

By: Dale, Geren

H.B. No. 1799

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to employing, terminating, and reporting misconduct of  
3 public school personnel and related entity personnel, including  
4 creating a registry of persons ineligible for hire; creating a  
5 criminal offense.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Article 42.018(a), Code of Criminal Procedure,  
8 is amended to read as follows:

9 (a) This article applies only[+  
10 [~~(1)~~] to conviction or deferred adjudication granted  
11 on the basis of:  
12 (1) [~~(A)~~] an offense under Title 5, Penal Code, [~~or~~  
13 [~~(B) an offense on conviction of which a defendant~~  
14 ~~is required to register as a sex offender under Chapter 62, and~~  
15 [~~(2)~~] if the victim of the offense was [~~is~~] under 18  
16 years of age at the time the offense was committed; or  
17 (2) an offense for which a conviction or grant of  
18 deferred adjudication requires the defendant to register as a sex  
19 offender under Chapter 62.

20 SECTION 2. Section 7.028(a), Education Code, is amended to  
21 read as follows:

22 (a) Except as provided by Section 21.006(j), 22.092(1),  
23 22.094, 29.001(5), 29.010(a), or 39.057, the agency may monitor  
24 compliance with requirements applicable to a process or program

1 provided by a school district, campus, program, or school granted  
2 charters under Chapter 12, including the process described by  
3 Subchapter F, Chapter 11, or a program described by Subchapter B, C,  
4 D, E, F, H, or I, Chapter 29, Subchapter A, Chapter 37, or Section  
5 38.003, and the use of funds provided for such a program under  
6 Subchapter C, Chapter 42, only as necessary to ensure:

- 7 (1) compliance with federal law and regulations;
- 8 (2) financial accountability, including compliance  
9 with grant requirements; and
- 10 (3) data integrity for purposes of:
  - 11 (A) the Public Education Information Management  
12 System (PEIMS); and
  - 13 (B) accountability under Chapter 39.

14 SECTION 3. Section 12.056(b), Education Code, is amended to  
15 read as follows:

16 (b) A campus or program for which a charter is granted under  
17 this subchapter is subject to:

18 (1) a provision of this title establishing a criminal  
19 offense; and

20 (2) a prohibition, restriction, or requirement, as  
21 applicable, imposed by this title or a rule adopted under this  
22 title, relating to:

23 (A) the Public Education Information Management  
24 System (PEIMS) to the extent necessary to monitor compliance with  
25 this subchapter as determined by the commissioner;

26 (B) criminal history records under Subchapter C,  
27 Chapter 22;

- 1 (C) high school graduation under Section 28.025;  
2 (D) special education programs under Subchapter  
3 A, Chapter 29;  
4 (E) bilingual education under Subchapter B,  
5 Chapter 29;  
6 (F) prekindergarten programs under Subchapter E,  
7 Chapter 29;  
8 (G) extracurricular activities under Section  
9 33.081;  
10 (H) health and safety under Chapter 38; ~~and~~  
11 (I) public school accountability under  
12 Subchapters B, C, D, E, F, and J, Chapter 39;  
13 (J) reporting misconduct under Sections 21.006  
14 and 22.092; and  
15 (K) the duty to discharge or refuse to hire  
16 certain employees or applicants for employment under Section  
17 12.1059, 22.085, or 22.091.

18 SECTION 4. Section 12.1059, Education Code, is amended to  
19 read as follows:

20 Sec. 12.1059. AGENCY APPROVAL REQUIRED FOR CERTAIN  
21 EMPLOYEES. A person may not be employed by or serve as a teacher,  
22 librarian, educational aide, administrator, or school counselor  
23 for an open-enrollment charter school unless:

24 (1) the person has been approved by the agency  
25 following a review of the person's national criminal history record  
26 information as provided by Section 22.0832; and

27 (2) the school has confirmed that the person is not

1 included in the registry under Section 22.091.

