

**Effective 1/24/2018**

**Part 5**

**School District and Utah Schools for the Deaf and the Blind Employee Requirements**

**53G-11-501 Definitions.**

As used in this part:

- (1) "Administrator" means an individual who supervises educators and holds an appropriate license issued by the state board.
- (2) "Career educator" means a licensed employee who has a reasonable expectation of continued employment under the policies of a local school board.
- (3) "Career employee" means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section 53G-11-503 and an agreement with the employee or the employee's association, district practice, or policy.
- (4) "Contract term" or "term of employment" means the period of time during which an employee is engaged by the school district under a contract of employment, whether oral or written.
- (5) "Dismissal" or "termination" means:
  - (a) termination of the status of employment of an employee;
  - (b) failure to renew or continue the employment contract of a career employee beyond the then-current school year;
  - (c) reduction in salary of an employee not generally applied to all employees of the same category employed by the school district during the employee's contract term; or
  - (d) change of assignment of an employee with an accompanying reduction in pay, unless the assignment change and salary reduction are agreed to in writing.
- (6) "Educator" means an individual employed by a school district who is required to hold a professional license issued by the state board, except:
  - (a) a superintendent; or
  - (b) an individual who works less than three hours per day or is hired for less than half of a school year.
- (7)
  - (a) "Employee" means a career or provisional employee of a school district, except as provided in Subsection (7)(b).
  - (b) Excluding Section 53G-11-518, for purposes of this part, "employee" does not include:
    - (i) a district superintendent or the equivalent at the Utah Schools for the Deaf and the Blind;
    - (ii) a district business administrator or the equivalent at the Utah Schools for the Deaf and the Blind; or
    - (iii) a temporary employee.
- (8) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates the termination of an employee who started to work for a district most recently before terminating a more senior employee.
- (9) "Provisional educator" means an educator employed by a school district who has not achieved status as a career educator within the school district.
- (10) "Provisional employee" means an individual, other than a career employee or a temporary employee, who is employed by a school district.
- (11) "School board" means a local school board or, for the Utah Schools for the Deaf and the Blind, the state board.
- (12) "School district" or "district" means:
  - (a) a public school district; or

- (b) the Utah Schools for the Deaf and the Blind.
- (13) "Summative evaluation" means the annual evaluation that summarizes an educator's performance during a school year and that is used to make decisions related to the educator's employment.
- (14) "Temporary employee" means an individual who is employed on a temporary basis as defined by policies adopted by the school board. If the class of employees in question is represented by an employee organization recognized by the school board, the school board shall adopt the school board's policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.
- (15)
  - (a) "Unsatisfactory performance" means a deficiency in performing work tasks that may be:
    - (i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and
    - (ii) remediated through training, study, mentoring, or practice.
  - (b) "Unsatisfactory performance" does not include the following conduct that is designated as a cause for termination under Section 53G-11-512 or a reason for license discipline by the state board or Utah Professional Practices Advisory Commission:
    - (i) a violation of work policies;
    - (ii) a violation of school board policies, state board rules, or law;
    - (iii) a violation of standards of ethical, moral, or professional conduct; or
    - (iv) insubordination.

Amended by Chapter 354, 2020 General Session

**53G-11-501.5 Legislative findings.**

- (1) The Legislature finds that the effectiveness of public educators can be improved and enhanced by providing specific feedback and support for improvement through a systematic, fair, and competent annual evaluation and remediation of public educators whose performance is inadequate.
- (2) The state board and each local school board shall implement Sections 53G-11-501, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511 in accordance with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b), to:
  - (a) allow the educator and the school district to promote the professional growth of the educator; and
  - (b) identify and encourage quality instruction in order to improve student academic growth.

Amended by Chapter 293, 2019 General Session

**53G-11-502 Applicability.**

Reserved

Enacted by Chapter 3, 2018 General Session

**53G-11-503 Career employee status for provisional employees -- Career status in the event of change of position -- Continuation of probationary status when position changes -- Temporary status for extra duty assignments.**

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

- (b) A school district may extend the provisional status of an employee up to an additional two consecutive years in accordance with a written policy adopted by the district's school board that specifies the circumstances under which an employee's provisional status may be extended.
- (2) Policies of an employing school district shall determine the status of a career employee in the event of the following:
  - (a) the employee accepts a position which is substantially different from the position in which career status was achieved; or
  - (b) the employee accepts employment in another school district.
- (3) If an employee who is under an order of probation or remediation in one assignment in a school district is transferred or given a new assignment in the district, the order shall stand until its provisions are satisfied.
- (4) An employee who is given extra duty assignments in addition to a primary assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary employee in those extra duty assignments and may not acquire career status beyond the primary assignment.

