

**EQUAL ACCESS FOR EDUCATION EMPLOYEE  
ASSOCIATION AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark B. Madsen**

House Sponsor: Gregory H. Hughes

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**LONG TITLE**

**General Description:**

This bill amends provisions related to education employee associations.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to establish an association registry for an education employee association to register the association's contact information;
- ▶ requires an education employee association to register the association's contact information with the State Board of Education if the education employee association wants to participate in certain activities;
- ▶ provides that a penalty may be recovered by an education employee association under certain circumstances;
- ▶ requires a school principal and a school district or charter school to each pay a penalty for failing to provide equal access to all education employee associations to distribute information, attend employee orientations, and solicit membership to the education employee association;
- ▶ allows an employee to withdraw membership from an education employee association and receive a full refund of membership dues under certain circumstances; and



28           ▶ makes technical changes.

29 **Money Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           None

33 **Utah Code Sections Affected:**

34 AMENDS:

35           **53A-3-426**, as enacted by Laws of Utah 2007, Chapter 88



37 *Be it enacted by the Legislature of the state of Utah:*

38           Section 1. Section **53A-3-426** is amended to read:

39           **53A-3-426. Education employee associations -- Equal participation -- Prohibition**  
40 **on endorsement or preferential treatment -- Naming of school breaks -- Civil penalties**  
41 **and other remedies.**

42           (1) As used in this section:

43           (a) "Activity" means a school activity where an education employee association attends  
44 or could attend.

45           (b) "Board" means the State Board of Education.

46           ~~[(a)]~~ (c) "Education employee association" [includes teacher associations, teacher  
47 unions, teacher organizations, and classified education employees' associations.] means an  
48 association that:

49           (i) is registered with the board as required in Subsection (2);

50           (ii) represents teachers or other public school employees; and

51           (iii) offers insurance to its members as part of its member benefits.

52           (d) "Employee" means an employee of a school district or charter school, including a  
53 teacher.

54           (e) "Planned activity" means an activity a school includes on the school's list of  
55 activities described in Subsection (8)(a).

56           ~~[(b)]~~ (f) "School" means a school district, a school in a school district, a charter school,  
57 or the State Board of Education and its employees.

58           (g) "Unplanned activity" means an activity of the school that:

59 (i) is planned after the beginning of a school year; or  
 60 (ii) is not included on a school's list of planned activities described in Subsection  
 61 (8)(a).

62 (2) (a) The board shall establish an association registry for an education employee  
 63 association to register the education employee association's contact information.

64 (b) An education employee association shall register the education employee  
 65 association's contact information with the board if the education employee association wants to  
 66 participate in a school's activities described in this section.

67 (c) The contact information required in Subsection (2)(b) shall include:

68 (i) the name of the contact person for the education employee association;

69 (ii) the phone number of the contact person;

70 (iii) the email address of the contact person; and

71 (iv) mailing address of the contact person.

72 ~~[(2)]~~ (3) A school shall allow education employee associations equal access to the  
 73 following activities:

74 (a) distribution of information in or access to ~~[teachers' or]~~ employees' physical or  
 75 electronic mailboxes, including email accounts that are provided by the school; and

76 (b) membership solicitation activities at new ~~[teacher or]~~ employee orientation training  
 77 or functions.

78 ~~[(3)]~~ (4) If a school permits an education employee association to engage in any of the  
 79 activities described in Subsection ~~[(2)]~~ (3), the school shall permit all other education employee  
 80 associations to engage in the activity on the same terms and conditions afforded to the  
 81 education employee association.

82 ~~[(4)]~~ (5) It is unlawful for a school to:

83 (a) establish or maintain structures, procedures, or policies that favor one education  
 84 employee association over another or otherwise give preferential treatment to an education  
 85 employee association; or

86 (b) explicitly or implicitly endorse any education employee association.

87 ~~[(5)]~~ (6) A school's calendars and publications may not include or refer to the name of  
 88 any education employee association in relation to any day or break in the school calendar.

89 (7) (a) If a school extends a privilege to an education employee association, that

90 privilege must be available to all education employee associations.

91 (b) A privilege described in Subsection (7)(a) includes:

92 (i) membership on a school district or charter school personnel committee or employee  
93 council;

94 (ii) access to employee payroll deductions for membership dues; and

95 (iii) access to sponsor an employee activity, function, or event.

96 (8) (a) Upon request, at the beginning of a school year, a school shall provide an  
97 education employee association a list of the school's planned activities for the school year.

98 (b) A school shall notify an education employee association of an unplanned activity at  
99 least two business days before the date of the unplanned activity.

100 (c) A school shall allow an employee association an opportunity to participate in a  
101 similar activity to a past unplanned activity if:

102 (i) the education employee association did not attend the past unplanned activity;

103 (ii) the school failed to notify an education employee association within two business  
104 days of the unplanned activity as required in Subsection (8)(b); and

105 (iii) another education employee association attended the unplanned activity.

106 (9) If a school violates the provisions of this section, an education employee  
107 association may bring a civil action in a court having the appropriate jurisdiction for:

108 (a) a civil penalty in the amount of \$1,000 per violation, to be paid by the principal of  
109 the school where the violation occurred;

110 (b) a civil penalty in an amount equal to the greater of the following, to be paid by the  
111 school district or charter school where the violation occurred:

112 (i) \$10,000; or

113 (ii) if the education employee association proves a pattern of violations of this section,  
114 treble damages; and

115 (c) enforcement of the provisions of this section.

116 (10) An employee may withdraw the employee's membership from an education  
117 employee association and receive a full refund of the employee's membership dues if:

118 (a) (i) the education employee association solicited the employee's membership at a  
119 new employee orientation or other similar function; and

120 (ii) another education employee association was excluded or prohibited from attending

121 the new employee orientation or other similar function; or

122 (b) (i) the education employee association solicited the employee's membership at the  
123 employee's school; and

124 (ii) another education employee association was excluded or prohibited from soliciting  
125 the employee's membership at the employee's school.

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**Legislative Review Note**

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**Office of Legislative Research and General Counsel**