

**Effective 1/24/2018**

## **Chapter 11 Employees**

### **Part 1 General Provisions**

#### **53G-11-101 Title.**

This chapter is known as "Employees."

Enacted by Chapter 3, 2018 General Session

#### **53G-11-102 Definitions.**

Reserved

Enacted by Chapter 3, 2018 General Session

### **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

**53G-11-208 Local education agency required to provide leave to a legislator on an authorized legislative day.**

- (1) As used in this section:
- (a) "Authorized legislative day" means:
    - (i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;
    - (ii) a special session day;
    - (iii) a veto override session day;
    - (iv) an interim day designated by the Legislative Management Committee;
    - (v) an authorized legislative training day; or
    - (vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:
      - (A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;
      - (B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and
      - (C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.
  - (b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:
    - (i) chair training;
    - (ii) an issue briefing;
    - (iii) legislative leadership instruction;
    - (iv) legislative process training;
    - (v) legislative rules training;
    - (vi) new legislator orientation; or

- (vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.
- (c) "Legislator" means:
  - (i) a member of the Utah Senate;
  - (ii) a member of the Utah House of Representatives; or
  - (iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.
- (d) "Retaliatory action" means to:
  - (i) dismiss the employee;
  - (ii) reduce the employee's compensation;
  - (iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;
  - (iv) fail to promote the employee if the employee would have otherwise been promoted; or
  - (v) threaten to take an action described in Subsections (1)(d)(i) through (iv).
- (2) Except as provided in Subsection (4), a local education agency that employs an individual who is a legislator:
  - (a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;
  - (b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and
  - (c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).
- (3) The leave described in Subsection (2) is leave without pay unless the local education agency and the individual described in Subsection (2) agree to terms that are more favorable to the individual.
- (4) A local education agency is not required to comply with Subsection (2) if the local school district board of the local education agency determines that complying with the requirement would cause the local education agency significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the local education agency's operations.

Enacted by Chapter 402, 2024 General Session

**53G-11-209 Paid leave -- Parental leave -- Postpartum recovery leave -- Leave sharing -- Rulemaking**

- (1) As used in this section:
  - (a)
    - (i) "Paid leave hours" means leave hours an LEA provides to an LEA employee who accrues paid leave benefits in accordance with the LEA's leave policies.
    - (ii) "Paid leave hours" includes annual, vacation, sick, paid time off, or any other type of leave an employee may take while still receiving compensation.
    - (iii) "Paid leave hours" is not limited parental leave or postpartum recovery leave.
  - (b) "Parental leave" means leave hours an LEA provides to a parental leave eligible employee.
  - (c) "Parental leave eligible employee" means an LEA employee who accrues paid leave benefits in accordance with the LEA's leave policies and is:
    - (i) a birth parent as defined in Section ;
    - (ii) legally adopting a minor child, unless the individual is the spouse of the pre-existing parent;
    - (iii) the intended parent of a child born under a validated gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement; or

- (iv) appointed the legal guardian of a minor child or incapacitated adult.
- (d) "Postpartum recovery leave" means leave hours a state employer provides to a postpartum recovery leave eligible employee to recover from childbirth.
- (e) "Postpartum recovery leave eligible employee" means an employee:
  - (i) who accrues paid leave benefits in accordance with the LEA's leave policies; and
  - (ii) who gives birth to a child.
- (f) "Qualified employee" means:
  - (i) a parental leave eligible employee; or
  - (ii) a postpartum recovery leave eligible employee.
- (g) "Retaliatory action" means to do any of the following regarding an employee:
  - (i) dismiss the employee;
  - (ii) reduce the employee's compensation;
  - (iii) fail to increase the employee's compensation by an amount to which the employee is otherwise entitled to or was promised;
  - (iv) fail to promote the employee if the employee would have otherwise been promoted; or
  - (v) threaten to take an action described in Subsections (1)(f)(i) through (iv).
- (2) Beginning July 1, 2025, an LEA:
  - (a) shall develop leave policies that provide for the use and administration of parental leave and postpartum recovery leave by a qualified employee under this section in a manner that is not more restrictive than the parental and postpartum recovery leave available to state employees under Section ; and
  - (b) may develop leave policies that provide a mechanism for leave sharing between employees of the same LEA or school for all types of leave including, sick leave, annual leave, parental leave, and postpartum recovery leave;
  - (c) shall allow a parental leave eligible employee and a postpartum recovery leave eligible employee who is part-time or who works in excess of a 40-hour work week or the equivalent of a 40-hour work week to use the amount of postpartum recovery leave available under this section on a pro rata basis; and
  - (d) shall provide each employee written information regarding:
    - (i) a qualified employee's right to use parental leave or postpartum recovery leave under this section; and
    - (ii) the availability of and process for using or contributing to the leave sharing mechanism described in Subsection (2)(b).
- (3) An LEA may not take retaliatory action against a qualified employee for using parental leave or postpartum recovery leave in accordance with this section.
- (4) An LEA may not charge parental leave or postpartum recovery leave against paid leave hours to which a qualified employee is entitled as described in Subsection (6).
- (5) An LEA or school may use leave bank sharing and other efforts to mitigate incurred costs of compliance with this section including coordinating with other LEAs or schools to share approaches or policies designed to fulfill the requirements of this section in a cost effective manner.
- (6) An LEA may provide leave that exceeds the benefits of the state leave policies described in this section.

