

EMPLOYMENT ISSUES FOR CHARTER SCHOOLS



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Hypothetical #1

- Mr. T is a first year 3rd grade teacher at Ambiguous Charter School (“ACS”). He received a letter offering him “employment for the 2018-2019 school year.” The offer letter states that Mr. T will “be paid an annual salary of \$48,000 paid on the 1st and 15th day of each month (\$2,000 per paycheck before taxes).” Finally it states that his employment is “subject to the employee handbook.”
- The employee handbook states that teachers such as Mr. T are “10 month employees” required to work from August 1 through May 31. It also states that unless an employee has a written contract, they are “at will, and may be terminated at any time, with or without cause.”
- On April 1, 2019, Mr. T played a practical joke on Principal P by impersonating him at a faculty meeting. Principal P would like to terminate Mr. T.

Hypothetical #1

1. Can ACS terminate Mr. T effective April 1, 2019?
2. What, if any, process does ACS need to conduct before terminating Mr. T?
3. Does ACS owe Mr. T an additional compensation beyond his April 1, 2019 paycheck?

Contracts and Offer Letters

- Who?
- What?
- Why?

Two Schools of Thought ...

1. Less is More
2. The Comprehensive Approach

The “Less is More” Approach

- Only the most basic information
 - ▣ At will
 - ▣ Title/position
 - ▣ Salary information
- Leave expectations to employee handbook or policies

The “Less is More” Approach

Pro	Con
Maximizes flexibility	Uncertainty
Potentially reduces risk	Potential lack of expectations
Avoids conflict with other policies	Risk of inconsistency

The “More is More” Approach

- Comprehensive Employment Contracts
- Try to anticipate/address every situation
- Create clear expectations

The “More is More” Approach

Pro	Con
Aligns employer/employee expectation	May limit flexibility
Reduces uncertainty	Potential inconsistency
Address contingencies at outset	Time and effort

Disciplinary Issues

- Policies should provide school broad authority in disciplining employees
 - ▣ Professionalism policies, ethical behavior policies, common sense and good judgment, etc.
 - ▣ Should be able to discipline for off-campus behavior
- Consider a progressive discipline model, but expressly reserve right to skip steps or resort to immediate discharge
 - ▣ Verbal counseling, written warning, professional improvement plan, suspension, discharge
- Have internal procedure for reporting and investigating wrongful behavior
 - ▣ Consider reporting to Principal (or Board Chair if wrongdoing by Principal alleged)
 - ▣ Consider placing employees on paid leave while investigating

Termination or Non-Renewal

- At-will so can terminate for any lawful reason
- Could be final step in progressive discipline model or could be warranted as immediate action by certain behaviors
- Document, document, document- have everything in writing

Grievance Procedures

- Defining a “Grievance”
 - Is the term defined in the policy?
 - What, if any, employment actions (i.e., firing, demotion, denial of promotion or leave, etc.) should be excluded?
- The Parties
 - Who may be an aggrieved party?
 - To whom may the grievance be directed?
 - Do you have a separate policy for grievances involving students and parents?
- The Grievance Procedure
 - How long should the process take?
 - What role will the Board of Directors play in the grievance procedure?
 - How flexible should the procedure be?

Hypothetical #2

- Principal Mr. P has terminated Ms. F for consistently poor evaluations, and overall unprofessionalism. Ms. F has a contract that clearly states that she is at-will.
- However, the school's employee handbook provides for "grievance process" that instructs employees to resolve disagreements: (1) by discussing the issue with their supervisor; (2) if that is unsuccessful then by reporting the issue to the Executive Director; and (3) if the issue is still unresolved they may appeal the ED's determination to the Board of Directors, which will decide the issue at the next board meeting.
- Ms. F has notified the Board that she has raised the concerns regarding her termination to Mr. P and the Executive Director Mr. ED. She now would like to appeal the decision to the Board.

Hypothetical #2

1. Does the Board need to hear Ms. P's appeal?
2. Should it do so in an open or closed meeting?
3. If the Board upholds the termination decision, what if anything should be reflected in the Board's minutes?