

Firing Underperforming Employees

2010 Risk Management Fund Members' Conference
April 25-27, 2010



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**School District
Employment Relationships**



At-will Employees



Superintendents





Contracts





Chapter 21 Contracts (p. 2)

- Probationary contract
 - New employees
 - Terminated in "best interest" of the district





Chapter 21 Contracts (p. 2)

- Continuing contract
 - Experienced employees
 - Fired only for good cause





Chapter 21 Contracts (p. 2)

- Term contract
 - Experienced employees
 - End-of-year nonrenewal
 - Mid-year for good cause



Non-Chapter 21 Contracts (p. 2)

- Non-chapter 21 contracts
 - For non-certified positions
 - Contract ends at end of year





Most Common Mistakes (p. 3)

Contracts to noncertified employees



Most Common Mistakes (p. 3)

Term contract too soon



Most Common Mistakes – Multiple Year Contracts

- Multiple year term contracts
 - One-sided commitment
- Contract extension
 - Not legally required



Most Common Mistakes – Dual-Assignment Contracts

- Dual-Assignment:
 - Contract to teach *and* coach
 - Terminate contract to fire coach
- Single-Assignment:
 - Contract to teach, side agreement to coach
 - Terminate side agreement to end coaching duties





Alternatives to Termination (p. 7)

- Reassignment
- Resignation
- Layoff (RIF)
- Suspension
 - With pay
 - Without pay






A Tale of Two Teachers

Wendy Ayers





Breezy Ayers







Nonrenewal (p. 10)

- Renewal is automatic
- When can you nonrenew?
- Reasons
- Process



Nonrenewal (cont'd)




Termination (p. 13)

- Procedures
- Independent hearing examiners





Termination – What is Good Cause?

- Harm to students
- Excessive absences
- Criminal conduct, immorality, and reduced effectiveness
 - Must be work-related





Good Cause





Performance Problems (p. 19)

- Instructional
- Non-instructional
- Evaluations
- Remediation




Practicalities (p. 21)

- Evidence
 - Documents
 - Witnesses
- Costs
- Risks

Review

- Hiring practices may make firing more difficult.
 - Generous contractual terms should be the exception, not the rule.
- It is expensive and difficult to cancel educator contracts.
 - Consider alternatives first.
 - Consider nonrenewal second.
 - Termination is option of last resort.



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