

Sanna Green, Executive Director
Professional Teaching Practices
Commission

December 23, 1993

661-93-617

269-5203

Breach-of-contract
complaints

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You have inquired whether an educator violates 4 AAC 18.010(d) and 20 AAC 10.020(d)(15), and is subject to discipline by the Professional Teaching Practices Commission under AS 14.20.030, if the educator signs an employment contract but fails to appear or leaves the district prior to the time the contract is signed by two school board members. You have advised that difficulties arise, particularly in rural areas, when educators do not appear as expected or leave soon after they arrive. You advised that rural school boards often do not meet until several months into the school year to sign professional employment contracts.

20 AAC 10.020(d)(15) provides that an educator "may not unlawfully breach a professional employment contract." 4 AAC 18.010(a), a regulation of the Department of Education, sets a number of mandatory minimum provisions for public school professional employment contracts. Subsection (a)(11) requires the "contract to be . . . signed by at least two members of the school board and the teacher." Under section (b), a school board may not add any provision to a contract that will conflict with or nullify mandatory provisions. Section (d) provides that a breach of the contract subjects the educator to possible revocation of certificate.

In order for the PTPC to proceed against an educator for breaching a contract, the contract must contain the mandatory signatures by two members of the school board and the educator. Until the school district is bound through the signature of two board members showing acceptance of the contract, then the educator cannot be bound. At any time prior to signature by the school board members, the educator can revoke the power of the school board members to accept the contract. Arthur L. Corbin, *Corbin on Contracts* • 38 (1952); *Hall v. Add-Ventures, Ltd.*, 695 P.2d 1081, 1087 n.9 (Alaska 1985). Although there may be exceptions to this general rule of contract that allow a remedy between the parties, there is no unlawful breach for the purpose

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of PTPC sanctions if the educator withdraws agreement to the contract prior to signature by two school members.

Nothing in 4 AAC 18.010 requires the board members to sign an employment contract at a board meeting. Certainly it appears possible for the board to meet before the school year begins to authorize school board members to sign contracts as necessary for a certain number of employees. Should the contract be signed as required prior to the educator's breach, then it is appropriate to pursue PTPC sanctions. At that time the particular facts would need to be reviewed to determine whether there was a breach of contract constituting a violation of the ethical standards.

TW:mh