

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2023

Chapter 85, Laws of 2016

64th Legislature
2016 Regular Session

CERTIFICATED SCHOOL EMPLOYEES--NOTICES OF NONRENEWAL OF CONTRACTS--
DEADLINE

EFFECTIVE DATE: 3/31/2016

Passed by the House February 17, 2016
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 1, 2016
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved March 31, 2016 10:48 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2023** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 1, 2016

**Secretary of State
State of Washington**

HOUSE BILL 2023

Passed Legislature - 2016 Regular Session

State of Washington

64th Legislature

2015 Regular Session

By Representatives Parker, Lytton, Magendanz, Riccelli, Ormsby, Fagan, and Santos

Read first time 02/06/15. Referred to Committee on Education.

1 AN ACT Relating to changing the deadline for notices of
2 nonrenewal of contracts for certificated school employees; amending
3 RCW 28A.405.210, 28A.405.220, 28A.405.230, 28A.405.245, and
4 28A.310.250; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 28A.405.210 and 2010 c 235 s 303 are each amended to
7 read as follows:

8 No teacher, principal, supervisor, superintendent, or other
9 certificated employee, holding a position as such with a school
10 district, hereinafter referred to as "employee", shall be employed
11 except by written order of a majority of the directors of the
12 district at a regular or special meeting thereof, nor unless he or
13 she is the holder of an effective teacher's certificate or other
14 certificate required by law or the Washington professional educator
15 standards board for the position for which the employee is employed.

16 The board shall make with each employee employed by it a written
17 contract, which shall be in conformity with the laws of this state,
18 and except as otherwise provided by law, limited to a term of not
19 more than one year. Every such contract shall be made in duplicate,
20 one copy to be retained by the school district superintendent or
21 secretary and one copy to be delivered to the employee. No contract

1 shall be offered by any board for the employment of any employee who
2 has previously signed an employment contract for that same term in
3 another school district of the state of Washington unless such
4 employee shall have been released from his or her obligations under
5 such previous contract by the board of directors of the school
6 district to which he or she was obligated. Any contract signed in
7 violation of this provision shall be void.

8 In the event it is determined that there is probable cause or
9 causes that the employment contract of an employee should not be
10 renewed by the district for the next ensuing term such employee shall
11 be notified in writing on or before May 15th preceding the
12 commencement of such term of that determination, or if the omnibus
13 appropriations act has not passed the legislature by ~~((May 15th))~~the
14 end of the regular legislative session for that year, then
15 notification shall be no later than June 15th, which notification
16 shall specify the cause or causes for nonrenewal of contract. Such
17 determination of probable cause for certificated employees, other
18 than the superintendent, shall be made by the superintendent. Such
19 notice shall be served upon the employee personally, or by certified
20 or registered mail, or by leaving a copy of the notice at the house
21 of his or her usual abode with some person of suitable age and
22 discretion then resident therein. Every such employee so notified, at
23 his or her request made in writing and filed with the president,
24 chair or secretary of the board of directors of the district within
25 ten days after receiving such notice, shall be granted opportunity
26 for hearing pursuant to RCW 28A.405.310 to determine whether there is
27 sufficient cause or causes for nonrenewal of contract: PROVIDED, That
28 any employee receiving notice of nonrenewal of contract due to an
29 enrollment decline or loss of revenue may, in his or her request for
30 a hearing, stipulate that initiation of the arrangements for a
31 hearing officer as provided for by RCW 28A.405.310(4) shall occur
32 within ten days following July 15 rather than the day that the
33 employee submits the request for a hearing. If any such notification
34 or opportunity for hearing is not timely given, the employee entitled
35 thereto shall be conclusively presumed to have been reemployed by the
36 district for the next ensuing term upon contractual terms identical
37 with those which would have prevailed if his or her employment had
38 actually been renewed by the board of directors for such ensuing
39 term.

1 This section shall not be applicable to "provisional employees"
2 as so designated in RCW 28A.405.220; transfer to a subordinate
3 certificated position as that procedure is set forth in RCW
4 28A.405.230 or 28A.405.245 shall not be construed as a nonrenewal of
5 contract for the purposes of this section.

