

By: Bettencourt

S.B. No. 1890

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.