you to be ineligible or disqualified for a period. Ask for written assurance that your resignation is “involuntary” or your separation is not “for cause.”

Before You Leave

- Check your personnel file before you leave a district.
- Make sure agreements reached about job changes are in written form. Use caution in assuming that an email is an official response.
- Keep your principal in the loop.
- Check your credentials to confirm the status of your certificate renewal and make sure you obtain any information, paperwork or signatures needed.
- Get professional references from colleagues for future use.
- Remove personal data from the school computer using a personal drive. Do not violate FERPA or district policy by downloading protected information.
- Don’t pack your room before your move is officially approved.
- Return all equipment and district property.
**Filing An Appeal or Grievance**

There is a **DEADLINE** to appeal terminations, evaluations and contract non-renewals. The deadline to appeal the non-renewal of a contract is **15 calendar days from the date of the action**. The procedures are found in the **Teacher Employment Dismissal Act summarized below**. The deadline to file a **grievance** or appeal is specified in your school district’s board policy manual in the Personnel Section. For most districts, that deadline is **10 working days from the date of the action that you are opposing**. If you miss the deadline, you may lose your ability to address what happened. **Do not let anyone tell you that you cannot file a grievance or appeal!** Call The SCEA. We will assist you through all levels of the process.

**Teacher Employment & Dismissal Act - At a Glance**

The General Assembly has established specific provisions for employment and dismissal of public school teachers in Title 59, Chapter 25, Article 5 of the Code of Laws. See S.C. Code Ann. §§ 59-25-410 - 59-25-860. These statutes, collectively known as the TEDA, provide **continuing contract teachers** the following rights:

1. Annual notification of re-employment (§ 59-25-410);
2. Priority re-employment following reduction in force (§ 59-25-415);
3. Notice of separation from employment and opportunity for hearing (§ 59-25-420);
4. Dismissal for cause only (§ 59-25-430);
5. Notice of reasons for potential separation (§ 59-25-440);
6. Written notice of reasons for suspension and opportunity for hearing (§ 59-25-450);
7. Substantive and procedural due process including:
   a. written notice of cause;
   b. written notice of opportunity for hearing;
   c. option for public or private hearing;
   d. availability of subpoenas for witness attendance;
   e. testimony under oath;
   f. record of proceedings;
   g. a decision by the teacher's board; (§ 59-25-460)
8. Hearing requirements include:
   a. hearing **held by the board** within fifteen days of request upon demand;
   b. five days written notice prior to the hearing date;
   c. the privilege of being present with counsel at the hearing;
   d. the opportunity to cross-examine witnesses;
   e. the opportunity to offer witnesses;
   f. a written decision **by the board** within ten days following the hearing. (§ 59-25-470).

**Link to this on the state website.** This information applies to Continuing Contract employees only. The regulations differ for other contract levels.