

28 (3) (a) A local school board may negotiate individual contracts of employment and provide
29 for employment benefits notwithstanding the provisions of a contract entered into with a local
30 employees' association.

31 (b) Subsection (3)(a) does not apply to a contract that was entered into with a local
32 employees' association before May 6, 2002.

33 Section 2. Section **53A-8-102** is amended to read:

34 **53A-8-102. Definitions.**

35 As used in this chapter:

36 (1) "Career employee" means an employee of a school district who has obtained a
37 reasonable expectation of continued employment based upon Section 53A-8-106 and an agreement
38 with the employee or the employee's association, district practice, or policy.

39 (2) "Contract term" or "term of employment" means the period of time during which an
40 employee is engaged by the school district under a contract of employment, whether oral or
41 written.

42 (3) (a) "Dismissal" or "termination" means:

43 ~~[(a)]~~ (i) termination of the status of employment of an employee;

44 ~~[(b)]~~ (ii) failure to renew or continue the employment contract of a career employee
45 beyond the then-current school year;

46 ~~[(c)]~~ (iii) reduction in salary of an employee not generally applied to all employees of the
47 same category employed by the school district during the employee's contract term; or

48 ~~[(d)]~~ (iv) change of assignment of an employee with an accompanying reduction in pay,
49 unless the assignment change and salary reduction are agreed to in writing.

50 (b) "Dismissal" or "termination" does not include the suspension of an employee for up
51 to ten work days without pay.

52 (4) "Employee" means a career or provisional employee of a school district, but does not
53 include:

54 (a) the district superintendent, or the equivalent at the Schools for the Deaf and the Blind;

55 (b) the district business administrator or the equivalent at the Schools for the Deaf and the
56 Blind; or

57 (c) a temporary employee.

58 (5) "Provisional employee" means an individual, other than a career employee or a

59 temporary employee, who is employed by a school district.

60 (6) "School board" or "board" means a district school board or its equivalent at the Schools
61 for the Deaf and the Blind.

62 (7) "School district" or "district" means:

63 (a) a public school district; or

64 (b) the Schools for the Deaf and the Blind.

65 (8) "Temporary employee" means an individual who is employed on a temporary basis as
66 defined by policies adopted by the local board of education. ~~[If the class of employees in question
67 is represented by an employee organization recognized by the local board, the board shall adopt
68 its policies based upon an agreement with that organization.]~~ Temporary employees serve at will
69 and have no expectation of continued employment.

70 Section 3. Section **53A-8-103** is amended to read:

71 **53A-8-103. Local school board to establish termination or dismissal policies --**
72 **Interpretation.**

73 (1) A local school board shall, ~~[by contract with its employees or their associations, or]~~
74 by resolution of the board, establish ~~[procedures]~~ policies for termination or dismissal of
75 employees in an orderly manner without discrimination.

76 (2) The ~~[procedures]~~ policies shall include standards of due process and causes for
77 termination or dismissal.

78 (3) A local school board shall have discretion to interpret its own policies established
79 under this section, which discretion and authority may not be cancelled or delegated by contract.

80 Section 4. Section **53A-8-104** is amended to read:

81 **53A-8-104. Dismissal procedures.**

82 (1) The district shall provide employees with a written statement of causes under which
83 a career employee's contract may not be renewed or continued beyond the then-current school year,
84 under which a contract of each class of personnel may not be renewed or continued beyond the
85 then-current school year, and under which a contract can be otherwise terminated during the
86 contract term, and the orderly dismissal procedures which are used by the district in cases of
87 contract termination, discontinuance, or nonrenewal.

88 (2) (a) If the district intends to terminate a contract during its term or discontinue a career
89 employee's contract beyond the then current school year for reasons of unsatisfactory performance,

90 the unsatisfactory performance must be documented in at least two evaluations conducted at any
91 time within the preceding three years in accordance with district policies or practices.