2 SECTION 5. Section 12.115(a), Education Code, is amended to  
3 read as follows:

4 (a) Except as provided by Subsection (c), the commissioner  
5 shall revoke the charter of an open-enrollment charter school or  
6 reconstitute the governing body of the charter holder if the  
7 commissioner determines that the charter holder:

8 (1) committed a material violation of the charter,  
9 including by a failure to:

10 (A) satisfy accountability provisions prescribed  
11 by the charter; or

12 (B) comply with the duty to discharge or refuse  
13 to hire certain employees or applicants for employment, as provided  
14 by Section 12.1151;

15 (2) failed to satisfy generally accepted accounting  
16 standards of fiscal management;

17 (3) failed to protect the health, safety, or welfare  
18 of the students enrolled at the school;

19 (4) failed to comply with this subchapter or another  
20 applicable law or rule;

21 (5) failed to satisfy the performance framework  
22 standards adopted under Section 12.1181; or

23 (6) is imminently insolvent as determined by the  
24 commissioner in accordance with commissioner rule.

25 SECTION 6. Subchapter D, Chapter 12, Education Code, is  
26 amended by adding Section 12.1151 to read as follows:

27 Sec. 12.1151. FAILURE TO DISCHARGE OR REFUSE TO HIRE

1 CERTAIN EMPLOYEES OR APPLICANTS. An open-enrollment charter school  
2 commits a material violation of the school's charter if the school  
3 fails to comply with the duty to discharge or refuse to hire certain  
4 employees or applicants for employment under Section 12.1059,  
5 22.085, or 22.091.

6 SECTION 7. Section 12A.008, Education Code, is amended by  
7 adding Subsection (b-1) to read as follows:

8 (b-1) The commissioner may terminate a district's  
9 designation as a district of innovation if the district fails to  
10 comply with the duty to discharge or refuse to hire certain  
11 employees or applicants for employment under Section 12.1059,  
12 applicable to the district under Section 12A.004(a)(1), or Section  
13 22.085 or 22.091.

14 SECTION 8. Section 21.006, Education Code, is amended by  
15 amending Subsections (b), (b-1), (c), (e), and (f) and adding  
16 Subsections (c-1), (i), and (j) to read as follows:

17 (b) In addition to the reporting requirement under Section  
18 261.101, Family Code, the superintendent or director of a school  
19 district, district of innovation, open-enrollment charter school,  
20 regional education service center, or shared services arrangement  
21 or the principal of a school district, district of innovation, or  
22 open-enrollment charter school campus shall notify the State Board  
23 for Educator Certification if:

24 (1) an educator employed by or seeking employment by  
25 the school district, district of innovation, charter school,  
26 service center, or shared services arrangement has a criminal  
27 record and the school district, district of innovation, charter

1 school, service center, or shared services arrangement obtained  
2 information about the educator's criminal record by a means other  
3 than the criminal history clearinghouse established under Section  
4 [411.0845](#), Government Code;

5 (2) an educator's employment at the school district,  
6 district of innovation, charter school, service center, or shared  
7 services arrangement was terminated and there is ~~[based on]~~  
8 evidence that the educator:

9 (A) abused or otherwise committed an unlawful act  
10 with a student or minor;

11 (A-1) was involved in a romantic relationship  
12 with or solicited or engaged in sexual contact with a student or  
13 minor;

14 (B) possessed, transferred, sold, or distributed  
15 a controlled substance, as defined by Chapter [481](#), Health and  
16 Safety Code, or by 21 U.S.C. Section 801 et seq.;

17 (C) illegally transferred, appropriated, or  
18 expended funds or other property of the school district, district  
19 of innovation, charter school, service center, or shared services  
20 arrangement;

21 (D) attempted by fraudulent or unauthorized  
22 means to obtain or alter a professional certificate or license for  
23 the purpose of promotion or additional compensation; or

24 (E) committed a criminal offense or any part of a  
25 criminal offense on school property or at a school-sponsored event;

26 (3) the educator resigned and there is evidence that  
27 the educator engaged in misconduct described by Subdivision (2); or

1 (4) the educator engaged in conduct that violated the  
2 assessment instrument security procedures established under  
3 Section 39.0301.

4 (b-1) A superintendent or director of a school district,  
5 district of innovation, [or] open-enrollment charter school,  
6 regional education service center, or shared services arrangement  
7 or a principal of a school district, district of innovation, or  
8 open-enrollment charter school campus shall complete an  
9 investigation of an educator that involves [~~is based on~~] evidence  
10 that the educator may have engaged in misconduct described by  
11 Subsection (b)(2)(A) or (A-1), despite the educator's resignation  
12 from [~~district or school~~] employment before completion of the  
13 investigation.

