

**Senator Howard A. Stephenson** proposes the following substitute bill:

**PUBLIC EDUCATION HUMAN RESOURCE  
MANAGEMENT ACT MODIFICATIONS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions in the Public Education Human Resource Management Act.

**Highlighted Provisions:**

This bill:

- ▶ extends the time that a provisional employee must work for a school district to obtain career employee status;
- ▶ requires the State Board of Education to establish orderly termination procedures;
- ▶ provides that a local school board may not establish procedures for dismissal of an employee:
  - that conflict with State Board of Education procedures for dismissal; or
  - in addition to State Board of Education procedures for dismissal;
- ▶ reduces the time period for implementing a plan of assistance for a career employee under certain circumstances; and
- ▶ prohibits a school district from imposing a fine on an educator because the educator resigns before the expiration of the educator's contract term or fails to provide adequate notice of resignation, if the educator is not paid wages or salary for the



26 period between the last date of employment and the end of the contract term.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **53A-8a-201**, as renumbered and amended by Laws of Utah 2012, Chapter 425

34 **53A-8a-501**, as renumbered and amended by Laws of Utah 2012, Chapter 425

35 **53A-8a-503**, as enacted by Laws of Utah 2012, Chapter 425

36 ENACTS:

37 **53A-8a-901**, Utah Code Annotated 1953

38 **53A-8a-902**, Utah Code Annotated 1953



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

41 Section 1. Section **53A-8a-201** is amended to read:

42 **53A-8a-201. Career employee status for provisional employees -- Career status**  
43 **in the event of change of position -- Continuation of probationary status when position**  
44 **changes -- Temporary status for extra duty assignments -- Employees not eligible for**  
45 **career status.**

46 (1) [(a)] A provisional employee must work for a school district on at least a half-time  
47 basis for [three] five consecutive years to obtain career employee status.

48 [~~(b) A school district may extend the provisional status of an employee up to an~~  
49 ~~additional two consecutive years in accordance with a written policy adopted by the district's~~  
50 ~~school board that specifies the circumstances under which an employee's provisional status~~  
51 ~~may be extended.]~~

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

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

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

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

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

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

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

68 (b) holds an administrative/supervisory letter of authorization pursuant to Section  
69 53A-6-110.

70 Section 2. Section 53A-8a-501 is amended to read:

71 **53A-8a-501. State Board of Education to establish dismissal procedures for**  
72 **school districts -- Local school board to establish dismissal procedures consistent with**  
73 **State Board of Education procedures.**

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

77 (2) The procedures shall include:

78 (a) standards of due process;

79 (b) causes for dismissal; and

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

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

84 (a) specific, measurable, and actionable deficiencies;

85 (b) the available resources provided for improvement; and

86 (c) a course of action to improve employee performance.

87 (4) A local school board may not establish procedures for dismissal of an employee:

88 (a) in addition to the procedures established by the State Board of Education as  
89 described in Subsection (1); and

90 (b) that conflict with the procedures established by the State Board of Education as  
91 described in Subsection (1).

92 Section 3. Section **53A-8a-503** is amended to read:

93 **53A-8a-503. Nonrenewal or termination of a career employee's contract for**  
94 **unsatisfactory performance.**

95 (1) If a district intends to not renew a career employee's contract for unsatisfactory  
96 performance or terminate a career employee's contract during the contract term for  
97 unsatisfactory performance, the district shall:

98 (a) provide and discuss with the career employee written documentation clearly  
99 identifying the deficiencies in performance;

100 (b) provide written notice that the career employee's contract is subject to nonrenewal  
101 or termination if, upon a reevaluation of the career employee's performance, the career  
102 employee's performance is determined to be unsatisfactory;

103 (c) develop and implement a plan of assistance, in accordance with procedures and  
104 standards established by the ~~[local school board]~~ State Board of Education under Section  
105 **53A-8a-501**, to allow the career employee an opportunity to improve performance;

106 (d) reevaluate the career employee's performance; and

107 (e) if the career employee's performance remains unsatisfactory, give notice of intent to  
108 not renew or terminate the career employee's contract in accordance with Subsection  
109 **53A-8a-502(5)**.

110 (2) ~~[(a)]~~ The period of time for implementing a plan of assistance:

111 ~~[(i)]~~ (a) may not exceed ~~[120]~~ 60 school days~~[-, except as provided under Subsection~~  
112 ~~(2)(b)]~~;

113 ~~[(ii)]~~ (b) may continue into the next school year;

114 ~~[(iii)]~~ (c) should be sufficient to successfully complete the plan of assistance; and

115 ~~[(iv)]~~ (d) shall begin when the career employee receives the written notice provided  
116 under Subsection (1)(b) and end when the determination is made that the career employee has  
117 successfully remediated the deficiency or notice of intent to not renew or terminate the career  
118 employee's contract is given in accordance with Subsection **53A-8a-502(5)**.

119 ~~[(b) In accordance with local school board policy, the period of time for implementing~~  
120 ~~a plan of assistance may extend beyond 120 school days if:]~~

121 ~~[(i) a career employee is on leave from work during the time period the plan of~~  
122 ~~assistance is scheduled to be implemented; and]~~

123 ~~[(ii) (A) the leave was approved and scheduled before the written notice was provided~~  
124 ~~under Subsection (1)(b); or]~~

125 ~~[(B) the leave is specifically approved by the local school board.]~~

126 (3) (a) If upon a reevaluation of the career employee's performance, the district  
127 determines the career employee's performance is satisfactory, and within a three-year period  
128 after the initial documentation of unsatisfactory performance for the same deficiency pursuant  
129 to Subsection (1)(a), the career employee's performance is determined to be unsatisfactory, the  
130 district may elect to not renew or terminate the career employee's contract.

131 (b) If a district intends to not renew or terminate a career employee's contract as  
132 provided in Subsection (3)(a), the district shall:

133 (i) provide written documentation of the career employee's deficiencies in  
134 performance; and

135 (ii) give notice of intent to not renew or terminate the career employee's contract in  
136 accordance with Subsection [53A-8a-502\(5\)](#).

137 Section 4. Section **53A-8a-901** is enacted to read:

138 **53A-8a-901. Definitions.**

139 (1) "Adequate notice of resignation" means the date by which an educator must provide  
140 notice of resignation pursuant to school district rule or policy.

141 (2) "Contract term" means the same as that term is defined in Section [53A-8a-102](#).

142 (3) "Educator" means the same as that term is defined in Section [53A-6-103](#).

143 (4) "Fine" includes an assessment, charge, fee, or other monetary penalty.

144 Section 5. Section **53A-8a-902** is enacted to read:

145 **53A-8a-902. Resignation before expiration of contract term -- Certain fines**  
146 **prohibited.**

147 A school district may not impose a fine on an educator because the educator resigns and  
148 leaves employment with the school district before the end of the educator's contract term or  
149 fails to provide adequate notice of resignation, if the educator is not paid wages or salary for

150 the period between the last date of employment and the end of the contract term.

151           Section 6. **Effective date.**

152           This bill takes effect on July 1, 2015.