

Personnel

Termination Agreements

Note: The California Supreme Court held in *Randi W. v. Muroc Joint Unified School District* that, under specified circumstances, school authorities could be held liable for physical harm to a student molested by a former employee when they recommended the employee to another district. In light of this decision, districts should carefully consider any clause in a termination agreement that limits the district's ability to provide such information to prospective employers. In general, districts should not enter into termination agreements without legal advice.

If a termination settlement agreement has been made with an employee, the Superintendent or designee shall inform prospective employers, upon request for an employment reference, that an agreement exists and that he/she may only provide information as provided for in the agreement.

(cf. 1340 - Access to District Records)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 4112.61/4212.61/4312.61 - Employment References)

Note: Government Code 53260-53264 provides that employee contracts must include a provision limiting the maximum cash settlement the employee may receive upon termination of the contract and that copies of settlement agreements must be available to the public upon request. It is clear that these provisions apply to administrative staff, either certificated or classified, who are employed under a typical contract; see BP 4312.1 - Contracts. It is not clear, however, whether these provisions would apply to teachers or classified staff.

Cash settlements made upon the termination of a contract shall never exceed an amount equal to the employee's monthly salary multiplied by the number of months, up to 18, in the unexpired term of the contract. This amount is a maximum ceiling, not to be construed as a target amount for settlement agreements. (Government Code 53260)

Settlement agreements shall not include non-cash items other than health benefits, which the district may offer to continue for the unexpired term up to 18 months or until the employee finds other employment, whichever comes first. (Government Code 53261)

Copies of settlement agreements with a superintendent, deputy superintendent, assistant superintendent, associate superintendent or other similar chief administrative officer or chief executive officer shall be made available to the public upon request. (Government Code 53262)

(cf. 2121 - Superintendent's Contract)
(cf. 4312.1 - Contracts)

OROVILLE UNION HIGH SCHOOL DISTRICT

AR 4117.5, 4217.5, 4317.5 (b)

Termination Agreements (Cont.)

Legal Reference:

CIVIL CODE

47 Privileged communication

GOVERNMENT CODE

53260-53264 Employment contracts

LABOR CODE

1198.5 Inspection of personnel files by employees

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for cause

80332 Professional honesty in letters of employment recommendation

COURT DECISIONS

Randi W. v. Muroc Joint Unified School District, (1997) 14 Cal.4th 1066

Board of Trustees of Leland Stanford Junior University v. Superior Court, (1981) 119 Cal. App. 3d 516

Adopted: 2/21/07