

PROVISIONAL TEACHING MODIFICATIONS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Utah Orderly School Termination Procedures Act.

Highlighted Provisions:

This bill:

- ▶ prohibits a school district from granting career employee status to a school district employee on or after July 1, 2011;
- ▶ reduces the notification time for a school district to notify a provisional employee that the provisional employee's contract will not be extended for a subsequent term of employment from 60 days to 30 days; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-8-102, as last amended by Laws of Utah 2007, Chapter 348

53A-8-104, as last amended by Laws of Utah 2007, Chapter 348

53A-8-106, as last amended by Laws of Utah 2010, Chapter 183

53A-10-102, as last amended by Laws of Utah 2009, Chapter 287



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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 on or before June 30, 2011, 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~~] a school district under a contract of employment, whether oral or written.

(3) "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.

(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~~] local school board or its equivalent at the Schools for the Deaf and the Blind.

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

60 (a) a public school district; or

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

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

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

68 **53A-8-104. Dismissal procedures.**

69 (1) ~~[The]~~ A district shall provide employees with a written statement of:

70 (a) causes under which a career employee's contract may not be renewed or continued
71 beyond the then-current school year~~[-, under which];~~

72 (b) causes under which a contract of each class of personnel may not be renewed or
73 continued beyond the then-current school year~~[-, and under which];~~

74 (c) causes under which a contract can be otherwise terminated during the contract
75 term~~[-];~~ and

76 (d) the orderly dismissal procedures which are used by the district in cases of contract
77 termination, discontinuance, or nonrenewal.

78 (2) (a) If the district intends to terminate a contract during its term or discontinue a
79 career employee's contract beyond the then current school year for reasons of unsatisfactory
80 performance, the unsatisfactory performance must be documented in at least two evaluations
81 conducted at any time within the preceding three years in accordance with school district
82 policies or practices.

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

87 (c) ~~[The]~~ A local school board shall give the career employee an opportunity to correct
88 the problem in accordance with the district evaluation policies.

89 (d) ~~[The]~~ A local school board may grant the career employee assistance to correct the

90 deficiencies, including informal conferences and the services of school personnel within the
91 district consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b).

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

96 (b) ~~The~~ A school district shall issue the notice at least 30 days before the end of ~~the~~
97 a career employee's contract term.

98 (4) A district shall notify a provisional employee at least ~~60~~ 30 days before the end of
99 the provisional employee's contract if the employee will not be offered a contract for a
100 subsequent term of employment.

101 (5) In the absence of a notice, an employee is considered employed for the next
102 contract term with a salary based upon the salary schedule applicable to the class of employee
103 into which the individual falls.

104 (6) If ~~the~~ a district intends to not renew or discontinue the contract of a career
105 employee or to terminate a career or provisional employee's contract during the contract term:

106 (a) the district shall give written notice of the intent to the employee;

107 (b) the notice shall be served by personal delivery or by certified mail addressed to the
108 individual's last-known address as shown on the records of the district;

109 (c) except as provided under Subsection (3)(b), the district shall give notice at least 30
110 days prior to the proposed date of termination;

111 (d) the notice shall state the date of termination and the detailed reasons for
112 termination;

113 (e) the notice shall advise the ~~individual that he~~ employee that the employee has a
114 right to a fair hearing and that the hearing is waived if it is not requested within 15 days after
115 the notice of termination was either personally delivered or mailed to the ~~individual's~~
116 employee's most recent address shown on the district's personnel records; and

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

120 (7) The procedure under which a contract is terminated during its term may include a

121 provision under which the active service of the employee is suspended pending a hearing if it
122 appears that the continued employment of the [~~individual~~] employee may be harmful to
123 students or to the district.

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

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

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

133 Section 3. Section **53A-8-106** is amended to read:

134 **53A-8-106. Career employee status for provisional employees.**

135 (1) (a) A provisional employee must work for a school district on at least a half-time
136 basis for three consecutive years on or before June 30, 2011, to obtain career employee status.

137 (b) A school district may not grant career employee status to an employee on or after
138 July 1, 2011.

139 [~~(b)~~] (c) A school district may extend the provisional status of an employee up to an
140 additional two consecutive years in accordance with a written policy adopted by the school
141 district's local school board that specifies the circumstances under which an employee's
142 provisional status may be extended.

143 (2) Policies of an employing school district shall determine the status of a career
144 employee in the event of the following:

145 (a) the employee accepts a position which is substantially different from the position in
146 which the employee's career status was achieved; or

147 (b) the employee accepts employment in another school district.

148 (3) If an employee who is under an order of probation or remediation in one
149 assignment in a school district is transferred or given a new assignment in the district, the order
150 shall stand until its provisions are satisfied.

151 (4) An employee who is given extra duty assignments in addition to a primary

152 assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary
153 employee in those extra duty assignments and may not acquire career status beyond the primary
154 assignment.

155 (5) A person is an at-will employee and is not eligible for career employee status if the
156 person:

157 (a) is a teacher who holds a competency-based license pursuant to Section 53A-6-104.5
158 and does not hold a level 1, 2, or 3 license as defined in Section 53A-6-103; ~~[or]~~

159 (b) holds an administrative/supervisory letter of authorization pursuant to Section
160 53A-6-110~~[-]; or~~

161 (c) does not obtain career employee status on or before June 30, 2011.

162 Section 4. Section **53A-10-102** is amended to read:

163 **53A-10-102. Definitions.**

164 As used in this chapter:

165 (1) "Career educator" means a licensed employee;

166 (a) entitled to rely upon continued employment under the policies of a local school
167 board[-]; and

168 (b) who obtained career employee status, as described in Chapter 8, Utah Orderly
169 School Termination Procedures Act, on or before June 30, 2011.

170 (2) "Educator" means an individual employed by a school district who is required to
171 hold a professional license issued by the State Board of Education, except:

172 (a) a superintendent; or

173 (b) an individual who:

174 (i) works fewer than three hours per day; or

175 (ii) is hired for less than half of a school year.

176 (3) "Probationary educator" means an educator employed by a school district who,
177 under local school board policy, has been advised by the district that the educator's
178 performance is inadequate.

179 (4) "Provisional educator" means an educator employed by a school district who has
180 not achieved status as a career educator within the school district.

Legislative Review Note
as of 2-28-11 9:27 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 346

SHORT TITLE: **Provisional Teaching Modifications**

SPONSOR: **Herrod, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.