14 (c) The superintendent or director, except as otherwise  
15 provided by Subsection (c-1), or the principal must notify the  
16 State Board for Educator Certification by filing a report with the  
17 board not later than the seventh day after the date the  
18 superintendent, [~~or~~] director, or principal knew or should have  
19 known about an educator's [~~employee's~~] criminal record under  
20 Subsection (b)(1) or a termination of employment or resignation  
21 following an alleged incident of misconduct described by Subsection  
22 (b). The report must be:

23 (1) in writing; and

24 (2) in a form prescribed by the board.

25 (c-1) A principal of a school district, district of  
26 innovation, or open-enrollment charter school campus who files a  
27 report under Subsection (c) must notify the superintendent or

1 director of the school district, district of innovation, or charter  
2 school, as applicable, about the filing of the report. A  
3 superintendent or director who is notified that a principal  
4 employed by the school district, district of innovation, or charter  
5 school has filed a report under Subsection (c) is not required to  
6 file a report concerning the criminal record or alleged incident of  
7 misconduct addressed in the principal's report.

8 (e) A superintendent, ~~or~~ director, or principal who in  
9 good faith and while acting in an official capacity files a report  
10 with the State Board for Educator Certification under this section  
11 is immune from civil or criminal liability that might otherwise be  
12 incurred or imposed.

13 (f) The State Board for Educator Certification shall  
14 determine whether to impose sanctions against a superintendent,  
15 ~~or~~ director, or principal who fails to file a report in violation  
16 of Subsection (c).

17 (i) A superintendent, director, or principal required to  
18 file a report under Subsection (c) commits an offense if the  
19 superintendent, director, or principal knowingly fails to file the  
20 report by the date required by that subsection. An offense under  
21 this subsection is a Class A misdemeanor, except that the offense is  
22 a state jail felony if it is shown on the trial of the offense that  
23 the superintendent, director, or principal intended to conceal an  
24 educator's criminal record or alleged incident of misconduct.

25 (j) The commissioner may review the records of a school  
26 district, district of innovation, open-enrollment charter school,  
27 regional education service center, or shared services arrangement



1 to ensure compliance with the requirement to report misconduct  
2 under this section.

3 SECTION 9. The heading to Section 21.058, Education Code,  
4 is amended to read as follows:

5 Sec. 21.058. REVOCATION OF CERTIFICATE AND TERMINATION OF  
6 EMPLOYMENT BASED ON CONVICTION OF OR PLACEMENT ON DEFERRED  
7 ADJUDICATION COMMUNITY SUPERVISION FOR CERTAIN OFFENSES.

8 SECTION 10. Sections 21.058(a) and (b), Education Code, are  
9 amended to read as follows:

10 (a) The procedures described by Subsections (b) and (c)  
11 apply only[+]

12 [~~(1)~~] to conviction of or placement on deferred  
13 adjudication community supervision for:

14 (1) a felony offense under Title 5, Penal Code, [~~or an~~  
15 ~~offense on conviction of which a defendant is required to register~~  
16 ~~as a sex offender under Chapter 62, Code of Criminal Procedure; and~~

17 [~~(2)~~] if the victim of the offense was [~~is~~] under 18  
18 years of age at the time the offense was committed; or

19 (2) an offense for which a defendant is required to  
20 register as a sex offender under Chapter 62, Code of Criminal  
21 Procedure.

22 (b) Notwithstanding Section 21.041(b)(7), not later than  
23 the fifth day after the date the board receives notice under Article  
24 42.018, Code of Criminal Procedure, of the conviction or placement  
25 on deferred adjudication community supervision of a person who  
26 holds a certificate under this subchapter, the board shall:

27 (1) revoke the certificate held by the person; and

1           (2) provide to the person, to the agency, and to any  
2 school district or open-enrollment charter school employing the  
3 person at the time of revocation written notice of:

4                   (A) the revocation; and

5                   (B) the basis for the revocation.

6           SECTION 11. Subchapter B, Chapter 21, Education Code, is  
7 amended by adding Section 21.0585 to read as follows:

8           Sec. 21.0585. NOTICE TO AGENCY REGARDING REVOCATION OF  
9 CERTIFICATE OR PERMIT FOR CERTAIN MISCONDUCT. The board shall  
10 promptly notify the agency for purposes of Section 22.091 if the  
11 board revokes a certificate or permit of a person on a finding that  
12 the person engaged in misconduct described by Section  
13 21.006(b)(2)(A) or (A-1).

