

PUBLIC EDUCATION EMPLOYMENT REFORM

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill modifies provisions related to the employment of public education personnel.

Highlighted Provisions:

This bill:

- ▶ reorganizes provisions regarding:
 - the status and termination of school district employees; and
 - educator evaluations;
- ▶ creates the Public Education Human Resource Management Act;
- ▶ directs the State Board of Education to make rules requiring the performance of school district employees to be evaluated annually, with exceptions;
- ▶ requires data on school district educator ratings to be publicly reported;
- ▶ prescribes procedures for the nonrenewal or termination of a career employee's contract for unsatisfactory performance;
- ▶ restricts the transfer of a public education employee with unsatisfactory performance;
- ▶ directs the State Board of Education to make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system;
- ▶ requires the salary of certain school or district administrators to be contingent on an evaluation; and
- ▶ makes technical amendments.

Money Appropriated in this Bill:

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **53A-1-301**, as last amended by Laws of Utah 2010, Chapters 139 and 206

36 **53A-1a-512**, as last amended by Laws of Utah 2010, Chapters 266 and 353

37 **53A-3-425**, as last amended by Laws of Utah 2011, Chapter 402

38 **53A-11-605**, as enacted by Laws of Utah 2007, Chapter 111

39 ENACTS:

40 **53A-8a-101**, Utah Code Annotated 1953

41 **53A-8a-301**, Utah Code Annotated 1953

42 **53A-8a-302**, Utah Code Annotated 1953

43 **53A-8a-409**, Utah Code Annotated 1953

44 **53A-8a-410**, Utah Code Annotated 1953

45 **53A-8a-503**, Utah Code Annotated 1953

46 **53A-8a-506**, Utah Code Annotated 1953

47 **53A-8a-601**, Utah Code Annotated 1953

48 **53A-8a-602**, Utah Code Annotated 1953

49 **53A-8a-701**, Utah Code Annotated 1953

50 **53A-8a-702**, Utah Code Annotated 1953

51 **53A-8a-703**, Utah Code Annotated 1953

52 RENUMBERS AND AMENDS:

53 **53A-8a-102**, (Renumbered from 53A-8-102, as last amended by Laws of Utah 2011,
54 Chapter 420)

55 **53A-8a-201**, (Renumbered from 53A-8-106, as last amended by Laws of Utah 2010,
56 Chapter 183)

57 **53A-8a-401**, (Renumbered from 53A-10-101, as last amended by Laws of Utah 2011,

- 58 Chapter 434)
- 59 **53A-8a-402**, (Renumbered from 53A-10-102, as last amended by Laws of Utah 2011,
- 60 Chapter 434)
- 61 **53A-8a-403**, (Renumbered from 53A-10-103, as last amended by Laws of Utah 2011,
- 62 Chapter 434)
- 63 **53A-8a-404**, (Renumbered from 53A-10-105, as enacted by Laws of Utah 1988,
- 64 Chapter 2)
- 65 **53A-8a-405**, (Renumbered from 53A-10-106, as last amended by Laws of Utah 2011,
- 66 Chapter 434)
- 67 **53A-8a-406**, (Renumbered from 53A-10-106.5, as last amended by Laws of Utah 2011,
- 68 Chapter 434)
- 69 **53A-8a-407**, (Renumbered from 53A-10-107, as last amended by Laws of Utah 2011,
- 70 Chapter 434)
- 71 **53A-8a-408**, (Renumbered from 53A-10-108, as last amended by Laws of Utah 2009,
- 72 Chapter 287)
- 73 **53A-8a-501**, (Renumbered from 53A-8-103, as last amended by Laws of Utah 1994,
- 74 Chapter 51)
- 75 **53A-8a-502**, (Renumbered from 53A-8-104, as last amended by Laws of Utah 2011,
- 76 Chapter 286)
- 77 **53A-8a-504**, (Renumbered from 53A-8-105, as last amended by Laws of Utah 2007,
- 78 Chapter 306)
- 79 **53A-8a-505**, (Renumbered from 53A-8-107, as last amended by Laws of Utah 2011,
- 80 Chapter 420)



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

83 Section 1. Section **53A-1-301** is amended to read:

84 **53A-1-301. Appointment -- Qualifications -- Duties.**

85 (1) (a) The State Board of Education shall appoint a superintendent of public

86 instruction, hereinafter called the state superintendent, who is the executive officer of the board
87 and serves at the pleasure of the board.

88 (b) The board shall appoint the state superintendent on the basis of outstanding
89 professional qualifications.

90 (c) The state superintendent shall administer all programs assigned to the State Board
91 of Education in accordance with the policies and the standards established by the board.