Enacted by Chapter 48, 2024 General Session

## **Part 3**

### **Licensed Employee Requirements**

#### **53G-11-301 Definitions.**

As used in this part, "educator" means the same as that term is defined in Section 53E-6-102.

Amended by Chapter 293, 2019 General Session

#### **53G-11-302 Contracts with teachers.**

A school district may not enter into contracts with teachers that would prevent the school district from paying differential salaries or putting limitations on an individual salary paid in order to fill a shortage in specific teaching areas.

Renumbered and Amended by Chapter 3, 2018 General Session

#### **53G-11-303 Professional learning standards.**

(1) As used in this section:

- (a) "Evidence-based" means that a strategy, not including reading software, demonstrates a statistically significant effect, of at least a 0.40 effect size, on improving student outcomes based on:
  - (i) strong evidence from at least one well-designed and well-implemented experimental study, as the state board further defines; or
  - (ii) moderate evidence from at least one well-designed and well-implemented quasi-experimental study, as the state board further defines.
- (b) "Evidence-informed" means that a strategy:
  - (i) is developed using high-quality research outside of a controlled setting in the given field, as the state board further defines; and
  - (ii) includes strategies and activities with a strong scientific basis for use, as the state board further defines.
- (c) "Professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.

(2) A school district or charter school shall implement high quality professional learning that meets the following standards:

- (a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;
- (b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;
- (c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;
- (d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;
- (e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;
- (f) professional learning applies research on change and sustains support for implementation of professional learning for long-term change;
- (g) professional learning aligns its outcomes with:



- (i) performance standards for teachers and school administrators as described in rules of the state board; and
- (ii) performance standards for students as described in the core standards for Utah public schools adopted by the state board pursuant to Section 53E-4-202;
- (h) professional learning:
  - (i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and
  - (ii) includes targeted professional learning on the use of technology devices to enhance the teaching and learning environment and the integration of technology in content delivery; and
- (i) professional learning uses evidence-informed core materials and evidence-based instructional practices and intervention materials.
- (3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).
- (4) The state board, ULEAD, as that term is defined in Section 53E-10-701, and the Center for the School of the Future, established in Section 53B-18-801, shall jointly, in collaboration with an independent university-based research center, develop and maintain a repository of evidence-based practice and evidence-informed intervention materials to support school districts and charter schools in meeting the standards described in Subsection (2).

Amended by Chapter 20, 2023 General Session

**53G-11-304 Educator exit survey -- Rulemaking -- Local education agencies to create and administer exit surveys -- Reporting.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:
  - (a) minimum standards for an exit survey described in Subsection (2), including a model exit survey; and
  - (b) LEA exit survey reporting requirements.
- (2) An LEA shall, in accordance with the rules described in Subsection (1):
  - (a) for an educator who is leaving employment at the LEA:
    - (i) create an exit survey; and
    - (ii) make the LEA's best effort to administer the exit survey to the educator before the educator leaves employment at the LEA; and
  - (b) report the results of an administered exit survey to the state board.
- (3) The state board shall:
  - (a) before taking final action on the rules described in Subsection (1), report the proposed rules to the Education Interim Committee and consider recommendations from the committee regarding the proposed rules; and
  - (b) on or before November 30, 2020, and as requested by the Education Interim Committee, report to the committee on the results described in Subsection (2)(b).

Amended by Chapter 408, 2020 General Session

**53G-11-305 Professional learning in change management.**

- (1) The state board shall provide the individuals described in Subsection (2) with professional learning regarding change management.

