

PROVISIONAL TEACHING MODIFICATIONS

2012 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, 2012;
- ▶ 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 2011, Chapter 420

53A-8-104, as last amended by Laws of Utah 2011, Chapter 286

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

53A-10-102, as last amended by Laws of Utah 2011, Chapter 434



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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, 2012, 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) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates the termination of an employee who started to work for the district most recently before terminating a more senior employee.

(6) "Provisional employee" means an individual, other than a career employee or a

59 temporary employee, who is employed by a school district.

60 (7) "School board" or "board" means a [~~district~~] local school board or its equivalent at
61 the Schools for the Deaf and the Blind.

62 (8) "School district" or "district" means:

63 (a) a public school district; or

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

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

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

71 **53A-8-104. Dismissal procedures.**

72 (1) A district shall provide employees with a written statement specifying:

73 (a) the causes under which a career employee's contract may not be renewed or
74 continued beyond the current school year;

75 (b) the causes under which a career or provisional employee's contract may be
76 terminated during the contract term; and

77 (c) the orderly dismissal procedures that are used by the district in cases of contract
78 termination, discontinuance, or nonrenewal.

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

84 (3) (a) A school district shall notify a career employee, at least 30 days prior to issuing
85 under Subsection (3)(d) notice of intent not to renew or continue the career employee's contract
86 beyond the current school year, that continued employment is in question and the reasons for
87 the anticipated nonrenewal or discontinuance.

88 (b) If a career employee receives a notice under Subsection (3)(a) that continued
89 employment is in question, the board:

90 (i) shall give the career employee an opportunity to correct the problem in accordance
91 with the district evaluation policies; and

92 (ii) may grant the career employee assistance to correct the deficiencies, including
93 informal conferences and the services of school personnel within the district.

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

98 (d) [~~The~~] A school district shall issue the notice at least 30 days before the end of [~~the~~]
99 a career employee's contract term.

100 (4) (a) A school district is not required to provide a cause for not offering a contract to
101 a provisional employee.

102 (b) If a school district intends to not offer a contract for a subsequent term of
103 employment to a provisional employee, the school district shall give notice of that intention to
104 the employee at least [~~60~~] 30 days before the end of the provisional employee's contract term.

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

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

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

111 (b) the notice shall be served by personal delivery or by certified mail addressed to the
112 employee's last known address as shown on the records of the school district;

113 (c) except as provided under Subsection (3), the school district shall give notice at least
114 30 days prior to the proposed date of termination;

115 (d) the notice shall state the date of termination and the detailed reasons for
116 termination;

117 (e) the notice shall advise the employee that the employee has a right to a fair hearing
118 and that the hearing is waived if it is not requested within 15 days after the notice of
119 termination was either personally delivered or mailed to the employee's most recent address
120 shown on the school district's personnel records; and

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

124 (7) (a) The procedure under which a contract is terminated during its term may include
125 a provision under which the active service of the employee is suspended pending a hearing if it
126 appears that the continued employment of the [~~individual~~] employee may be harmful to
127 students or to the school district.

128 (b) Suspension pending a hearing may be without pay if an authorized representative
129 of [~~the~~] a school district determines, after providing the employee with an opportunity for an
130 informal conference to discuss the allegations, that it is more likely than not that the allegations
131 against the employee are true.

132 (c) If termination is not subsequently ordered, the employee shall receive back pay for
133 the period of suspension without pay.

134 (8) The procedure under which an employee's contract is terminated during its term
135 shall provide for a written notice of suspension or final termination including findings of fact
136 upon which the action is based.

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

138 **53A-8-106. Career employee status for provisional employees.**

139 (1) (a) A provisional employee must work for a school district on at least a half-time
140 basis for three consecutive years, on or before June 30, 2012, to obtain career employee status.

141 (b) A school district may not grant career employee status to an employee on or after
142 July 1, 2012.

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

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

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

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

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

155 (4) An employee who is given extra duty assignments in addition to a primary
156 assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary
157 employee in those extra duty assignments and may not acquire career status beyond the primary
158 assignment.

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

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

163 (b) holds an administrative/supervisory letter of authorization pursuant to Section
164 53A-6-110~~[-];~~ or

165 (c) does not obtain career employee status on or before June 30, 2012.

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

167 **53A-10-102. Definitions.**

168 As used in this chapter:

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

170 (a) who has a reasonable expectation of continued employment under the policies of a
171 local school board~~[-];~~ and

172 (b) who obtained career employee status, as described in Chapter 8, Utah Orderly
173 School Termination Procedures Act, on or before June 30, 2012.

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

176 (a) a superintendent; or

177 (b) an individual who:

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

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

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

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

Legislative Review Note
as of 10-3-11 2:41 PM

Office of Legislative Research and General Counsel