

SCHOOL PERSONNEL - PROCEDURAL**RIGHTS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: D. Chris Buttars

This act modifies the State System of Public Education Code by amending the Utah Orderly School Termination Procedures Act relating to provisional employees. This act amends definitions. This act makes technical corrections.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53A-8-102, as last amended by Chapter 5, Laws of Utah 2001, First Special Session

53A-8-104, as last amended by Chapter 86, Laws of Utah 2001

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

Section 1. Section **53A-8-102** is amended to read:

53A-8-102. Definitions.

As used in this chapter:

(1) "Career employee" means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section 53A-8-106 and an agreement with the employee or the employee's association, district practice, or policy.

(2) "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.

(3) "Dismissal," "dismiss," "terminate," 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.

(4) "Employee" means a career or provisional employee of a school district, but does not include:

(a) the district superintendent, or the equivalent at the Schools for the Deaf and the Blind;

(b) the district business administrator or the equivalent at the Schools for the Deaf and the Blind; or

(c) a temporary employee.

(5) "Provisional employee" means an individual, other than a career employee or a temporary employee, who is employed by a school district.

(6) "School board" or "board" means a district school board or its equivalent at the Schools for the Deaf and the Blind.

(7) "School district" or "district" means:

(a) a public school district; or

(b) the Schools for the Deaf and the Blind.

(8) "Temporary employee" means an individual who is employed on a temporary basis as defined by policies adopted by the local board of education. If the class of employees in question is represented by an employee organization recognized by the local board, the board shall adopt its policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.

Section 2. Section **53A-8-104** is amended to read:

53A-8-104. Dismissal procedures.

(1) The district shall provide employees with a written statement of causes under which a career employee's contract may not be renewed or continued beyond the then-current school year, under which a contract of each class of personnel may not be renewed or continued beyond the then-current school year, and under which a contract can be otherwise terminated during the contract term, and the orderly dismissal procedures which are used by the district in cases of contract termination, discontinuance, or nonrenewal.

(2) (a) If the district intends to terminate a contract during its term or discontinue a

career employee's contract beyond the then current school year for reasons of unsatisfactory performance, the unsatisfactory performance must be documented in at least two evaluations conducted at any time within the preceding three years in accordance with district policies or practices.

(b) The district shall notify a career employee, at least 30 days prior to issuing notice of intent not to renew or continue the employee's contract beyond the then-current school year, that continued employment is in question and the reasons for the anticipated nonrenewal or discontinuance.

(c) The board shall give the career employee an opportunity to correct the problem in accordance with the district evaluation policies.

(d) The board may grant the career employee assistance to correct the deficiencies, including informal conferences and the services of school personnel within the district consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b).

(3) (a) If the career employee does not correct the problem as determined in accordance with the evaluation and personnel policies of the district and the district intends to not renew or discontinue the contract of employment of a career employee at the end of the then-current school year, it shall give notice of that intention to the employee.

(b) The district shall issue the notice at least 30 days before the end of the career employee's contract term.

(4) A district shall notify a provisional employee at least 60 days before the end of the provisional employee's contract if the employee will not be offered a contract for a subsequent term of employment.

(5) 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.

(6) If the district intends to not renew or discontinue the contract of a career employee, to dismiss a provisional 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 individual's last-known address as shown on the records of the district;

90 (c) except as provided under Subsection (3)(b), the district shall give notice at least 15
91 days prior to the proposed date of termination;

92 (d) the notice shall state the date of termination and the detailed reasons for termination;
93 [and]

94 (e) the notice shall advise the individual that he has a right to a fair hearing; and

95 (f) the notice shall state that failure of the employee to request a hearing in accordance
96 with procedures set forth in the notice constitutes a waiver of that right and that the district may
97 then proceed with termination without further notice.

98 (7) The procedure under which a contract is terminated during its term may include a
99 provision under which the active service of the employee is suspended pending a hearing if it
100 appears that the continued employment of the individual may be harmful to students or to the
101 district.

102 (8) (a) Suspension pending a hearing may be without pay if an authorized
103 representative of the district determines, after providing the employee with an opportunity for
104 an informal conference to discuss the allegations, that it is more likely than not that the
105 allegations against the employee are true and will result in termination.

106 (b) If termination is not subsequently ordered, the employee shall receive back pay for
107 the period of suspension without pay.

108 (9) The procedure shall provide for a written notice of suspension or final termination
109 including findings of fact upon which the action is based if the suspension or termination is for
110 cause.

Legislative Review Note
as of 2-6-03 1:12 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note**School Personnel - Procedural Rights***13-Feb-03***Bill Number SB0185***8:27 AM*

State Impact

Any costs associated with the passage of this bill can be handled within existing budgets.

Individual and Business Impact

None

Office of the Legislative Fiscal Analyst