6 **Sec. 2.** RCW 28A.405.220 and 2012 c 35 s 7 are each amended to
7 read as follows:

8 (1) Notwithstanding the provisions of RCW 28A.405.210, every
9 person employed by a school district in a teaching or other
10 nonsupervisory certificated position shall be subject to nonrenewal
11 of employment contract as provided in this section during the first
12 three years of employment by such district, unless: (a) The employee
13 has previously completed at least two years of certificated
14 employment in another school district in the state of Washington, in
15 which case the employee shall be subject to nonrenewal of employment
16 contract pursuant to this section during the first year of employment
17 with the new district; or (b) the employee has received an evaluation
18 rating below level 2 on the four-level rating system established
19 under RCW 28A.405.100 during the third year of employment, in which
20 case the employee shall remain subject to the nonrenewal of the
21 employment contract until the employee receives a level 2 rating; or
22 (c) the school district superintendent may make a determination to
23 remove an employee from provisional status if the employee has
24 received one of the top two evaluation ratings during the second year
25 of employment by the district. Employees as defined in this section
26 shall hereinafter be referred to as "provisional employees."

27 (2) In the event the superintendent of the school district
28 determines that the employment contract of any provisional employee
29 should not be renewed by the district for the next ensuing term such
30 provisional employee shall be notified thereof in writing on or
31 before May 15th preceding the commencement of such school term, or if
32 the omnibus appropriations act has not passed the legislature by
33 ((May 15th))the end of the regular legislative session for that year,
34 then notification shall be no later than June 15th, which
35 notification shall state the reason or reasons for such
36 determination. Such notice shall be served upon the provisional
37 employee personally, or by certified or registered mail, or by
38 leaving a copy of the notice at the place of his or her usual abode
39 with some person of suitable age and discretion then resident

1 therein. The determination of the superintendent shall be subject to
2 the evaluation requirements of RCW 28A.405.100.

3 (3) Every such provisional employee so notified, at his or her
4 request made in writing and filed with the superintendent of the
5 district within ten days after receiving such notice, shall be given
6 the opportunity to meet informally with the superintendent for the
7 purpose of requesting the superintendent to reconsider his or her
8 decision. Such meeting shall be held no later than ten days following
9 the receipt of such request, and the provisional employee shall be
10 given written notice of the date, time and place of meeting at least
11 three days prior thereto. At such meeting the provisional employee
12 shall be given the opportunity to refute any facts upon which the
13 superintendent's determination was based and to make any argument in
14 support of his or her request for reconsideration.

15 (4) Within ten days following the meeting with the provisional
16 employee, the superintendent shall either reinstate the provisional
17 employee or shall submit to the school district board of directors
18 for consideration at its next regular meeting a written report
19 recommending that the employment contract of the provisional employee
20 be nonrenewed and stating the reason or reasons therefor. A copy of
21 such report shall be delivered to the provisional employee at least
22 three days prior to the scheduled meeting of the board of directors.
23 In taking action upon the recommendation of the superintendent, the
24 board of directors shall consider any written communication which the
25 provisional employee may file with the secretary of the board at any
26 time prior to that meeting.

27 (5) The board of directors shall notify the provisional employee
28 in writing of its final decision within ten days following the
29 meeting at which the superintendent's recommendation was considered.
30 The decision of the board of directors to nonrenew the contract of a
31 provisional employee shall be final and not subject to appeal.

32 (6) This section applies to any person employed by a school
33 district in a teaching or other nonsupervisory certificated position
34 after June 25, 1976. This section provides the exclusive means for
35 nonrenewing the employment contract of a provisional employee and no
36 other provision of law shall be applicable thereto, including,
37 without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

38 **Sec. 3.** RCW 28A.405.230 and 2010 c 235 s 304 are each amended to
39 read as follows:

1 Any certificated employee of a school district employed as an
2 assistant superintendent, director, principal, assistant principal,
3 coordinator, or in any other supervisory or administrative position,
4 hereinafter in this section referred to as "administrator", shall be
5 subject to transfer, at the expiration of the term of his or her
6 employment contract, to any subordinate certificated position within
7 the school district. "Subordinate certificated position" as used in
8 this section, shall mean any administrative or nonadministrative
9 certificated position for which the annual compensation is less than
10 the position currently held by the administrator.