Renumbered and Amended by Chapter 3, 2018 General Session  
Amended by Chapter 22, 2018 General Session

**53G-11-504 Evaluation of employee performance.**

- (1) Except as provided in Subsection (2), a local school board shall require that the performance of each school district employee be evaluated annually in accordance with rules of the state board adopted in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) Rules adopted by the state board under Subsection (1) may include an exemption from annual performance evaluations for a temporary employee or a part-time employee.

Amended by Chapter 408, 2020 General Session

**53G-11-504.1 Waiver of employee evaluation requirement.**

- (1) For the 2019-20 school year, a school district is not required to evaluate or report the performance of each school district employee in accordance with rules of the state board adopted in accordance with this part.
- (2) This section supersedes any conflicting provisions of Utah law.

Enacted by Chapter 10, 2020 Special Session 3

**53G-11-505 State board rules -- Reporting to Legislature.**

Subject to Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511, rules adopted by the state board under Section 53G-11-504 shall:

- (1) provide general guidelines, requirements, and procedures for the development and implementation of employee evaluations;
- (2) establish required components and allow for optional components of employee evaluations;
- (3) require school districts to choose valid and reliable methods and tools to implement the evaluations; and
- (4) establish a timeline for school districts to implement employee evaluations.

Amended by Chapter 251, 2021 General Session

**53G-11-506 Establishment of educator evaluation program -- Joint committee.**

- (1) A local school board shall develop an educator evaluation program in consultation with its joint committee.
- (2) The joint committee described in Subsection (1) shall consist of an equal number of classroom teachers, parents, and administrators appointed by the local school board.
- (3) A local school board may appoint members of the joint committee from a list of nominees:
  - (a) voted on by classroom teachers in a nomination election;
  - (b) voted on by the administrators in a nomination election; and
  - (c) of parents submitted by school community councils within the district.
- (4) Subject to Subsection (5), the joint committee may:
  - (a) adopt or adapt an evaluation program for educators based on a model developed by the state board; or
  - (b) create the local school board's own evaluation program for educators.
- (5) The evaluation program developed by the joint committee shall comply with the requirements of Sections 53G-11-507 through 53G-11-511 and rules adopted by the state board under Section 53G-11-510.

Amended by Chapter 293, 2019 General Session

**53G-11-507 Components of educator evaluation program.**

- (1) A local school board in consultation with a joint committee established in Section 53G-11-506 shall adopt a reliable and valid educator evaluation program that evaluates educators based on educator professional standards established by the state board and includes:
  - (a) a systematic annual evaluation of all provisional, probationary, and career educators;
  - (b) use of multiple lines of evidence, including:
    - (i) self-evaluation;
    - (ii) student and parent input;
    - (iii) for an administrator, employee input;
    - (iv) a reasonable number of supervisor observations to ensure adequate reliability;
    - (v) evidence of professional growth and other indicators of instructional improvement based on educator professional standards established by the state board; and
    - (vi) student academic growth data;
  - (c) a summative evaluation that differentiates among four levels of performance; and
  - (d) for an administrator, the effectiveness of evaluating employee performance in a school or school district for which the administrator has responsibility.
- (2)
  - (a) An educator evaluation program described in Subsection (1) may include a reasonable number of peer observations.
  - (b) An educator evaluation program described in Subsection (1) may not use end-of-level assessment scores in educator evaluation.

Amended by Chapter 293, 2019 General Session

**53G-11-508 Summative evaluation timelines -- Review of summative evaluations.**

- (1) The person responsible for administering an educator's summative evaluation shall:
  - (a) at least 15 days before an educator's first evaluation:
    - (i) notify the educator of the evaluation process; and

- (ii) give the educator a copy of the evaluation instrument, if an instrument is used;
  - (b) allow the educator to respond to any part of the evaluation;
  - (c) attach the educator's response to the evaluation if the educator's response is provided in writing;
  - (d) within 15 days after the evaluation process is completed, discuss the written evaluation with the educator; and
  - (e) based upon the educator's performance, assign to the educator one of the four levels of performance described in Section 53G-11-507.
- (2) An educator who is not satisfied with a summative evaluation may request a review of the evaluation within 15 days after receiving the written evaluation.
- (3)
- (a) If a review is requested in accordance with Subsection (2), the school district superintendent or the superintendent's designee shall appoint a person not employed by the school district who has expertise in teacher or personnel evaluation to review the evaluation procedures and make recommendations to the superintendent regarding the educator's summative evaluation.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules prescribing standards for an independent review of an educator's summative evaluation.
  - (c) A review of an educator's summative evaluation under Subsection (3)(a) shall be conducted in accordance with state board rules made under Subsection (3)(b).