92 (2) The State Board shall with the appointed superintendent [~~staff~~] develop a statewide
93 education strategy focusing on core academics, including the development of:

94 (a) core curriculum and graduation requirements;

95 (b) a process to select instructional materials that best correlate to the core curriculum
96 and graduation requirements that are supported by generally accepted scientific standards of
97 evidence;

98 (c) professional development programs for teachers, superintendents, and principals;

99 (d) remediation programs;

100 (e) a method for creating individual student learning targets, and a method of
101 measuring an individual student's performance toward those targets;

102 (f) progress-based assessments for ongoing performance evaluations of districts and
103 schools;

104 (g) incentives to achieve the desired outcome of individual student progress in core
105 academics, and which do not create disincentives for setting high goals for the students;

106 (h) an annual report card for school and district performance, measuring learning and
107 reporting progress-based assessments;

108 (i) a systematic method to encourage innovation in schools and school districts as they
109 strive to achieve improvement in their performance; and

110 (j) a method for identifying and sharing best demonstrated practices across districts and
111 schools.

112 (3) The superintendent shall perform duties assigned by the board, including the
113 following:

- 114 (a) investigating all matters pertaining to the public schools;
- 115 (b) adopting and keeping an official seal to authenticate the superintendent's official
- 116 acts;
- 117 (c) holding and conducting meetings, seminars, and conferences on educational topics;
- 118 (d) presenting to the governor and the Legislature each December a report of the public
- 119 school system for the preceding year to include:
- 120 (i) data on the general condition of the schools with recommendations considered
- 121 desirable for specific programs;
- 122 (ii) a complete statement of fund balances;
- 123 (iii) a complete statement of revenues by fund and source;
- 124 (iv) a complete statement of adjusted expenditures by fund, the status of bonded
- 125 indebtedness, the cost of new school plants, and school levies;
- 126 (v) a complete statement of state funds allocated to each school district and charter
- 127 school by source, including supplemental appropriations, and a complete statement of
- 128 expenditures by each school district and charter school, including supplemental appropriations,
- 129 by function and object as outlined in the U.S. Department of Education publication "Financial
- 130 Accounting for Local and State School Systems";
- 131 (vi) a complete statement, by school district and charter school, of the amount of and
- 132 percentage increase or decrease in expenditures from the previous year attributed to:
- 133 (A) wage increases, with expenditure data for base salary adjustments identified
- 134 separately from step and lane expenditures;
- 135 (B) medical and dental premium cost adjustments; and
- 136 (C) adjustments in the number of teachers and other staff;
- 137 (vii) a statement that includes data on:
- 138 (A) fall enrollments[;];
- 139 (B) average membership[;];
- 140 (C) high school graduates[;];
- 141 (D) licensed and classified employees, including data reported by school districts on

142 educator ratings pursuant to Section 53A-8a-405;

143 (E) pupil-teacher ratios[;];

144 (F) average class sizes calculated in accordance with State Board of Education rules
145 adopted under Subsection 53A-3-602.5(4)[;];

146 (G) average salaries[;];

147 (H) applicable private school data[;]; and

148 (I) data from standardized norm-referenced tests in grades 5, 8, and 11 on each school
149 and district;

150 (viii) statistical information regarding incidents of delinquent activity in the schools or
151 at school-related activities with separate categories for:

152 (A) alcohol and drug abuse;

153 (B) weapon possession;

154 (C) assaults; and

155 (D) arson;

156 (ix) information about:

157 (A) the development and implementation of the strategy of focusing on core
158 academics;

159 (B) the development and implementation of competency-based education and
160 progress-based assessments; and

161 (C) the results being achieved under Subsections (3)(d)(ix)(A) and (B), as measured by
162 individual progress-based assessments and a comparison of Utah students' progress with the
163 progress of students in other states using standardized norm-referenced tests as benchmarks;
164 and

165 (x) other statistical and financial information about the school system which the state
166 superintendent considers pertinent;

167 (e) collecting and organizing education data into an automated decision support system
168 to facilitate school district and school improvement planning, accountability reporting,
169 performance recognition, and the evaluation of educational policy and program effectiveness to

170 include:

171 (i) data that are:

172 (A) comparable across schools and school districts;

173 (B) appropriate for use in longitudinal studies; and

174 (C) comprehensive with regard to the data elements required under applicable state or

175 federal law or state board rule;

176 (ii) features that enable users, most particularly school administrators, teachers, and

177 parents, to:

178 (A) retrieve school and school district level data electronically;

179 (B) interpret the data visually; and

180 (C) draw conclusions that are statistically valid; and

181 (iii) procedures for the collection and management of education data that:

