

GUIDANCE FOR ADMINISTRATORS AND SCHOOL BOARDS

Breach of Contract



IDAHO DEPARTMENT OF EDUCATION
PROFESSIONAL STANDARDS COMMISSION

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INTRODUCTION

Breaching a contract is an ethical violation found in the Code of Ethics for Idaho Professional Educators (Code of Ethics), Principle VIII:

Principle VIII – Breach of Contract or Abandonment of Employment. A professional educator fulfills all terms and obligations detailed in the contract with the local board of education or education agency for the duration of the contract. Unethical conduct includes, but is not limited to:

- a) Abandoning any contract for professional services without the prior written release from the contract by the employing local education agency (LEA);
- b) Willfully refusing to perform the services required by a contract; and
- c) Abandonment of classroom or failure to provide appropriate supervision of students at school or school-sponsored activities to ensure the safety and well-being of students.

The Professional Standards Commission (PSC) and the Idaho Department of Education offer this guidance to public school administrators and their governing boards to:

- increase administrator and board member understanding of:
 - what constitutes a breach of contract complaint;
 - the types of discipline that can be issued for a breach of contract complaint; and
 - strategies to mitigate the effects of a certified employee leaving mid-year;
- decrease the number of breach of contract complaints filed with the PSC; and
- ensure that any breach of contract complaints filed with the PSC are valid and actionable complaints.

THE PSC AND BREACH OF CONTRACT COMPLAINTS

Breaching a contract is not an ethical violation for educators across all states. However, in Idaho, an educator who breaches their contract may be subject to disciplinary action against their Idaho educator credential. ***The breach of contract principle exists to deter educators from resigning before the expiration of their contract and leaving students without a qualified educator.***

The Executive Committee of the PSC is empowered by law to determine whether probable cause exists. When probable cause is determined, the PSC chooses the discipline to be imposed upon the educator's credential. If the Executive Committee of the PSC finds probable cause for a breach of contract violation, the PSC's recommended educator discipline is often a letter of

reprimand, with or without conditions. A breach of contract violation rarely results in a certificate revocation, but may result in certificate suspension, depending on the circumstances of the violation. If an educator breaches their contract shortly after signing their contract, the PSC may choose to issue no discipline.

MITIGATING BREACH OF CONTRACT ISSUES

A breach of contract often occurs when an educator doesn't understand the obligation of an employment contract or when an educator feels personally overwhelmed, overworked, or unheard. Measures can be taken at the local level to help prevent unnecessary resignations.

Educate prospective employees on the responsibilities attached to the employment contract.

Before a contract has been signed, ensure the educator is aware of the possible ramifications of breaching the contract.

Provide annual staff training on the Code of Ethics.

Talk specifically about the value and protections of a contract, as well as the consequences that can result from breaching a contract. Educators who have come from another state may assume, based on prior experience, that breaching a contract in Idaho does not warrant disciplinary action. New educators who have not worked on contract before may not fully understand the responsibility that accompanies the signing of an employment contract.

Educate staff about wellness opportunities.

Communicate Employee Assistance Program benefits and other wellness opportunities to your staff. Encourage a healthy work-life balance and provide opportunities for your staff to learn about and utilize stress management strategies.

Provide support.

Provide a means for educators to share their struggles and needs. Work with educators to provide resources and support. An educator may feel that resignation is their only option if they are unaware that an opportunity for communication and problem-solving exists. If you think an educator may be struggling, initiate a conversation and ask how you can help.

Communicate and negotiate.

If an educator approaches you about resigning, consider presenting alternatives to resignation that can allow the educator to complete their contract.

- Is it possible to change their assignment?
- Is this a situation where the educator is eligible for FMLA?
- Would a leave of absence or some time off help the situation?
- Is the educator willing to stay with additional classroom assistance or a reduced workload?
- Is the educator amenable to staying until a replacement is found or for a certain amount of time while the LEA or charter recruits for a replacement?
- Would the LEA or charter consider allowing the educator to submit a resignation which will be effective at the end of the school year and provide modifications to work expectations for the remainder of the school year?

If an educator is determined to resign before the conclusion of their contract, share the potential consequences of breaching a contract to ensure the educator has the information they need to make an informed choice.

EDUCATOR CONTRACTS

To ensure an educator’s contract is issued in compliance with Section 33-513(1), Idaho Code, do not issue the employee a contract for the next ensuing year until the employee’s formal written performance evaluation has been completed.

Also, make sure that the employee is given the time allowed by law to review their contract before they sign and return it. A person who has received a contract for the next ensuing year has a period of time determined by the board, but not less than ten (10) calendar days from the date the contract is delivered, to sign the contract and return it to the board. If the board does not determine how long the person has to sign and return the contract, the educator has twenty-one (21) calendar days after the contract is delivered.

An employment contract is not fully executed and valid until the educator and the board chair have both signed the contract. An educator who has signed their contract may have the right to ask for the contract back before it has been fully executed.

LETTERS OF RESIGNATION

An educator’s letter of resignation should be delivered in writing to the educator’s building principal or the educator’s LEA or charter administrator. A building principal or LEA or charter administrator can only receive the letter of resignation; they cannot accept a letter of resignation.

LEA or charter staff members are cautioned against using language that indicates the acceptance of resignation from an educator. Use of the word “accept” or other language indicating agreement with the resignation can cause the educator to mistakenly believe they have been released from their contract. Only the district board of trustees or a charter board of directors can release an educator from their contract. The decision to release an educator from their contract must be made during a board meeting.

BOARD MEETING PROTOCOL FOR A RESIGNATION REQUEST

Many breach of contract complaints received by the PSC are not opened because board meeting minutes do not support the complaint. To open a breach of contract complaint, the district must deny the employee’s request for release from their contract. The board meeting minutes must document the board’s action on a request for resignation, in compliance with [the Idaho Open Meeting Law Manual](#).

- An educator’s request to be released from their contract is placed on the next available meeting agenda of the district board of trustees or charter school board of directors.
- The agenda item is listed as an action item.
- The agenda item is discussed in executive session.
- The motion and vote occur in open meeting and clearly identify the employee and the action taken.
- The motion and vote are recorded in the board meeting minutes.

There is no breach of contract to report if one of the following scenarios occurs:

- The board votes to release an educator from their contract or votes to accept their resignation.
- The board meeting minutes reflect a board vote to release the educator from their contract in the open meeting.

CONTACT

For additional information about the Code of Ethics or for breach of contract questions contact:

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REFERENCES

[IDAPA 08.02.02.076 - Code of Ethics for Idaho Professional Educators](#)

Publication: [Code of Ethics for Idaho Professional Educators](#)

[Idaho Open Meeting Law Manual](#)

Idaho Code:

- [33-513. Professional personnel.](#)
- [33-514. Issuance of annual contracts – Support programs – Categories of contracts – optional placement.](#)
- [33-514A. Issuance of limited contract – Category 1 contract.](#)
- [33-515. Issuance of renewable contracts.](#)
- [33-315A. Supplemental contracts.](#)
- [33-316. Right to renewable contract when district is divided, consolidated or reorganized.](#)
- [33-1208. Revocation, suspension, denial, or place reasonable conditions on certificate – Grounds.](#)
- [33-1209\(b\). Proceedings to revoke, suspend, deny or place reasonable conditions on a certificate – Letters of Reprimand – Complaint – Subpoena power – Hearing.](#)
- [33-5206. Requirements and prohibitions of a public charter school.](#)