

Representative Carl Wimmer proposes the following substitute bill:

SCHOOL EMPLOYEE TERMINATION

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the "Utah Orderly School Termination Procedures Act."

Highlighted Provisions:

This bill:

► modifies provisions of the "Utah Orderly School Termination Procedures Act," including:

- certain time designations; and
- certain notice provisions; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-8-104, as last amended by Laws of Utah 2007, Chapter 348



26 **53A-8-106**, as last amended by Laws of Utah 2003, Chapter 315



27
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **53A-8-104** is amended to read:

30 **53A-8-104. Dismissal procedures.**

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

37 (2) (a) If the district intends to terminate a contract during its term or discontinue a
38 career employee's contract beyond the then current school year for reasons of unsatisfactory
39 performance, the unsatisfactory performance must be documented in at least two evaluations
40 conducted at any time within the preceding [~~three~~] four years in accordance with district
41 policies or practices.

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

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

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

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

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

57 (4) (a) A district may terminate the contract of a provisional employee during its term.

58 (b) If a district intends to terminate the contract during its term, the district shall notify

59 a provisional employee at least 30 days before the contract is terminated.

60 ~~[(4) A]~~ (c) If a district intends to not renew or discontinue the contract of employment

61 of a ~~H~~→ [professional] provisional ←~~H~~ employee at the end of the then-current school year,

61a the district shall notify [a]

62 the provisional employee at least [60] 30 days before the end of the provisional employee's

63 contract if the employee will not be offered a contract for a subsequent term of employment.

64 (5) In the absence of a notice, an employee is considered employed for the next

65 contract term with a salary based upon the salary schedule applicable to the class of employee

66 into which the individual falls.

67 (6) If the district intends to not renew or discontinue the contract of a career employee

68 or to terminate a career or provisional employee's contract during the contract term:

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

70 (b) the notice shall be served by personal delivery or by certified mail addressed to the

71 individual's last-known address as shown on the records of the district;

72 (c) except as provided under Subsection (3)(b), the district shall give notice at least 30
73 days prior to the proposed date of termination;

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

76 (e) the notice shall advise the individual that he has a right to a fair hearing and that the
77 hearing is waived if it is not requested within 15 days after the notice of termination was either
78 personally delivered or mailed to the individual's most recent address shown on the district's
79 personnel records; and

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

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

87 (8) (a) Suspension pending a hearing may be without pay if an authorized

88 representative of the district determines, after providing the employee with an opportunity for
89 an informal conference to discuss the allegations, that it is more likely than not that the
90 allegations against the employee are true and will result in termination.

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

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

96 Section 2. Section **53A-8-106** is amended to read:

97 **53A-8-106. Career employee status for provisional employees.**

98 (1) A provisional employee must work for a school district on at least a half-time basis
99 for [~~three~~] at least ~~five~~ → [**five**] ~~three~~ ← ~~five~~ consecutive years to obtain career employee status.

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

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

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

105 (3) If an employee who is under an order of probation or remediation in one
106 assignment in a school district is transferred or given a new assignment in the district, the order
107 shall stand until its provisions are satisfied.

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

112 (5) A person is an at-will employee and is not eligible for career employee status if the
113 person:

114 (a) is a teacher who holds a competency-based license pursuant to Section 53A-6-104.5
115 and does not hold a level 1, 2, or 3 license as defined in Section 53A-6-103; or

116 (b) holds an administrative/supervisory letter of authorization pursuant to Section
117 53A-6-110.

H.B. 260 1st Sub. (Buff) - School Employee Termination Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