- (2) Each elementary principal and a principal supervisor, member of LEA leadership, and LEA literacy specialist shall complete the professional learning described in Subsection (1) before July 1, 2027.
- (3) The state board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for the delivery and completion of the professional learning described in this section.

Enacted by Chapter 285, 2022 General Session

## **Part 4 Background Checks**

### **53G-11-401 Definitions.**

As used in this part:

- (1) "Authorized entity" means an LEA, qualifying private school, or the state board that is authorized to request a background check and ongoing monitoring under this part.
- (2) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety created in Section 53-10-201.
- (3) "Contract employee" means an employee of a staffing service or other entity who works at a public or private school under a contract.
- (4) "FBI" means the Federal Bureau of Investigation.
- (5)
  - (a) "License applicant" means an applicant for a license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure.
  - (b) "License applicant" includes an applicant for reinstatement of an expired, lapsed, suspended, or revoked license.
- (6) "Non-licensed employee" means an employee of an LEA or qualifying private school that does not hold a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure.
- (7) "Personal identifying information" means:
  - (a) current name, former names, nicknames, and aliases;
  - (b) date of birth;
  - (c) address;
  - (d) telephone number;
  - (e) driver license number or other government-issued identification number;
  - (f) social security number; and
  - (g) fingerprints.
- (8) "Substitute teacher" means the same as that term is defined in Section 53E-6-901.
- (9) "Qualifying private school" means a private school that:
  - (a) enrolls students under Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program; and
  - (b) is authorized to conduct fingerprint-based background checks of national crime information databases under the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248.
- (10) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(11) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

Amended by Chapter 22, 2024 General Session

**53G-11-402 Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.**

- (1) An LEA or qualifying private school shall:
- (a) require the following individuals who are 18 years old or older to submit to a nationwide criminal background check and ongoing monitoring as a condition of employment or appointment:
    - (i) a non-licensed employee;
    - (ii) a contract employee;
    - (iii) except for an officer or employee of a cooperating employer under an internship safety agreement under Section 53G-7-904, a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment; and
    - (iv) a charter school governing board member;
  - (b) collect the following from an individual required to submit to a background check under Subsection (1)(a):
    - (i) personal identifying information;
    - (ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and
    - (iii) consent, on a form specified by the LEA or qualifying private school, for:
      - (A) an initial fingerprint-based background check by the FBI and the bureau upon submission of the application; and
      - (B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404;
  - (c) submit the individual's personal identifying information to the bureau for:
    - (i) an initial fingerprint-based background check by the FBI and the bureau; and
    - (ii) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section 53G-11-405; and
  - (d) identify the appropriate privacy risk mitigation strategy to be used to ensure the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.
- (2)
- (a) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:
    - (i) has passed an initial review; and
    - (ii) is one of a pool of no more than five candidates for the position.
  - (b) An LEA may not require a non-licensed employee, contract employee, or volunteer to pay the fee described in Subsection (1)(b)(ii).
- (3) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection 53G-11-403(5) shall assess the employment status of the licensed educator as provided in Section 53G-11-405.
- (4) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.

- (5) An LEA or qualifying private school shall provide another LEA or qualifying private school that requires a national background check, as described in Subsection 53G-11-402(1)(a), an opportunity to clone the subscription or data from the FBI Rap Back System, as those terms are defined in Section 53-10-108, for employees or volunteers who are relocating, providing temporary volunteer services, or under contract, and in accordance with Section 53-10-108.

Amended by Chapter 22, 2024 General Session

**53G-11-403 Background checks for licensed educators.**

The state board shall:

- (1) require a license applicant to submit to a nationwide criminal background check and ongoing monitoring as a condition for licensing;
- (2) collect the following from an applicant:
  - (a) personal identifying information; and
  - (b) consent, on a form specified by the state board, for:
    - (i) an initial fingerprint-based background check by the FBI and bureau upon submission of the application;
    - (ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404; and
    - (iii) disclosure of any criminal history information to the individual's employing LEA or qualifying private school;
- (3) submit an applicant's personal identifying information to the bureau for:
  - (a) an initial fingerprint-based background check by the FBI and bureau; and
  - (b) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the state board in accordance with Section 53G-11-405;
- (4) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the state board only receives notifications for individuals with whom the state board maintains an authorizing relationship;
- (5) notify the employing LEA or qualifying private school upon receipt of any criminal history information reported on a licensed educator employed by the LEA or qualifying private school; and
- (6)
  - (a) collect the information described in Subsection (2) from individuals who were licensed prior to July 1, 2015, by the individual's next license renewal date; and
  - (b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53G-11-404.
- (7) An LEA or qualifying private school shall provide another LEA or qualifying private school that requires the same or less than a national background check, as described in Subsection 53G-11-402(1)(a), an opportunity to clone the subscription or data from the FBI Rap Back System, as those terms are defined in Section 53-10-108, for employees or volunteers who are relocating, providing temporary volunteer services, or under contract, and in accordance with Section 53-10-108.