14           SECTION 12. Section 22.0832, Education Code, is amended to  
15 read as follows:

16           Sec. 22.0832. NATIONAL CRIMINAL HISTORY RECORD INFORMATION  
17 REVIEW OF CERTAIN OPEN-ENROLLMENT CHARTER SCHOOL OR DISTRICT OF  
18 INNOVATION EMPLOYEES. (a) The agency shall review the national  
19 criminal history record information of an employee of an  
20 open-enrollment charter school or district of innovation to whom  
21 Section 12.1059 applies in the same manner as the State Board for  
22 Educator Certification reviews certified educators under Section  
23 22.0831. If the agency determines that, based on information  
24 contained in an employee's criminal history record information, the  
25 employee would not be eligible for educator certification under  
26 Subchapter B, Chapter 21, the agency shall notify the  
27 open-enrollment charter school or district of innovation in writing

1 that the person may not be employed by the school or serve in a  
2 capacity described by Section 12.1059.

3 (b) An open-enrollment charter school or district of  
4 innovation must provide the agency with any information requested  
5 by the agency to enable the agency to complete a review under  
6 Subsection (a). Failure of an open-enrollment charter school to  
7 provide information under this subsection is a material violation  
8 of the school's charter. Failure of a district of innovation to  
9 provide information under this subsection may result in termination  
10 of the district's designation as a district of innovation.

11 SECTION 13. Sections 22.0833(a), (c), (e), (f), (g), and  
12 (h), Education Code, are amended to read as follows:

13 (a) This section applies to a person who is not an applicant  
14 for or holder of a certificate under Subchapter B, Chapter 21, and  
15 who on or after January 1, 2008, is offered employment by:

16 (1) a school district, district of innovation, or  
17 open-enrollment charter school; or

18 (2) a shared services arrangement, if the employee's  
19 or applicant's duties are or will be performed on school property or  
20 at another location where students are regularly present.

21 (c) Before or immediately after employing or securing the  
22 services of a person to whom this section applies, a school  
23 district, district of innovation, open-enrollment charter school,  
24 or shared services arrangement shall send or ensure that the person  
25 sends to the department information that is required by the  
26 department for obtaining national criminal history record  
27 information, which may include fingerprints and photographs.

1           (e) Each school district, district of innovation,  
2 open-enrollment charter school, and shared services arrangement  
3 shall obtain all criminal history record information that relates  
4 to a person to whom this section applies through the criminal  
5 history clearinghouse as provided by Section [411.0845](#), Government  
6 Code, and shall subscribe to the criminal history record  
7 information of the person.

8           (f) The school district, district of innovation,  
9 open-enrollment charter school, or shared services arrangement may  
10 require a person to pay any fees related to obtaining criminal  
11 history record information under this section.

12           (g) A school district, district of innovation,  
13 open-enrollment charter school, or shared services arrangement  
14 shall provide the agency with the name of a person to whom this  
15 section applies. The agency shall obtain all criminal history  
16 record information of the person through the criminal history  
17 clearinghouse as provided by Section [411.0845](#), Government  
18 Code. The agency shall examine the criminal history record  
19 information of the person and notify the district, district of  
20 innovation, charter school, or shared services arrangement if the  
21 person may not be hired or must be discharged as provided by Section  
22 [22.085](#).

23           (h) The agency, the State Board for Educator Certification,  
24 school districts, districts of innovation, open-enrollment charter  
25 schools, and shared services arrangements may coordinate as  
26 necessary to ensure that criminal history reviews authorized or  
27 required under this subchapter are not unnecessarily duplicated.

1 SECTION 14. Sections 22.0836(a), (c), (e), (f), (g), and  
2 (h), Education Code, are amended to read as follows:

3 (a) This section applies to a person who is a substitute  
4 teacher for a school district, district of innovation,  
5 open-enrollment charter school, or shared services arrangement.

6 (c) A school district, district of innovation,  
7 open-enrollment charter school, or shared services arrangement  
8 shall send or ensure that a person to whom this section applies  
9 sends to the department information that is required by the  
10 department for obtaining national criminal history record  
11 information, which may include fingerprints and photographs.