11 Every superintendent determining that the best interests of the
12 school district would be served by transferring any administrator to
13 a subordinate certificated position shall notify that administrator
14 in writing on or before May 15th preceding the commencement of such
15 school term of that determination, or if the omnibus appropriations
16 act has not passed the legislature by (~~May 15th~~)the end of the
17 regular legislative session for that year, then notification shall be
18 no later than June 15th, which notification shall state the reason or
19 reasons for the transfer, and shall identify the subordinate
20 certificated position to which the administrator will be transferred.
21 Such notice shall be served upon the administrator personally, or by
22 certified or registered mail, or by leaving a copy of the notice at
23 the place of his or her usual abode with some person of suitable age
24 and discretion then resident therein.

25 Every such administrator so notified, at his or her request made
26 in writing and filed with the president or chair, or secretary of the
27 board of directors of the district within ten days after receiving
28 such notice, shall be given the opportunity to meet informally with
29 the board of directors in an executive session thereof for the
30 purpose of requesting the board to reconsider the decision of the
31 superintendent. Such board, upon receipt of such request, shall
32 schedule the meeting for no later than the next regularly scheduled
33 meeting of the board, and shall notify the administrator in writing
34 of the date, time and place of the meeting at least three days prior
35 thereto. At such meeting the administrator shall be given the
36 opportunity to refute any facts upon which the determination was
37 based and to make any argument in support of his or her request for
38 reconsideration. The administrator and the board may invite their
39 respective legal counsel to be present and to participate at the
40 meeting. The board shall notify the administrator in writing of its

1 final decision within ten days following its meeting with the
2 administrator. No appeal to the courts shall lie from the final
3 decision of the board of directors to transfer an administrator to a
4 subordinate certificated position: PROVIDED, That in the case of
5 principals such transfer shall be made at the expiration of the
6 contract year and only during the first three consecutive school
7 years of employment as a principal by a school district; except that
8 if any such principal has been previously employed as a principal by
9 another school district in the state of Washington for three or more
10 consecutive school years the provisions of this section shall apply
11 only to the first full school year of such employment.

12 This section applies to any person employed as an administrator
13 by a school district on June 25, 1976, and to all persons so employed
14 at any time thereafter, except that RCW 28A.405.245 applies to
15 persons first employed after June 10, 2010, as a principal by a
16 school district meeting the criteria of RCW 28A.405.245. This section
17 provides the exclusive means for transferring an administrator
18 subject to this section to a subordinate certificated position at the
19 expiration of the term of his or her employment contract.

20 **Sec. 4.** RCW 28A.405.245 and 2010 c 235 s 302 are each amended to
21 read as follows:

22 (1) Any certificated employee of a school district under this
23 section who is first employed as a principal after June 10, 2010,
24 shall be subject to transfer as provided under this section, at the
25 expiration of the term of his or her employment contract, to any
26 subordinate certificated position within the school district.
27 "Subordinate certificated position" as used in this section means any
28 administrative or nonadministrative certificated position for which
29 the annual compensation is less than the position currently held by
30 the administrator. This section applies only to school districts with
31 an annual average student enrollment of more than thirty-five
32 thousand full-time equivalent students.

33 (2) During the first three consecutive school years of employment
34 as a principal by the school district, or during the first full
35 school year of such employment in the case of a principal who has
36 been previously employed as a principal by another school district in
37 the state for three or more consecutive school years, the transfer of
38 the principal to a subordinate certificated position may be made by a

1 determination of the superintendent that the best interests of the
2 school district would be served by the transfer.