Amended by Chapter 22, 2024 General Session

**53G-11-404 Bureau responsibilities.**

The bureau shall:

- (1) upon request from an authorized entity, register the fingerprints submitted by the authorized entity as part of a background check with:
  - (a) the WIN Database rap back system, or any successor system; and
  - (b) the rap back system maintained by the Federal Bureau of Investigation;
- (2) notify an authorized entity when a new entry is made against an individual whose fingerprints are registered with the rap back systems described in Subsection (1) regarding:
  - (a) an alleged offense; or
  - (b) a conviction, including a plea in abeyance;
- (3) assist authorized entities to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the authorized entity only receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and
- (4) collaborate with the state board to provide training to authorized entities on the notification procedures and privacy risk mitigation strategies described in this part.

Amended by Chapter 293, 2019 General Session

**53G-11-405 Due process for individuals--Review of criminal history information.**

- (1)
  - (a) In accordance with Section 53-10-108, an authorized entity shall provide an individual an opportunity to review and respond to any criminal history information received under this part.
  - (b) If an authorized entity decides to disqualify an individual as a result of criminal history information received under this part, an individual may request a review of:
    - (i) information received; and
    - (ii) the reasons for the disqualification.
  - (c) An authorized entity shall provide an individual described in Subsection (1)(b) with written notice of:
    - (i) the reasons for the disqualification; and
    - (ii) the individual's right to request a review of the disqualification.
- (2)
  - (a) An LEA or qualifying private school shall make decisions regarding criminal history information for the individuals subject to the background check requirements under Section 53G-11-402 in accordance with:
    - (i) Subsection (3);
    - (ii) administrative procedures established by the LEA or qualifying private school; and
    - (iii) rules established by the state board.
  - (b) The state board shall make decisions regarding criminal history information for licensed educators in accordance with:
    - (i) Subsection (3);
    - (ii) Title 53E, Chapter 6, Education Professional Licensure; and
    - (iii) rules established by the state board.
- (3) When making decisions regarding initial employment, initial licensing, or initial appointment for the individuals subject to background checks under this part, an authorized entity shall consider:
  - (a) any convictions, including pleas in abeyance;
  - (b) any matters involving a felony; and
  - (c) any matters involving an alleged:
    - (i) sexual offense;
    - (ii) class A misdemeanor drug offense;

- (iii) offense against the person under Title 76, Chapter 5, Offenses Against the Individual;
- (iv) class A misdemeanor property offense that is alleged to have occurred within the previous three years; and
- (v) any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.

Amended by Chapter 430, 2022 General Session

**53G-11-406 Self-reporting requirement.**

- (1) Individuals subject to the background check requirements under this part shall self-report conviction, arrest, or offense information in accordance with rules established by the state board.
- (2) An LEA shall report conviction, arrest, or offense information received from licensed educators under Subsection (1) to the state board in accordance with rules established by the state board.

Amended by Chapter 293, 2019 General Session

**53G-11-407 Update criminal background check rules and policies.**

On or before September 1, 2015:

- (1) the state board shall update the state board's criminal background check rules consistent with this part; and
- (2) an LEA shall update the LEA's criminal background check policies consistent with this part.

Amended by Chapter 293, 2019 General Session

**53G-11-408 Training provided to authorized entities.**

The state board shall collaborate with the bureau to provide training to authorized entities on the provisions of this part.

Amended by Chapter 293, 2019 General Session

**53G-11-409 Legislative audit.**

After the conclusion of the 2018-2019 school year, subject to the prioritization of the Legislative Audit Subcommittee, the legislative auditor general shall conduct a review and issue a report on the extent to which the criminal background check procedures and ongoing monitoring described in this part adequately detect and identify the criminal histories of individuals who are employed by or volunteering in public schools.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-11-410 Reference check requirements for LEA applicants and volunteers.**

- (1) As used in this section:
  - (a) "Child" means an individual who is younger than 18 years old.
  - (b) "LEA applicant" means an applicant for employment by an LEA.
  - (c) "Physical abuse" means the same as that term is defined in Section 80-1-102.
  - (d) "Potential volunteer" means an individual who:
    - (i) has volunteered for but not yet fulfilled an unsupervised volunteer assignment; and
    - (ii) during the last three years, has worked in a qualifying position.

