

Part 5 Orderly School Termination Procedures

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

- (1) A local school board shall, by contract with its employees or their associations, or by resolution of the board, establish procedures for dismissal of employees in an orderly manner without discrimination.
- (2) The procedures shall include:
 - (a) standards of due process;
 - (b) causes for dismissal; and
 - (c) procedures and standards related to developing and implementing a plan of assistance for a career employee whose performance is unsatisfactory.
- (3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c) shall require a plan of assistance to identify:
 - (a) specific, measurable, and actionable deficiencies;
 - (b) the available resources provided for improvement; and
 - (c) a course of action to improve employee performance.
- (4) If a career employee exhibits both unsatisfactory performance as described in Subsection 53A-8a-102(10)(a) and conduct described in Subsection 53A-8a-102(10)(b), an employer:
 - (a) may:
 - (i) attempt to remediate the conduct of the career employee; or
 - (ii) terminate the career employee for cause if the conduct merits dismissal consistent with procedures established by the local school board; and
 - (b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53A-8a-503.
- (5) If the conduct of a career employee described in Subsection (4) is satisfactorily remediated, and unsatisfactory performance issues remain, an employer shall develop and implement a plan of assistance for the career employee, as provided in Section 53A-8a-503.
- (6) If the conduct of a career employee described in Subsection (4) is not satisfactorily remediated, an employer:
 - (a) may dismiss the career employee for cause in accordance with procedures established by the local school board that include standards of due process and causes for dismissal; and
 - (b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53A-8a-503.

Amended by Chapter 203, 2015 General Session

53A-8a-502 Dismissal procedures.

- (1) A district shall provide employees with a written statement specifying:
 - (a) the causes under which a career employee's contract may not be renewed or continued beyond the current school year;
 - (b) the causes under which a career or provisional employee's contract may be terminated during the contract term; and
 - (c) the orderly dismissal procedures that are used by the district in cases of contract termination, discontinuance, or nonrenewal.

- (2) A career employee's contract may be terminated during its term for reasons of unsatisfactory performance or discontinued beyond the current school year for reasons of unsatisfactory performance as provided in Section 53A-8a-503.
- (3)
 - (a) A district is not required to provide a cause for not offering a contract to a provisional employee.
 - (b) If a district intends to not offer a contract for a subsequent term of employment to a provisional employee, the district shall give notice of that intention to the employee at least 60 days before the end of the provisional employee's contract term.
- (4) In the absence of a notice, an employee is considered employed for the next contract term with a salary based upon the salary schedule applicable to the class of employee into which the individual falls.
- (5) If a district intends to not renew or discontinue the contract of a career employee or to terminate a career or provisional employee's contract during the contract term:
 - (a) the district shall give written notice of the intent to the employee;
 - (b) the notice shall be served by personal delivery or by certified mail addressed to the employee's last-known address as shown on the records of the district;
 - (c) the district shall give notice at least 30 days prior to the proposed date of termination;
 - (d) the notice shall state the date of termination and the detailed reasons for termination;
 - (e) the notice shall advise the employee that the employee has a right to a fair hearing and that the hearing is waived if it is not requested within 15 days after the notice of termination was either personally delivered or mailed to the employee's most recent address shown on the district's personnel records; and
 - (f) the notice shall state that failure of the employee to request a hearing in accordance with procedures set forth in the notice constitutes a waiver of that right and that the district may then proceed with termination without further notice.
- (6)
 - (a) The procedure under which a contract is terminated during its term may include a provision under which the active service of the employee is suspended pending a hearing if it appears that the continued employment of the individual may be harmful to students or to the district.
 - (b) Suspension pending a hearing may be without pay if an authorized representative of the district determines, after providing the employee with an opportunity for an informal conference to discuss the allegations, that it is more likely than not that the allegations against the employee are true.
 - (c) If termination is not subsequently ordered, the employee shall receive back pay for the period of suspension without pay.
- (7) The procedure under which an employee's contract is terminated during its term shall provide for a written notice of suspension or final termination including findings of fact upon which the action is based.