3 (3) Commencing with the fourth consecutive school year of
4 employment as a principal, or the second consecutive school year of
5 such employment in the case of a principal who has been previously
6 employed as a principal by another school district in the state for
7 three or more consecutive school years, the transfer of the principal
8 to a subordinate certificated position shall be based on the
9 superintendent's determination that the results of the evaluation of
10 the principal's performance using the evaluative criteria and rating
11 system established under RCW 28A.405.100 provide a valid reason for
12 the transfer without regard to whether there is probable cause for
13 the transfer. If a valid reason is shown, it shall be deemed that the
14 transfer is reasonably related to the principal's performance. No
15 probationary period is required. However, provision of support and an
16 attempt at remediation of the performance of the principal, as
17 defined by the superintendent, are required for a determination by
18 the superintendent under this subsection that the principal should be
19 transferred to a subordinate certificated position.

20 (4) Any superintendent transferring a principal under this
21 section to a subordinate certificated position shall notify that
22 principal in writing on or before May 15th before the beginning of
23 the school year of that determination, or if the omnibus
24 appropriations act has not passed the legislature by ~~((May 15th))~~the
25 end of the regular legislative session for that year, then
26 notification shall be no later than June 15th. The notification shall
27 state the reason or reasons for the transfer and shall identify the
28 subordinate certificated position to which the principal will be
29 transferred. The notification shall be served upon the principal
30 personally, or by certified or registered mail, or by leaving a copy
31 of the notice at the place of his or her usual abode with some person
32 of suitable age and discretion then resident therein.

33 (5) Any principal so notified may request to the president or
34 chair of the board of directors of the district, in writing and
35 within ten days after receiving notice, an opportunity to meet
36 informally with the board of directors in an executive session for
37 the purpose of requesting the board to reconsider the decision of the
38 superintendent, and shall be given such opportunity. The board, upon
39 receipt of such request, shall schedule the meeting for no later than
40 the next regularly scheduled meeting of the board, and shall give the

1 principal written notice at least three days before the meeting of
2 the date, time, and place of the meeting. At the meeting the
3 principal shall be given the opportunity to refute any evidence upon
4 which the determination was based and to make any argument in support
5 of his or her request for reconsideration. The principal and the
6 board may invite their respective legal counsel to be present and to
7 participate at the meeting. The board shall notify the principal in
8 writing of its final decision within ten days following its meeting
9 with the principal. No appeal to the courts shall lie from the final
10 decision of the board of directors to transfer a principal to a
11 subordinate certificated position.

12 (6) This section provides the exclusive means for transferring a
13 certificated employee first employed by a school district under this
14 section as a principal after June 10, 2010, to a subordinate
15 certificated position at the expiration of the term of his or her
16 employment contract.

17 **Sec. 5.** RCW 28A.310.250 and 2009 c 57 s 4 are each amended to
18 read as follows:

19 No certificated employee of an educational service district shall
20 be employed as such except by written contract, which shall be in
21 conformity with the laws of this state. Every such contract shall be
22 made in duplicate, one copy of which shall be retained by the
23 educational service district superintendent and the other shall be
24 delivered to the employee.

25 Every educational service district superintendent or board
26 determining that there is probable cause or causes that the
27 employment contract of a certificated employee thereof is not to be
28 renewed for the next ensuing term shall be notified in writing on or
29 before May 15th preceding the commencement of such term of that
30 determination or if the omnibus appropriations act has not passed the
31 legislature by ~~((May 15th))~~ the end of the regular legislative session
32 for that year, then notification shall be no later than June 15th,
33 which notification shall specify the cause or causes for nonrenewal
34 of contract. Such notice shall be served upon that employee
35 personally, or by certified or registered mail, or by leaving a copy
36 of the notice at the house of his or her usual abode with some person
37 of suitable age and discretion then resident therein. The procedure
38 and standards for the review of the decision of the hearing officer,
39 superintendent or board and appeal therefrom shall be as prescribed

1 for nonrenewal cases of teachers in RCW 28A.405.210, 28A.405.300
2 through 28A.405.380, and 28A.645.010. Appeals may be filed in the
3 superior court of any county in the educational service district.

4 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of
6 the state government and its existing public institutions, and takes
7 effect immediately.

Passed by the House February 17, 2016.

Passed by the Senate March 1, 2016.

Approved by the Governor March 31, 2016.

Filed in Office of Secretary of State April 1, 2016.

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