182 (A) require the state superintendent of public instruction to:

183 (I) collaborate with school districts in designing and implementing uniform data

184 standards and definitions;

185 (II) undertake or sponsor research to implement improved methods for analyzing

186 education data;

187 (III) provide for data security to prevent unauthorized access to or contamination of the

188 data; and

189 (IV) protect the confidentiality of data under state and federal privacy laws; and

190 (B) require all school districts and schools to comply with the data collection and

191 management procedures established under Subsection (3)(e);

192 (f) administering and implementing federal educational programs in accordance with

193 Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act; and

194 (g) with the approval of the board, preparing and submitting to the governor a budget

195 for the board to be included in the budget that the governor submits to the Legislature.

196 (4) The state superintendent shall distribute funds deposited in the Autism Awareness

197 Restricted Account created in Section 53A-1-304 in accordance with the requirements of

198 Section 53A-1-304.

199 (5) Upon leaving office, the state superintendent shall deliver to the state
200 superintendent's successor all books, records, documents, maps, reports, papers, and other
201 articles pertaining to the state superintendent's office.

202 (6) (a) For the purpose of Subsection (3)(d)(vii):

203 (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of
204 students enrolled in a school by the number of full-time equivalent teachers assigned to the
205 school, including regular classroom teachers, school-based specialists, and special education
206 teachers;

207 (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of
208 the schools within a school district;

209 (iii) the pupil-teacher ratio for charter schools aggregated shall be the median
210 pupil-teacher ratio of charter schools in the state; and

211 (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median
212 pupil-teacher ratio of public schools in the state.

213 (b) The printed copy of the report required by Subsection (3)(d) shall:

214 (i) include the pupil-teacher ratio for:

215 (A) each school district;

216 (B) the charter schools aggregated; and

217 (C) the state's public schools aggregated; and

218 (ii) indicate the Internet website where pupil-teacher ratios for each school in the state
219 may be accessed.

220 Section 2. Section **53A-1a-512** is amended to read:

221 **53A-1a-512. Employees of charter schools.**

222 (1) A charter school shall select its own employees.

223 (2) The school's governing body shall determine the level of compensation and all
224 terms and conditions of employment, except as otherwise provided in Subsections (7) and (8)
225 and under this part.

226 (3) The following statutes governing public employees and officers do not apply to a
227 charter ~~[schools:]~~ school:

228 [~~(a) Chapter 8, Utah Orderly School Termination Procedures Act;~~]

229 [~~(b) Chapter 10, Educator Evaluation; and~~]

230 (a) Chapter 8a, Public Education Human Resource Management Act; and

231 [~~(c)~~] (b) Title 52, Chapter 3, Prohibiting Employment of Relatives.

232 (4) (a) To accommodate differentiated staffing and better meet student needs, a charter
233 school, under rules adopted by the State Board of Education, shall employ teachers who:

234 (i) are licensed; or

235 (ii) on the basis of demonstrated competency, would qualify to teach under alternative
236 certification or authorization programs.

237 (b) The school's governing body shall disclose the qualifications of its teachers to the
238 parents of its students.

239 (5) State Board of Education rules governing the licensing or certification of
240 administrative and supervisory personnel do not apply to charter schools.

241 (6) (a) An employee of a school district may request a leave of absence in order to
242 work in a charter school upon approval of the local school board.

243 (b) While on leave, the employee may retain seniority accrued in the school district and
244 may continue to be covered by the benefit program of the district if the charter school and the
245 locally elected school board mutually agree.

246 (7) Except as provided under Subsection (8), an employee of a charter school shall be a
247 member of a retirement system or plan under Title 49, Utah State Retirement and Insurance
248 Benefit Act.

249 (8) (a) At the time of application for a charter school, whether the chartering entity is
250 the State Charter School Board, a local school board, or a board of trustees of a higher
251 education institution, a proposed charter school may make an election of nonparticipation as an
252 employer for retirement programs under:

253 (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

254 (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and
255 (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

256 (b) A charter school that was approved prior to July 1, 2004, may make an election of
257 nonparticipation prior to December 31, 2004.

258 (c) An election provided under this Subsection (8):

259 (i) shall be made at the time specified under Subsection (8)(a) or (b);

260 (ii) shall be documented by a resolution adopted by the governing body of the charter
261 school;

262 (iii) is in effect unless the charter school makes an irrevocable retraction of the election
263 of nonparticipation in accordance with Subsection (9); and

264 (iv) applies to the charter school as the employer and to all employees of the charter
265 school.

266 (d) The governing body of a charter school may offer employee benefit plans for its
267 employees:

268 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

269 or

270 (ii) under any other program.