12 (e) Each school district, district of innovation,  
13 open-enrollment charter school, and shared services arrangement  
14 shall obtain all criminal history record information that relates  
15 to a person to whom this section applies through the criminal  
16 history clearinghouse as provided by Section 411.0845, Government  
17 Code.

18 (f) The school district, district of innovation,  
19 open-enrollment charter school, or shared services arrangement may  
20 require a person to pay any fees related to obtaining criminal  
21 history record information under this section.

22 (g) A school district, district of innovation,  
23 open-enrollment charter school, or shared services arrangement  
24 shall provide the agency with the name of a person to whom this  
25 section applies. The agency shall obtain all criminal history  
26 record information of the person through the criminal history  
27 clearinghouse as provided by Section 411.0845, Government

1 Code. The agency shall examine the criminal history record  
2 information and certification records of the person and notify the  
3 district, district of innovation, charter school, or shared  
4 services arrangement if the person:

5 (1) may not be hired or must be discharged as provided  
6 by Section 22.085; or

7 (2) may not be employed as a substitute teacher  
8 because the person's educator certification has been revoked or is  
9 suspended.

10 (h) The commissioner may adopt rules to implement this  
11 section, including rules establishing deadlines for a school  
12 district, district of innovation, open-enrollment charter school,  
13 or shared services arrangement to require a person to whom this  
14 section applies to submit fingerprints and photographs in  
15 compliance with this section and the circumstances under which a  
16 person may not continue to be employed as a substitute teacher.

17 SECTION 15. Section 22.085, Education Code, is amended to  
18 read as follows:

19 Sec. 22.085. EMPLOYEES AND APPLICANTS CONVICTED OF OR  
20 PLACED ON DEFERRED ADJUDICATION COMMUNITY SUPERVISION FOR CERTAIN  
21 OFFENSES. (a) A school district, district of innovation,  
22 open-enrollment charter school, or shared services arrangement  
23 shall discharge or refuse to hire an employee or applicant for  
24 employment if the school district, district of innovation, charter  
25 school, or shared services arrangement obtains information through  
26 a criminal history record information review that [+]

27 [~~1~~] the employee or applicant has been convicted of

1 or placed on deferred adjudication community supervision for:

2           (1) [(A)] a felony offense under Title 5, Penal Code,  
3 if the victim of the offense was under 18 years of age at the time  
4 the offense was committed;

5           (2) [(B)] an offense on conviction of which or on  
6 placement on deferred adjudication community supervision for which  
7 a defendant is required to register as a sex offender under Chapter  
8 62, Code of Criminal Procedure; or

9           (3) [(C)] an offense under the laws of another state  
10 or federal law that is equivalent to an offense under Subdivision  
11 (1) [Paragraph (A)] or (2) [(B)]; and

12           ~~[(2) at the time the offense occurred, the victim of~~  
13 ~~the offense described by Subdivision (1) was under 18 years of age~~  
14 ~~or was enrolled in a public school].~~

15           (b) Subsection (a) does not apply if the employee or  
16 applicant for employment committed an offense under Title 5, Penal  
17 Code and:

18           (1) the date of the commission of the offense is more  
19 than 30 years before:

20           (A) the effective date of S.B. No. 9, Acts of the  
21 80th Legislature, Regular Session, 2007, in the case of a person  
22 employed by a school district, open-enrollment charter school, or  
23 shared services arrangement as of that date; or

24           (B) the date the person's employment will begin,  
25 in the case of a person applying for employment with a school  
26 district, district of innovation, open-enrollment charter school,  
27 or shared services arrangement after the effective date of S.B.

1 No. 9, Acts of the 80th Legislature, Regular Session, 2007; and

2 (2) the employee or applicant for employment satisfied  
3 all terms of the court order entered on conviction or successfully  
4 completed the period of deferred adjudication community  
5 supervision.