- (e) "Qualifying position" means paid employment that requires the employee to directly care for, supervise, control, or have custody of a child.
  - (f) "Sexual abuse" means the same as that term is defined in Section 80-1-102.
  - (g) "Student" means an individual who:
    - (i) is enrolled in an LEA in any grade from preschool through grade 12; or
    - (ii) receives special education services from an LEA under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
  - (h) "Unsupervised volunteer assignment" means a volunteer assignment at an LEA that allows the volunteer significant unsupervised access to a student.
- (2)
- (a) Before hiring an LEA applicant or giving an unsupervised volunteer assignment to a potential volunteer, an LEA shall:
    - (i) require the LEA applicant or potential volunteer to sign a release authorizing the LEA applicant or potential volunteer's previous qualifying position employers to disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant or potential volunteer;
    - (ii) for an LEA applicant, request that the LEA applicant's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant;
    - (iii) for a potential volunteer, request that the potential volunteer's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the potential volunteer; and
    - (iv) document the efforts taken to make a request described in Subsection (2)(a)(ii) or (iii).
  - (b) An LEA may not hire an LEA applicant who does not sign a release described in Subsection (2)(a)(i).
  - (c) An LEA may not give an unsupervised volunteer assignment to a potential volunteer who does not sign a release described in Subsection (2)(a)(i).
  - (d) An LEA shall request information under Subsection (2)(a)(ii) or (iii) before:
    - (i) hiring an LEA applicant; or
    - (ii) giving an unsupervised volunteer assignment to a potential volunteer.
  - (e) In accordance with state and federal law, an LEA may request from an LEA applicant or potential volunteer other information the LEA determines is relevant.
- (3)
- (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall respond to the request within 20 business days after the day on which the LEA received the request.
  - (b) If an LEA or other employer in good faith discloses information that is within the scope of a request described in Subsection (2)(a)(ii) or (iii), the LEA or other employer is immune from civil and criminal liability for the disclosure.

Amended by Chapter 262, 2021 General Session

## 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.
- (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) "Chronically absent" means a student who:
  - (a) was enrolled in an LEA for at least 60 calendar days; and
  - (b) missed 10% or more days of instruction, whether the absence was excused or not.
- (5) "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.
- (6) "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.
- (7) "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.
- (8)
  - (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.
- (9) "Formative evaluation" means a planned, ongoing process which allows educators to engage in reflection and growth of professional skills as related to the Utah Effective Teaching Standards.
- (10) "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.
- (11) "Provisional educator" means an educator employed by a school district who has not achieved status as a career educator within the school district.
- (12) "Provisional employee" means an individual, other than a career employee or a temporary employee, who is employed by a school district.
- (13) "School board" means a local school board or, for the Utah Schools for the Deaf and the Blind, the state board.
- (14) "School district" or "district" means:
  - (a) a public school district; or
  - (b) the Utah Schools for the Deaf and the Blind.



- (15) "Summative evaluation" means an evaluation that:
- (a) a supervisor conducts;
  - (b) summarizes an educator's performance during an evaluation cycle; and
  - (c) a supervisor or school district may use to make decisions related to an educator's employment.
- (16) "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.
- (17)
- (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 484, 2024 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 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, 53G-11-511, and 53G-11-520 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 484, 2024 General Session

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

A local school board shall implement the educator evaluation process described in:

- (1) Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511; or
- (2) Section 53G-11-520.

Amended by Chapter 484, 2024 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-11-505 State board rules -- Reporting to Legislature.**

Subject to Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, 53G-11-511, and 53G-11-520, the state board shall ensure that the rules the state board adopts under Section 53G-11-504:

- (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 484, 2024 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 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 484, 2024 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 Section 53E-6-902, Subsection 53E-2-302(7), and Subsections 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 51, 2024 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 Rulemaking for privacy protection.**

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 484, 2024 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 local school board shall ensure that the procedures described in Subsection (1) 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) The local school board shall ensure that the procedures and standards for a plan of assistance adopted under Subsection (2)(c) 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(16)(a) and conduct described in Subsection 53G-11-501(16)(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 484, 2024 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) The state board shall ensure that rules the state board adopts under Subsection (1):
  - (a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and
  - (b) provide that:
    - (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 484, 2024 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.
- (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.

