

On June 15, a teacher accepted a contract for a one-year position teaching math at a public high school at a salary of \$50,000, starting in September.

On June 22, the school district informed the teacher that, due to a change in its planned math curriculum, the high school no longer needed a full-time math teacher. The school district offered instead to employ the teacher as a part-time academic counselor at a salary of \$20,000, starting in September. The teacher refused the school district's offer.

On June 29, the teacher was offered a one-year position to teach math at a nearby private academy for \$47,000, starting in September. The teacher, however, decided to spend the year completing work on a graduate degree in mathematics and declined the academy's offer.

If the teacher sues the school district for breach of contract, what is her most likely recovery?

- A. \$3,000, the full contract amount less the amount the teacher could have earned in the teaching position at the academy.
- B. \$30,000, the full contract amount less the amount the teacher could have earned in the counselor position offered by the school district.
- C. \$50,000, the full contract amount.
- D. Nothing, because the school district notified the teacher of its decision before the teacher had acted in substantial reliance on the contract.

Explanation:

Purpose of compensatory damages

Primary (expectation measure)	Place nonbreaching party in same position as if contract had been performed Expectation measure includes: Expectation damages Incidental damages Consequential damages
Fallback (reliance measure)	When expectation measure too speculative, place nonbreaching party in same position as if no contract had been formed Reliance measure includes: Reliance damages Liquidated damages Restitution

The primary purpose of **compensatory damages** is to place the nonbreaching party in the same position as if the contract had been performed (ie, give that party the "benefit of the bargain"). Therefore, when an **employer breaches** an employment agreement, the **employee can recover** the **unpaid salary** under the contract. But to **avoid a reduction** in the total damages award, the employee must make **reasonable efforts to mitigate** losses by **securing comparable employment**.*

Here, the school district breached the contract by firing the teacher before her employment began. As a result, the teacher suffered damages of \$50,000—the amount of her unpaid salary. But since the teacher failed to mitigate her losses by accepting a *comparable* teaching position at a nearby private academy, her total damages award will be reduced by the \$47,000 salary she could have earned at that job. Therefore, the teacher is entitled to recover \$3,000 ($\$50,000 - \$47,000 = \$3,000$) from the school district **(Choice C)**.

*Recovery will not be reduced if the employee made reasonable but unsuccessful efforts to secure comparable employment.

(Choice B) It is unlikely that a court would consider the part-time counseling position to be comparable employment, so the teacher's damages of \$50,000 should not be reduced by the \$20,000 she could have earned in that position. As a result, \$30,000 is not the appropriate measure of recovery.

(Choice D) Arguably, the teacher *had* acted in substantial reliance on the contract by discontinuing her search for employment. But reliance is irrelevant to the teacher's right to recover damages under the teaching contract.

Educational objective:

Following an employer's breach of an employment contract, the employee is expected to make reasonable efforts to mitigate losses by securing comparable employment. Failure to do so results in a reduced recovery from the employer (ie, unpaid salary minus loss that could have been avoided by accepting comparable employment).

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