6 (c) A school district, district of innovation,  
7 open-enrollment charter school, or shared services arrangement may  
8 not allow a person who is an employee of or applicant for employment  
9 by an entity that contracts with the school district, district of  
10 innovation, charter school, or shared services arrangement to serve  
11 at the school district, district of innovation, or charter school  
12 or for the shared services arrangement if the school district,  
13 district of innovation, charter school, or shared services  
14 arrangement obtains information described by Subsection (a)  
15 through a criminal history record information review concerning the  
16 employee or applicant. A school district, district of innovation,  
17 open-enrollment charter school, or shared services arrangement  
18 must ensure that an entity that the school district, district of  
19 innovation, charter school, or shared services arrangement  
20 contracts with for services has obtained all criminal history  
21 record information as required by Section 22.0834.

22 (d) A school district, district of innovation,  
23 open-enrollment charter school, private school, regional education  
24 service center, or shared services arrangement may discharge an  
25 employee if the school district, district of innovation, charter  
26 school, or private school obtains information of the employee's  
27 conviction of a felony or of a misdemeanor involving moral



1 turpitude that the employee did not disclose to the State Board for  
2 Educator Certification or the school district, district of  
3 innovation, charter school, private school, service center, or  
4 shared services arrangement. An employee discharged under this  
5 section is considered to have been discharged for misconduct for  
6 purposes of Section 207.044, Labor Code.

7 (e) The State Board for Educator Certification may impose a  
8 sanction on an educator who does not discharge an employee or refuse  
9 to hire an applicant for employment if the educator knows or should  
10 have known, through a criminal history record information review,  
11 that the employee or applicant has been convicted of or placed on  
12 deferred adjudication community supervision for an offense  
13 described by Subsection (a).

14 (f) Each school year, the superintendent [~~of a school~~  
15 ~~district~~] or chief operating officer of a school district, district  
16 of innovation, or [an] open-enrollment charter school shall certify  
17 to the commissioner that the district or school has complied with  
18 this section.

19 (g) A school district, district of innovation,  
20 open-enrollment charter school, or shared services arrangement  
21 shall promptly notify the agency for purposes of Section 22.091  
22 that the school district, district of innovation, charter school,  
23 or shared services arrangement discharged or refused to hire an  
24 employee or applicant for employment as provided by this section. A  
25 school district, district of innovation, open-enrollment charter  
26 school, or shared services arrangement is not required to comply  
27 with this subsection if the school district, district of

1 innovation, charter school, or shared services arrangement was  
2 notified by the agency that the person must be discharged or may not  
3 be hired as provided by this section pursuant to a review of the  
4 person's criminal history record information by the agency.

5 SECTION 16. Chapter 22, Education Code, is amended by  
6 adding Subchapter C-1 to read as follows:

7 SUBCHAPTER C-1. PERSONS NOT ELIGIBLE FOR EMPLOYMENT IN PUBLIC  
8 SCHOOLS

9 Sec. 22.091. REGISTRY OF PERSONS NOT ELIGIBLE FOR  
10 EMPLOYMENT IN PUBLIC SCHOOLS. (a) The agency shall maintain and  
11 make available to appropriate hiring entities a registry of persons  
12 who are not eligible to be employed by a school district, district  
13 of innovation, open-enrollment charter school, regional education  
14 service center, or shared services arrangement.

15 (b) A school district, district of innovation,  
16 open-enrollment charter school, regional education service center,  
17 or shared services arrangement shall discharge or refuse to hire a  
18 person listed on the registry maintained under this section.

19 (c) The registry maintained under this section must list the  
20 following persons as not eligible to be employed by public schools:

21 (1) a person determined by the agency under Section  
22 22.0832 as a person who would not be eligible for educator  
23 certification under Subchapter B, Chapter 21;

24 (2) a person who is not eligible for employment based  
25 on the person's criminal history record information review, as  
26 provided by Section 22.085;

27 (3) a person who is not eligible for employment based

1 on criminal history record information received by the agency under  
2 Section 21.058(b);

3 (4) a person whose certification or permit issued  
4 under Subchapter B, Chapter 21, is revoked by the State Board for  
5 Educator Certification on a finding that the person engaged in  
6 misconduct described by Section 21.006(b)(2)(A) or (A-1); and

7 (5) a person who is determined by the commissioner  
8 under Section 22.093 to have engaged in misconduct described by  
9 Section 22.092(c)(1)(A) or (B).

10 (d) The agency shall adopt rules as necessary to implement  
11 this section.

12 Sec. 22.092. REQUIREMENT TO REPORT EMPLOYEE MISCONDUCT.

13 (a) In this section, "abuse" has the meaning assigned by Section  
14 261.001, Family Code, and includes any sexual conduct involving a  
15 student or minor.

