

1 **PUBLIC EDUCATION HUMAN RESOURCE MANAGEMENT**

2 **ACT REVISIONS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Bradley G. Last**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions related to the dismissal of public education employees.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies the definition of unsatisfactory performance; and
- 14 ▶ addresses dismissal procedures for a career employee who exhibits both
- 15 unsatisfactory performance and conduct that is a cause for dismissal.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **53A-8a-102**, as renumbered and amended by Laws of Utah 2012, Chapter 425

23 **53A-8a-501**, as renumbered and amended by Laws of Utah 2012, Chapter 425

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

26 Section 1. Section **53A-8a-102** is amended to read:

27 **53A-8a-102. Definitions.**



28 As used in this chapter:

29 (1) "Career employee" means an employee of a school district who has obtained a
30 reasonable expectation of continued employment based upon Section 53A-8a-201 and an
31 agreement with the employee or the employee's association, district practice, or policy.

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

35 (3) "Dismissal" or "termination" means:

36 (a) termination of the status of employment of an employee;

37 (b) failure to renew or continue the employment contract of a career employee beyond
38 the then-current school year;

39 (c) reduction in salary of an employee not generally applied to all employees of the
40 same category employed by the school district during the employee's contract term; or

41 (d) change of assignment of an employee with an accompanying reduction in pay,
42 unless the assignment change and salary reduction are agreed to in writing.

43 (4) (a) "Employee" means a career or provisional employee of a school district, except
44 as provided in Subsection (4)(b).

45 (b) For purposes of Part 2, Status of Employment, Part 4, Educator Evaluations, and
46 Part 5, Orderly School Termination Procedures, "employee" does not include:

47 (i) the district superintendent, or the equivalent at the Schools for the Deaf and the
48 Blind;

49 (ii) the district business administrator or the equivalent at the Schools for the Deaf and
50 the Blind; or

51 (iii) a temporary employee.

52 (5) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates
53 the termination of an employee who started to work for the district most recently before
54 terminating a more senior employee.

55 (6) "Provisional employee" means an individual, other than a career employee or a
56 temporary employee, who is employed by a school district.

57 (7) "School board" or "board" means a district school board or its equivalent at the
58 Schools for the Deaf and the Blind.

59 (8) "School district" or "district" means:

60 (a) a public school district; or

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

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

67 (10) (a) "Unsatisfactory performance" means a deficiency in performing work tasks
68 which may be:

69 (i) due to insufficient or undeveloped skills[;] or a lack of knowledge or aptitude[; ~~poor~~
70 ~~attitude, or insufficient effort~~]; and

71 (ii) remediated through training, study, mentoring, or practice[; ~~or greater effort~~].

72 (b) "Unsatisfactory performance" does not include the following conduct that is
73 designated as a cause for termination under Section [53A-8a-501](#) or a reason for license
74 discipline by the State Board of Education or Utah Professional Practices Advisory
75 Commission:

76 (i) a violation of work rules;

77 (ii) a violation of local school board policies, State Board of Education rules, or law;

78 (iii) a violation of standards of ethical, moral, or professional conduct; or

79 (iv) insubordination.

80 Section 2. Section [53A-8a-501](#) is amended to read:

81 **53A-8a-501. Local school board to establish dismissal procedures.**

82 (1) A local school board shall, by contract with its employees or their associations, or
83 by resolution of the board, establish procedures for dismissal of employees in an orderly
84 manner without discrimination.

85 (2) The procedures shall include:

86 (a) standards of due process;

87 (b) causes for dismissal; and

88 (c) procedures and standards related to developing and implementing a plan of
89 assistance for a career employee whose performance is unsatisfactory.

90 (3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c)
91 shall require a plan of assistance to identify:

- 92 (a) specific, measurable, and actionable deficiencies;
- 93 (b) the available resources provided for improvement; and
- 94 (c) a course of action to improve employee performance.

95 (4) If a career employee exhibits both unsatisfactory performance as described in
96 Subsection [53A-8a-102\(10\)\(a\)](#) and conduct described in Subsection [53A-8a-102\(10\)\(b\)](#), an
97 employer:

98 (a) may dismiss the career employee for cause in accordance with procedures
99 established under this section that include standards of due process and causes for dismissal;

100 and

101 (b) is not required to develop and implement a plan of assistance for the career
102 employee, as provided in Section [53A-8a-503](#).

Legislative Review Note
as of 1-5-15 6:21 PM

Office of Legislative Research and General Counsel