Amended by Chapter 484, 2024 General Session

**53G-11-520 Alternative educator evaluation process.**

- (1) As described in Section 53G-11-502, a school district may choose to perform an educator evaluation as described in this section.
- (2) A school district that chooses the educator evaluation process described in this section is exempt from the requirements described in Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511.

- (3) In accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:
  - (a) describe a framework for the evaluation of educators in accordance with Part 3, Licensed Employee Requirements, and this section;
  - (b) require an educator's summative evaluation to be based on:
    - (i) educator professional standards established by the state board; and
    - (ii) the requirements described in Subsections (9) and (10);
  - (c) establish standards for an independent review of an educator's summative evaluation; and
  - (d) ensure the privacy and protection of individual evaluation data.
- (4) A school district shall develop an educator evaluation program in consultation with the school district's joint committee.
- (5) A school district shall ensure the joint committee described in Subsection (4) consists of an equal number of classroom teachers, parents, and administrators the school district appoints.
- (6) A school district may appoint members of the joint committee from:
  - (a) a list of nominees who are classroom teachers, created through a vote of teachers in a nomination election;
  - (b) a list of nominees who are administrators, created through a vote of administrators in a nomination election; and
  - (c) a list of nominees who are parents that school community councils within the school district submit to the school district.
- (7) Subject to Subsection (8), the joint committee may:
  - (a) adopt or adapt an evaluation program for educators based on a model the state board develops; or
  - (b) create the school district's own evaluation program for educators.
- (8) A school district shall ensure that an evaluation program the joint committee develops complies with the requirements of this section including the rules the state board adopts under Subsection (3).
- (9) A school district, in consultation with a joint committee described in Subsection (4), shall adopt a reliable and valid educator evaluation program that evaluates educators based on educator professional standards the state board establishes, including:
  - (a) an annual formative assessment for an educator, a provisional educator, and a career educator;
  - (b) as described in Subsections (11), (12), and (13), a summative assessment for an educator that occurs at least once every four years;
  - (c) 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; and
    - (vi) student academic growth data;
  - (d) a summative evaluation that differentiates among levels of performance; and
  - (e) for an administrator, the effectiveness of evaluating employee performance in a school or school district for which the administrator has responsibility.
- (10) A school district, in relation to an educator evaluation program described in Subsection (9):
  - (a) may include a reasonable number of peer observations; and
  - (b) may not use:
    - (i) end-of-level assessment scores; or

- (ii) the data of a student that is chronically absent.
- (11) The individual whom the school district and joint committee designate to be 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 a relevant evaluation instrument;
  - (b) allow the educator to respond to any part of the evaluation;
  - (c) attach the educator's response to the evaluation if the educator provides a response in writing;
  - (d) within 15 days after the day on which the evaluation process is complete, discuss the written evaluation with the educator; and
  - (e) based upon the educator's performance, assign to the educator one of the levels of performance required in Subsection (9)(d).
- (12)
  - (a) 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.
  - (b)
    - (i) If an educator requests a review in accordance with Subsection (12), the school district superintendent or the superintendent's designee shall appoint an individual whom the school district does not employ 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.
    - (ii) The individual conducting a review of an educator's summative evaluation under Subsection (12)(b)(i) shall conduct the review in accordance with the rules that the state board makes under Subsection (3).
- (13)
  - (a) 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 an individual who has received training or will receive training in mentoring educators as a mentor to the provisional educator.
  - (b) Where possible, the principal or immediate supervisor described in Subsection (13)(a) shall assign as a mentor a career educator who:
    - (i) performs substantially the same duties as the provisional educator; and
    - (ii) has at least three years of educational experience.
  - (c) The mentor described in this Subsection (13):
    - (i) shall assist the provisional educator to become effective and competent in the teaching profession and school system; and
    - (ii) may not serve as an evaluator of the provisional educator.
  - (d) An educator who is assigned as a mentor described in this Subsection (13) may receive compensation for mentor services in addition to the educator's regular salary.
- (14) The state board shall:
  - (a) consult with school districts; and
  - (b) report to the Education Interim Committee's November 2028 committee meeting regarding:
    - (i) implementation of the alternative educator evaluation process; and
    - (ii) making recommendations for needed changes.

Enacted by Chapter 484, 2024 General Session