16 (b) This section applies to a person who is employed by a  
17 school district, district of innovation, open-enrollment charter  
18 school, regional education service center, or shared services  
19 arrangement and who does not hold a certification or permit issued  
20 under Subchapter B, Chapter 21.

21 (c) In addition to the reporting requirement under Section  
22 261.101, Family Code, the superintendent or director of a school  
23 district, district of innovation, open-enrollment charter school,  
24 regional education service center, or shared services arrangement  
25 or the principal of a school district, district of innovation, or  
26 open-enrollment charter school campus shall notify the  
27 commissioner if:

1           (1) an employee's employment at the school district,  
2 district of innovation, charter school, service center, or shared  
3 services arrangement was terminated and there is evidence that the  
4 employee:

5                   (A) abused or otherwise committed an unlawful act  
6 with a student or minor; or

7                   (B) was involved in a romantic relationship with  
8 or solicited or engaged in sexual contact with a student or minor;  
9 or

10           (2) the employee resigned and there is evidence that  
11 the employee engaged in misconduct described by Subdivision (1).

12           (d) A superintendent or director of a school district,  
13 district of innovation, open-enrollment charter school, regional  
14 education service center, or shared services arrangement or a  
15 principal of a school district, district of innovation, or  
16 open-enrollment charter school campus shall complete an  
17 investigation of an employee that involves evidence that the  
18 employee may have engaged in misconduct described by Subsection  
19 (c)(1)(A) or (B), despite the employee's resignation from  
20 employment before completion of the investigation.

21           (e) The superintendent or director, except as otherwise  
22 provided by Subsection (f), or the principal must notify the  
23 commissioner by filing a report with the commissioner not later  
24 than the seventh day after the date the superintendent, director,  
25 or principal knew or should have known about an employee's  
26 termination of employment or resignation following an alleged  
27 incident of misconduct described by Subsection (c)(1). The report

1 must be:

2 (1) in writing; and

3 (2) in a form prescribed by the commissioner.

4 (f) A principal of a school district, district of  
5 innovation, or open-enrollment charter school campus who files a  
6 report under Subsection (e) must notify the superintendent or  
7 director of the school district, district of innovation, or charter  
8 school, as applicable, about the filing of the report. A  
9 superintendent or director who is notified that a principal  
10 employed by the school district, district of innovation, or charter  
11 school has filed a report under Subsection (e) is not required to  
12 file a report concerning the alleged incident of misconduct  
13 addressed in the principal's report.

14 (g) The superintendent or director shall notify the board of  
15 trustees or governing body of the school district, district of  
16 innovation, open-enrollment charter school, regional education  
17 service center, or shared services arrangement and the employee of  
18 the filing of the report required by Subsection (e).

19 (h) A superintendent, director, or principal who in good  
20 faith and while acting in an official capacity files a report with  
21 the commissioner under this section is immune from civil or  
22 criminal liability that might otherwise be incurred or imposed.

23 (i) The commissioner shall refer an educator who fails to  
24 file a report in violation of Subsection (e) to the State Board for  
25 Educator Certification, and the board shall determine whether to  
26 impose sanctions against the educator.

27 (j) The name of a student or minor who is the victim of abuse

1 or unlawful conduct by an employee must be included in a report  
2 filed under this section, but the name of the student or minor is  
3 not public information under Chapter 552, Government Code.

4 (k) A superintendent, director, or principal required to  
5 file a report under Subsection (e) commits an offense if the  
6 superintendent, director, or principal knowingly fails to file the  
7 report by the date required by that subsection. An offense under  
8 this subsection is a Class A misdemeanor, except that the offense is  
9 a state jail felony if it is shown on the trial of the offense that  
10 the superintendent, director, or principal intended to conceal an  
11 employee's alleged incident of misconduct.

12 (l) The commissioner may review the records of a school  
13 district, district of innovation, open-enrollment charter school,  
14 regional education service center, or shared services arrangement  
15 to ensure compliance with the requirement to report misconduct  
16 under this section.

17 (m) The commissioner shall adopt rules as necessary to  
18 implement this section.