Renumbered and Amended by Chapter 425, 2012 General Session

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

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

- (a) provide and discuss with the career employee written documentation clearly identifying the deficiencies in performance;
 - (b) provide written notice that the career employee's contract is subject to nonrenewal or termination if, upon a reevaluation of the career employee's performance, the career employee's performance is determined to be unsatisfactory;
 - (c) develop and implement a plan of assistance, in accordance with procedures and standards established by the local school board under Section 53A-8a-501, to allow the career employee an opportunity to improve performance;
 - (d) reevaluate the career employee's performance; and
 - (e) if the career employee's performance remains unsatisfactory, give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection 53A-8a-502(5).
- (2)
- (a) The period of time for implementing a plan of assistance:
 - (i) may not exceed 120 school days, except as provided under Subsection (2)(b);
 - (ii) may continue into the next school year;
 - (iii) should be sufficient to successfully complete the plan of assistance; and
 - (iv) shall begin when the career employee receives the written notice provided under Subsection (1)(b) and end when the determination is made that the career employee has successfully remediated the deficiency or notice of intent to not renew or terminate the career employee's contract is given in accordance with Subsection 53A-8a-502(5).
 - (b) In accordance with local school board policy, the period of time for implementing a plan of assistance may extend beyond 120 school days if:
 - (i) a career employee is on leave from work during the time period the plan of assistance is scheduled to be implemented; and
 - (ii)
 - (A) the leave was approved and scheduled before the written notice was provided under Subsection (1)(b); or
 - (B) the leave is specifically approved by the local school board.
- (3)
- (a) If upon a reevaluation of the career employee's performance, the district determines the career employee's performance is satisfactory, and within a three-year period after the initial documentation of unsatisfactory performance for the same deficiency pursuant to Subsection (1)(a), the career employee's performance is determined to be unsatisfactory, the district may elect to not renew or terminate the career employee's contract.
 - (b) If a district intends to not renew or terminate a career employee's contract as provided in Subsection (3)(a), the district shall:
 - (i) provide written documentation of the career employee's deficiencies in performance; and
 - (ii) give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection 53A-8a-502(5).

Enacted by Chapter 425, 2012 General Session

53A-8a-504 Hearings before district board or hearing officers -- Rights of the board and the employee -- Subpoenas -- Appeals.

- (1)
- (a) Hearings are held under this chapter before the board or before hearing officers selected by the board to conduct the hearings and make recommendations concerning findings.

- (b) The board shall establish procedures to appoint hearing officers.
 - (c) The board may delegate its authority to a hearing officer to make decisions relating to the employment of an employee which are binding upon both the employee and the board.
 - (d) This Subsection (1) does not limit the right of the board or the employee to appeal to an appropriate court of law.
- (2) At the hearings, an employee has the right to counsel, to produce witnesses, to hear testimony against the employee, to cross-examine witnesses, and to examine documentary evidence.
- (3) Subpoenas may be issued and oaths administered as provided under Section 53A-6-603.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-505 Necessary staff reduction not precluded -- Last-hired, first-fired layoffs prohibited.

- (1) Nothing in this chapter prevents staff reduction if necessary to reduce the number of employees because of the following:
- (a) declining student enrollments in the district;
 - (b) the discontinuance or substantial reduction of a particular service or program;
 - (c) the shortage of anticipated revenue after the budget has been adopted; or
 - (d) school consolidation.
- (2) A school district may not utilize a last-hired, first-fired layoff policy when terminating school district employees.
- (3) A school district may consider the following factors when terminating a school district employee:
- (a) the results of an employee's performance evaluation; and
 - (b) a school's personnel needs.

Renumbered and Amended by Chapter 425, 2012 General Session

53A-8a-506 Restriction on transfer of employee with unsatisfactory performance.

An employee whose performance is unsatisfactory may not be transferred to another school unless the local school board specifically approves the transfer of the employee.

Enacted by Chapter 425, 2012 General Session