92 (b) The district shall notify a career employee, at least 30 days prior to issuing notice of
93 intent not to renew or continue the employee's contract beyond the then-current school year, that
94 continued employment is in question and the reasons for the anticipated nonrenewal or
95 discontinuance.

96 (c) The board shall give the career employee an opportunity to correct the problem in
97 accordance with the district evaluation policies.

98 (d) The board may grant the career employee assistance to correct the deficiencies,
99 including informal conferences and the services of school personnel within the district consistent
100 with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b).

101 (3) (a) If the career employee does not correct the problem as determined in accordance
102 with the evaluation and personnel policies of the district and the district intends to not renew or
103 discontinue the contract of employment of a career employee at the end of the then-current school
104 year, it shall give notice of that intention to the employee.

105 (b) The district shall issue the notice at least 30 days before the end of the career
106 employee's contract term.

107 (4) A district shall notify a provisional employee at least [~~60~~] 30 days before the end of
108 the provisional employee's contract if the employee will not be offered a contract for a subsequent
109 term of employment.

110 (5) In the absence of a notice, an employee is considered employed for the next contract
111 term with a salary based upon the salary schedule applicable to the class of employee into which
112 the individual falls.

113 (6) If the district intends to not renew or discontinue the contract of a career employee or
114 to terminate a career or provisional employee's contract during the contract term:

115 (a) the district shall give written notice of the intent to the employee;

116 (b) the notice shall be served by personal delivery or by certified mail addressed to the
117 individual's last-known address as shown on the records of the district;

118 (c) except as provided under Subsection (3)(b), the district shall give notice at least 15 days
119 prior to the proposed date of termination;

120 (d) the notice shall state the date of termination and the detailed reasons for termination;

121 [and]

122 (e) the notice shall advise the individual that he has a right to a fair hearing; and

123 (f) the notice shall state that failure of the employee to request a hearing in accordance
124 with procedures set forth in the notice constitutes a waiver of that right and that the district may
125 then proceed with termination without further notice.

126 (7) The procedure under which a contract is terminated during its term may include a
127 provision under which the active service of the employee is suspended pending a hearing if it
128 appears that the continued employment of the individual may be harmful to students or to the
129 district.

130 (8) (a) Suspension pending a hearing may be without pay if an authorized representative
131 of the district determines, after providing the employee with an opportunity for an informal
132 conference to discuss the allegations, that it is more likely than not that the allegations against the
133 employee are true and will result in termination.

134 (b) If termination is not subsequently ordered, the employee shall receive back pay for the
135 period of suspension without pay.

136 (9) The procedure shall provide for a written notice of suspension or final termination
137 including findings of fact upon which the action is based if the suspension or termination is for
138 cause.

139 Section 5. Section **53A-8-106** is amended to read:

140 **53A-8-106. Career employee status for provisional employees.**

141 (1) ~~§ (a)~~ § A provisional employee must work for a school district on at least a half-time
141a basis

142 for three consecutive years to obtain career employee status.

143 ~~§ (b) Provisional status of an individual employee may be extended an additional year if the~~
144 ~~school district gives written notice of its election to extend provisional status to that employee~~
145 ~~prior to the end of the school year.] §~~

146 (2) Policies of an employing school district shall determine the status of a career employee
147 in the event of the following:

148 (a) the employee accepts a position which is substantially different from the position in
149 which career status was achieved; or

150 (b) the employee accepts employment in another school district.

151 (3) If an employee who is under an order of probation or remediation in one assignment

152 in a school district is transferred or given a new assignment in the district, the order shall stand
153 until its provisions are satisfied.

154 (4) An employee who is given extra duty assignments in addition to a primary assignment,
155 such as a teacher who also serves as a coach or activity advisor, is a temporary employee in those
156 extra duty assignments and may not acquire career status beyond the primary assignment.

Legislative Review Note
as of 1-23-02 1:20 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel