

Effective 1/24/2018

Part 2
Miscellaneous Requirements

53G-11-201 Definitions.

Reserved

Enacted by Chapter 3, 2018 General Session

53G-11-202 Employment of school personnel -- Length of contract -- Termination for cause -- Individual contract of employment -- Employee acknowledgment of liability protection.

- (1) A local school board may enter into a written employment contract for a term not to exceed five years.
- (2) Nothing in the terms of the contract shall restrict the power of a local school board to terminate the contract for cause at any time.
- (3)
 - (a) A local school board may not enter into a collective bargaining agreement that prohibits or limits individual contracts of employment.
 - (b) Subsection (3)(a) does not apply to an agreement that was entered into before May 5, 2003.
- (4) Each local school board shall:
 - (a) ensure that each employment contract complies with the requirements of Section 34-32-1.1;
 - (b) comply with the requirements of Section 34-32-1.1 in employing any personnel, whether by employment contract or otherwise; and
 - (c) ensure that at the time an employee enters into an employment contract, the employee shall sign a separate document acknowledging that the employee:
 - (i) has received:
 - (A) the disclosure required under Subsection 63A-4-204(4)(d) if the school district participates in the Risk Management Fund; or
 - (B) written disclosure similar to the disclosure required under Section 63A-4-204 if the school district does not participate in the Risk Management Fund; and
 - (ii) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.

Renumbered and Amended by Chapter 3, 2018 General Session

53G-11-203 Health insurance mandates.

A local school board and a charter school governing board shall include in a health plan it offers to school district employees, or charter school employees insurance mandates in accordance with Section 31A-22-605.5.

Amended by Chapter 293, 2019 General Session

53G-11-204 Postemployment health insurance benefits restrictions -- Definitions -- Restrictions -- Exceptions.

- (1) As used in this section:
 - (a) "Budgetary accounts" means the same as that term is defined in Section 51-5-3.
 - (b) "GASB" means the same as that term is defined in Section 51-5-3.

- (c) "Liabilities" means the same as that term is defined in Section 51-5-3.
- (d) "Postemployment" means the same as that term is defined in Section 51-5-3.
- (e) "Postemployment health insurance benefits" means health insurance benefits:
 - (i) offered or promised to an employee for the employee's postemployment; or
 - (ii) continued into postemployment.
- (2) Except as provided under Subsection (3), a school district or charter school may not offer or provide a postemployment health insurance benefit to an employee who begins employment with the school district or charter school on or after July 1, 2015.
- (3) A school district or charter school may offer or provide postemployment health care insurance to employees if the school district or charter school:
 - (a) calculates the liabilities associated with postemployment health insurance benefits by applying GASB standards;
 - (b) recognizes current payments and all liabilities associated with the postemployment health insurance benefits in budgetary accounts;
 - (c) fully funds the annual required contributions associated with the postemployment health insurance benefits liabilities;
 - (d) establishes and implements a plan approved by the school district's local school board or charter school's governing board to catch up on any unfunded liabilities within no more than 20 years; and
 - (e) provides for ongoing payments against the postemployment health insurance liabilities as employees qualify for receiving the postemployment health insurance benefits.
- (4)
 - (a) Except as provided in Subsection (4)(b), if in a fiscal year, a school district or charter school fails to fully fund the annual required contributions described in Subsection (3)(c), the school district or charter school may not offer or provide a postemployment health insurance benefit for new employees beginning on the first day of that fiscal year.
 - (b) The provisions of Subsection (4)(a) do not apply if:
 - (i) for a school district only, the school district is imposing the maximum allowed local school board levy under Section 53F-8-302;
 - (ii) the school district or charter school fully funds the annual required contributions, including any missed contributions, by the end of the fiscal year following the fiscal year of inadequate funding; or
 - (iii) no increase was approved by the Legislature in the weighted pupil unit as defined in Section 53F-2-102 for the fiscal year the annual required contributions were not fully funded.

Renumbered and Amended by Chapter 3, 2018 General Session

53G-11-205 Education employee associations -- Equal participation -- Prohibition on endorsement or preferential treatment -- Naming of school breaks.

- (1) As used in this section:
 - (a) "Education employee association" includes teacher associations, teacher unions, teacher organizations, and classified education employees' associations.
 - (b) "School" means a school district, a school in a school district, a charter school, or the state board and its employees.
- (2) A school shall allow education employee associations equal access to the following activities:
 - (a) distribution of information in or access to teachers' or employees' physical or electronic mailboxes, including email accounts that are provided by the school; and
 - (b) membership solicitation activities at new teacher or employee orientation training or functions.