Amended by Chapter 408, 2020 General Session

**53G-11-509 Mentor for provisional educator.**

- (1) In accordance with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b), the principal or immediate supervisor of a provisional educator shall assign a person who has received training or will receive training in mentoring educators as a mentor to the provisional educator.
- (2) Where possible, the mentor shall be a career educator who performs substantially the same duties as the provisional educator and has at least three years of educational experience.
- (3) The mentor shall assist the provisional educator to become effective and competent in the teaching profession and school system, but may not serve as an evaluator of the provisional educator.
- (4) An educator who is assigned as a mentor may receive compensation for those services in addition to the educator's regular salary.

Amended by Chapter 293, 2019 General Session

**53G-11-510 State board to describe a framework for the evaluation of educators.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:
  - (a) describing a framework for the evaluation of educators that is consistent with the requirements of Part 3, Licensed Employee Requirements, and Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511; and
  - (b) requiring an educator's summative evaluation to be based on:
    - (i) educator professional standards established by the state board; and
    - (ii) the requirements described in Subsection 53G-11-507(1).

- (2) The rules described in Subsection (1) shall prohibit the use of end-of-level assessment scores in educator evaluation.

Amended by Chapter 408, 2020 General Session

**53G-11-511 Report of performance levels.**

- (1) A school district shall report to the state board the number and percent of educators in each of the four levels of performance assigned under Section 53G-11-508.
- (2) The data reported under Subsection (1) shall be separately reported for the following educator classifications:
  - (a) administrators;
  - (b) teachers, including separately reported data for provisional teachers and career teachers; and
  - (c) other classifications or demographics of educators as determined by the state board.
- (3) The state superintendent shall include the data reported by school districts under this section in the State Superintendent's Annual Report required by Section 53E-3-301.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure the privacy and protection of individual evaluation data.

Amended by Chapter 408, 2020 General Session

**53G-11-512 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 local school 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 53G-11-501(15)(a) and conduct described in Subsection 53G-11-501(15)(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 53G-11-514.
- (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 53G-11-514.
- (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 53G-11-514.

Amended by Chapter 293, 2019 General Session

**53G-11-513 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 53G-11-514.
- (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 3, 2018 General Session

**53G-11-514 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 53G-11-512, 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 53G-11-513(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 53G-11-513(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 53G-11-513(5).

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-515 Hearings before district board or hearing officers -- Rights of the board and the employee -- Subpoenas -- Appeals.**

- (1)
  - (a) Hearings are held under this part before the school board or before hearing officers selected by the school board to conduct the hearings and make recommendations concerning findings.
  - (b) The school board shall establish procedures to appoint hearing officers.
  - (c) The school board may delegate the school board's authority to a hearing officer to make decisions relating to the employment of an employee that are binding upon both the employee and the school board.
- (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 53E-6-606.
- (4) All hearings shall be recorded at the school board's expense.
- (5)
  - (a) Any final action or order of the school board may be appealed to the Court of Appeals for review.
  - (b) A notice of appeal shall be filed in accordance with the Utah Rules of Appellate Procedure, Rule 4.
  - (c) A review by the Court of Appeals:
    - (i) is limited to the record of the school board; and
    - (ii) shall be for the purpose of determining whether the school board exceeded the school board's discretion, or the school board exceeded the school board's authority.

Amended by Chapter 130, 2021 General Session

**53G-11-516 Necessary staff reduction not precluded -- Last-hired, first-fired layoffs prohibited.**

- (1) Nothing in this part 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 3, 2018 General Session

**53G-11-517 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.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-518 State board to make rules on performance compensation.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system described in Section 53G-11-507.

(2) Rules adopted under Subsection (1) shall:

- (a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and
- (b) provide that beginning no later than the 2016-17 school year:
  - (i) any advancement on an adopted wage or salary schedule:
    - (A) shall be based primarily on an evaluation; and
    - (B) may not be based on end-of-level assessment scores; and
  - (ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument.

Amended by Chapter 408, 2020 General Session

**53G-11-519 Utah Recognizing Inspiring School Employees Award.**

(1) As used in this section:

- (a) "Association" means the governing board of the association that represents a majority of classified school employees employed in the state.
- (b) "Classified school employee" means the same as that term is defined in the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6682.
- (c) "Eligible individual" means a classified school employee who meets the eligibility requirements to be a nominee for the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.

(2)

- (a) In accordance with the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq., the governor shall annually nominate a classified school employee for the Recognizing Inspiring School Employees Award Program.
- (b) The governor shall consider submissions from the association in making the nomination described in Subsection (2)(a).
- (c) The association shall submit a list of eligible individuals to the governor no later than September 1 each year, beginning on September 1, 2020.

(3)

- (a) There is created the Utah Recognizing Inspiring School Employees Award Program to recognize excellence exhibited by public school system employees providing services to students in pre-kindergarten through grade 12.

(b) The Utah Recognizing Inspiring School Employees Award shall be awarded to the governor's nominee for the federal Recognizing Inspiring School Employees Award Program under the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.

Enacted by Chapter 73, 2020 General Session