19 Sec. 22.093. NOTICE OF ALLEGED MISCONDUCT; INVESTIGATION;  
20 HEARING. (a) A person who is the subject of a report that alleges  
21 misconduct described by Section 22.092(c)(1)(A) or (B) is entitled  
22 to a hearing under the procedures provided by Chapter 2001,  
23 Government Code, to contest the allegation in the report.

24 (b) On receiving a report filed under Section 22.092(e), the  
25 commissioner shall promptly send to the person who is the subject of  
26 the report a notice that includes:

27 (1) a statement informing the person that the person

1 must request a hearing within the period provided by Subsection  
2 (c);

3 (2) a request that the person submit a response within  
4 the period provided by Subsection (c) to show cause why the  
5 commissioner should not pursue an investigation; and

6 (3) a statement informing the person that if the  
7 person does not timely submit a response to show cause as provided  
8 by Subdivision (2), the agency shall provide information indicating  
9 the person is under investigation in the manner provided by  
10 Subsection (d).

11 (c) A person entitled to a hearing under Subsection (a) must  
12 request a hearing and submit a response to show cause not later than  
13 the 10th day after the date the person receives the notice from the  
14 commissioner under Subsection (b).

15 (d) If a person who receives notice under Subsection (b)  
16 does not timely submit a response to show cause why the commissioner  
17 should not pursue an investigation, the commissioner shall instruct  
18 the agency to provide information indicating the person is under  
19 investigation for alleged misconduct to a school district, district  
20 of innovation, open-enrollment charter school, or shared services  
21 arrangement that makes an inquiry to the agency with respect to a  
22 national criminal history record information review of the person  
23 under Section [22.0832](#) or [22.0833](#).

24 (e) If a person entitled to a hearing under Subsection (a)  
25 does not request a hearing as provided by Subsection (c), the  
26 commissioner shall:

27 (1) based on the report filed under Section 22.092(e),

1 make a determination whether the person engaged in misconduct; and  
2 (2) if the commissioner determines that the person  
3 engaged in misconduct described by Section 22.092(c)(1)(A) or (B),  
4 instruct the agency to add the person's name to the registry  
5 maintained under Section 22.091.

6 (f) If a person entitled to a hearing under Subsection (a)  
7 requests a hearing as provided by Subsection (c) and the final  
8 decision in that hearing determines that the person engaged in  
9 misconduct described by Section 22.092(c)(1)(A) or (B), the  
10 commissioner shall instruct the agency to add the person's name to  
11 the registry maintained under Section 22.091.

12 (g) If a person entitled to a hearing under Subsection (a)  
13 requests a hearing as provided by Subsection (c) and the final  
14 decision in that hearing determines that the person did not engage  
15 in misconduct described by Section 22.092(c)(1)(A) or (B), the  
16 commissioner shall instruct the agency to immediately discontinue  
17 providing the information under Subsection (d) indicating that the  
18 person is under investigation for alleged misconduct.

19 (h) The commissioner shall adopt rules as necessary to  
20 implement this section.

21 Sec. 22.094. COMPLIANCE MONITORING. The agency shall  
22 periodically conduct site visits and review the records of school  
23 districts, districts of innovation, open-enrollment charter  
24 schools, and shared services arrangements to ensure compliance with  
25 Section 22.091(b).

26 SECTION 17. Section 39.0302(a), Education Code, is amended  
27 to read as follows:



1           (a) During an agency investigation or audit of a school  
2 district under Section 39.0301(e) or (f), an accreditation  
3 investigation under Section 39.057(a)(8) or (14), a compliance  
4 review under Section 21.006(j), 22.092(l), or 22.094, or an  
5 investigation by the State Board for Educator Certification of an  
6 educator for an alleged violation of an assessment instrument  
7 security procedure established under Section 39.0301(a), the  
8 commissioner may issue a subpoena to compel the attendance of a  
9 relevant witness or the production, for inspection or copying, of  
10 relevant evidence that is located in this state.

11           SECTION 18. The Texas Education Agency shall establish the  
12 registry of persons who are not eligible to be employed by a school  
13 district, district of innovation, open-enrollment charter school,  
14 regional education service center, or shared services arrangement,  
15 as required by Section 22.091, Education Code, as added by this Act,  
16 as soon as practicable and not later than January 1, 2018.

17           SECTION 19. This Act takes effect September 1, 2017.