- (3) If a school permits an education employee association to engage in any of the activities described in Subsection (2), the school shall permit all other education employee associations to engage in the activity on the same terms and conditions afforded to the education employee association.
- (4) It is unlawful for a school to:
 - (a) establish or maintain structures, procedures, or policies that favor one education employee association over another or otherwise give preferential treatment to an education employee association; or
 - (b) explicitly or implicitly endorse any education employee association.
- (5) A school's calendars and publications may not include or refer to the name of any education employee association in relation to any day or break in the school calendar.

Amended by Chapter 293, 2019 General Session

53G-11-206 Association leave -- District policy.

- (1) As used in this section:
 - (a) "Association leave" means leave from a school district employee's regular school responsibilities granted for that employee to spend time for association, employee association, or union duties.
 - (b) "Employee association" means an association that:
 - (i) negotiates employee salaries, benefits, contracts, or other conditions of employment; or
 - (ii) performs union duties.
- (2) Except as provided in Subsection (3), a local school board may not allow paid association leave for a school district employee to perform an employee association or union duty.
- (3)
 - (a) A local school board may allow paid association leave for a school district employee to perform an employee association duty if:
 - (i) the duty performed by the employee on paid association leave will directly benefit the school district, including representing the school district's licensed educators:
 - (A) on a board or committee, such as the school district's foundation, a curriculum development board, insurance committee, or catastrophic leave committee;
 - (B) at a school district leadership meeting; or
 - (C) at a workshop or meeting conducted by the school district's local school board;
 - (ii) the duty performed by the employee on paid association leave does not include political activity, including:
 - (A) advocating for or against a candidate for public office in a partisan or nonpartisan election;
 - (B) soliciting a contribution for a political action committee, a political issues committee, a registered political party, or a candidate, as defined in Section 20A-11-101; or
 - (C) initiating, drafting, soliciting signatures for, or advocating for or against a ballot proposition, as defined in Section 20A-1-102; and
 - (iii) the local school board ensures compliance with the requirements of Subsections (4)(a) through (g).
 - (b) Prior to a school district employee's participation in paid or unpaid association leave, a local school board shall adopt a written policy that governs association leave.
 - (c) Except as provided in Subsection (3)(d), a local school board policy that governs association leave shall require reimbursement to the school district of the costs for an employee, including benefits, for the time that the employee is:
 - (i) on unpaid association leave; or

- (ii) participating in a paid association leave activity that does not provide a direct benefit to the school district.
- (d) For a school district that allowed association leave described in Subsections (3)(c)(i) and (ii) prior to January 1, 2011, the local school board policy that governs association leave may allow up to 10 days of association leave before requiring a reimbursement described in Subsection (3)(c).
- (e) A reimbursement required under Subsection (3)(c), (d), or (4)(g) may be provided by an employee, association, or union.
- (4) If a local school board adopts a policy to allow paid association leave, the policy shall include procedures and controls to:
 - (a) ensure that the duties performed by employees on paid association leave directly benefit the school district;
 - (b) require the school district to document the use and approval of paid association leave;
 - (c) require school district supervision of employees on paid association leave;
 - (d) require the school district to account for the costs and expenses of paid association leave;
 - (e) ensure that during the hours of paid association leave a school district employee may not engage in political activity, including:
 - (i) advocating for or against a candidate for public office in a partisan or nonpartisan election;
 - (ii) soliciting a contribution for a political action committee, a political issues committee, a registered political party, or a candidate, as defined in Section 20A-11-101; and
 - (iii) initiating, drafting, soliciting signatures for, or advocating for or against a ballot proposition, as defined in Section 20A-1-102;
 - (f) ensure that association leave is only paid out of school district funds when the paid association leave directly benefits the district; and
 - (g) require the reimbursement to the school district of the cost of paid association leave activities that do not provide a direct benefit to education within the school district.
- (5) If a local school board adopts a policy to allow paid association leave, that policy shall indicate that a willful violation of this section or of a policy adopted in accordance with Subsection (3) or (4) may be used for disciplinary action under Section 53G-11-513.

Renumbered and Amended by Chapter 3, 2018 General Session

53G-11-207 Collective bargaining agreement -- Website posting.

- (1) As used in this section, "collective bargaining agreement" includes:
 - (a) a master agreement; and
 - (b) an amendment, addendum, memorandum, or other document modifying the master agreement.
- (2) A local school board:
 - (a) shall post on the school district's website a collective bargaining agreement entered into by the local school board within 10 days of the ratification of the agreement; and
 - (b) may remove from the school district's website a collective bargaining agreement that is no longer in effect.
- (3) A charter school governing board:
 - (a) shall post on the charter school's website a collective bargaining agreement entered into by the charter school governing board within 10 days of the ratification of the agreement; and
 - (b) may remove from the charter school's website a collective bargaining agreement that is no longer in effect.

Amended by Chapter 293, 2019 General Session