

**LIABILITY PROTECTION OF EDUCATORS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Howard A. Stephenson**

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**LONG TITLE**

**General Description:**

This bill requires school district employees to acknowledge in writing receipt of an existing disclosure.

**Highlighted Provisions:**

This bill:

- ▶ requires school district employees, upon signing an employee contract, to acknowledge receipt of an existing liability protection disclosure; and
- ▶ modifies when school districts may provide liability protection information to employees.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-3-411**, as last amended by Chapters 284 and 315, Laws of Utah 2003

**63A-4-204**, as last amended by Chapter 266, Laws of Utah 2001

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

Section 1. Section **53A-3-411** is amended to read:

**53A-3-411. Employment of school personnel -- Length of contract -- Termination**



28 **for cause -- Individual contract of employment -- Employee acknowledgment of liability**  
29 **protection.**

30 (1) A local school board may enter into a written employment contract for a term not to  
31 exceed five years.

32 (2) Nothing in the terms of the contract shall restrict the power of a local school board  
33 to terminate the contract for cause at any time.

34 (3) (a) A local school board may not enter into a collective bargaining agreement that  
35 prohibits or limits individual contracts of employment.

36 (b) Subsection (3)(a) does not apply to an agreement that was entered into before May  
37 5, 2003.

38 (4) Each local school board shall:

39 (a) ensure that each employment contract complies with the requirements of Section  
40 34-32-1.1; ~~and~~

41 (b) comply with the requirements of Section 34-32-1.1 in employing any personnel,  
42 whether by employment contract or otherwise[-]; and

43 (c) ensure that at the time an employee enters into an employment contract, the  
44 employee shall sign a separate document acknowledging that the employee:

45 (i) has received:

46 (A) the disclosure required under Subsection 63A-4-204(4)(d) if the school district  
47 participates in the Risk Management Fund; or

48 (B) written disclosure similar to the disclosure required under Section 63A-4-204 if the  
49 school district does not participate in the Risk Management Fund; and

50 (ii) understands the legal liability protection provided to the employee, as explained in  
51 the disclosure.

52 Section 2. Section **63A-4-204** is amended to read:

53 **63A-4-204. School district participation in Risk Management Fund.**

54 (1) (a) For the purpose of this section, action by a public school district shall be taken  
55 upon resolution by a majority of the members of the school district's board of education.

56 (b) (i) Upon approval by the state risk manager and the board of education of the  
57 school district, a public school district may participate in the Risk Management Fund and may  
58 permit a foundation established under Section 53A-4-205 to participate in the Risk

59 Management Fund.

60 (ii) Upon approval by the state risk manager and the State Board of Education, a state  
61 public education foundation may participate in the Risk Management Fund.

62 (c) Subject to any cancellation or other applicable coverage provisions, either the state  
63 risk manager or the public school district may terminate participation in the fund.

64 (2) The state risk manager shall contract for all insurance, legal, loss adjustment,  
65 consulting, loss control, safety, and other related services necessary to support the insurance  
66 program provided to a participating public school district, except that all supporting legal  
67 services are subject to the prior approval of the state attorney general.

68 (3) (a) The state risk manager shall treat each participating public school district as a  
69 state agency when participating in the Risk Management Fund.

70 (b) Each public school district participating in the fund shall comply with the  
71 provisions of this part that affect state agencies.

72 (4) (a) By no later than March 31 of each year, the risk manager shall prepare, in  
73 writing, the information required by Subsection (4)(b) regarding the coverage against legal  
74 liability provided a school district employee of this state:

- 75 (i) by the Risk Management Fund;
- 76 (ii) under Title 63, Chapter [~~30, Utah~~] 30d, Governmental Immunity Act of Utah; and
- 77 (iii) under Title 63, Chapter 30a, Reimbursement of Legal Fees and Costs to Officers  
78 and Employees.

79 (b) (i) The information described in Subsection (4)(a) shall include:

- 80 (A) the eligibility requirements, if any, to receive the coverage;
- 81 (B) the basic nature of the coverage for a school district employee; and
- 82 (C) whether the coverage is primary or in excess of any other coverage the risk  
83 manager knows is commonly available to a school district employee in this state.

84 (ii) The information described in Subsection (4)(a) may include:

85 (A) comparisons the risk manager considers beneficial to a school district employee  
86 between:

- 87 (I) the coverage described in Subsection (4)(a); and
- 88 (II) other coverage the risk manager knows is commonly available to a school district  
89 employee in this state; and

90 (B) any other information the risk manager considers appropriate.  
91 (c) The risk manager shall provide the information prepared under this Subsection (4)  
92 to each school district that participates in the Risk Management Fund.  
93 (d) A school district that participates in the Risk Management Fund shall provide a  
94 copy of the information described in Subsection (4)(c) to each school district employee within  
95 the school district:  
96 (i) at the time an employee enters into an employment contract and signs a separate  
97 acknowledgment of legal liability protection in accordance with Section 53A-3-411; or  
98 (ii) if the school district does not provide the information to the employee pursuant to  
99 Subsection (4)(d)(i):  
100 [(i)] (A) within 30 days of the day the school district employee is hired by the school  
101 district; and  
102 [(ii)] (B) by no later than April 15 of each calendar year.

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**Legislative Review Note**  
**as of 1-26-05 2:05 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0058**

**Liability Protection of Educators**

*03-Feb-05*

*4:46 PM*

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**State Impact**

Passage of this bill could require additional administrative responsibilities for school districts. Any associated costs can be handled within existing budgets.

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**Individual and Business Impact**

None

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**Office of the Legislative Fiscal Analyst**