271 (9) (a) A charter school that made an election of nonparticipation as an employer for
272 the following retirement programs may subsequently make an irrevocable retraction of the
273 election of nonparticipation:

274 (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

275 (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; or

276 (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

277 (b) A retraction provided under this Subsection (9):

278 (i) shall be documented by a resolution adopted by the governing body of the charter
279 school;

280 (ii) is a one-time election;

281 (iii) is irrevocable; and

282 (iv) applies to the charter school as the employer and to all employees of the charter
283 school.

284 (10) The governing body of a charter school shall ensure that, prior to the beginning of
285 each school year, each of its employees signs a document acknowledging that the employee:

286 (a) has received:

287 (i) the disclosure required under Section 63A-4-204.5 if the charter school participates
288 in the Risk Management Fund; or

289 (ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if
290 the charter school does not participate in the Risk Management Fund; and

291 (b) understands the legal liability protection provided to the employee and what is not
292 covered, as explained in the disclosure.

293 Section 3. Section **53A-3-425** is amended to read:

294 **53A-3-425. Association leave -- District policy.**

295 (1) As used in this section:

296 (a) "Association leave" means leave from a school district employee's regular school
297 responsibilities granted for that employee to spend time for association, employee association,
298 or union duties.

299 (b) "Employee association" means an association that:

300 (i) negotiates employee salaries, benefits, contracts, or other conditions of employment;

301 or

302 (ii) performs union duties.

303 (2) Except as provided in Subsection (3), a local school board may not allow paid
304 association leave for a school district employee to perform an employee association or union
305 duty.

306 (3) (a) A local school board may allow paid association leave for a school district
307 employee to perform an employee association duty if:

308 (i) the duty performed by the employee on paid association leave will directly benefit
309 the school district, including representing the school district's licensed educators:

310 (A) on a board or committee, such as the school district's foundation, a curriculum
311 development board, insurance committee, or catastrophic leave committee;

312 (B) at a school district leadership meeting; or

313 (C) at a workshop or meeting conducted by the school district's local school board;

314 (ii) the duty performed by the employee on paid association leave does not include
315 political activity, including:

316 (A) advocating for or against a candidate for public office in a partisan or nonpartisan
317 election;

318 (B) soliciting a contribution for a political action committee, a political issues
319 committee, a political party, or a candidate, as defined in Section 20A-11-101; or

320 (C) initiating, drafting, soliciting signatures for, or advocating for or against a ballot
321 proposition, as defined in Section 20A-1-102; and

322 (iii) the local school board ensures compliance with the requirements of Subsections
323 (4)(a) through (g).

324 (b) Prior to a school district employee's participation in paid or unpaid association
325 leave, a local school board shall adopt a written policy that governs association leave.

326 (c) Except as provided in Subsection (3)(d), a local school board policy that governs
327 association leave shall require reimbursement to the school district of the costs for an
328 employee, including benefits, for the time that the employee is:

329 (i) on unpaid association leave; or

330 (ii) participating in a paid association leave activity that does not provide a direct
331 benefit to the school district.

332 (d) For a school district that allowed association leave described in Subsections
333 (3)(c)(i) and (ii) prior to January 1, 2011, the local school board policy that governs association
334 leave may allow up to 10 days of association leave before requiring a reimbursement described
335 in Subsection (3)(c).

336 (e) A reimbursement required under Subsection (3)(c), (d), or (4)(g) may be provided
337 by an employee, association, or union.

338 (4) If a local school board adopts a policy to allow paid association leave, the policy
339 shall include procedures and controls to:

340 (a) ensure that the duties performed by employees on paid association leave directly
341 benefit the school district;

342 (b) require the school district to document the use and approval of paid association
343 leave;

344 (c) require school district supervision of employees on paid association leave;

345 (d) require the school district to account for the costs and expenses of paid association
346 leave;

347 (e) ensure that during the hours of paid association leave a school district employee
348 may not engage in political activity, including:

349 (i) advocating for or against a candidate for public office in a partisan or nonpartisan
350 election;

351 (ii) soliciting a contribution for a political action committee, a political issues
352 committee, a political party, or a candidate, as defined in Section 20A-11-101; and

353 (iii) initiating, drafting, soliciting signatures for, or advocating for or against a ballot
354 proposition, as defined in Section 20A-1-102;

355 (f) ensure that association leave is only paid out of school district funds when the paid
356 association leave directly benefits the district; and

357 (g) require the reimbursement to the school district of the cost of paid association leave
358 activities that do not provide a direct benefit to education within the school district.

359 (5) If a local school board adopts a policy to allow paid association leave, that policy
360 shall indicate that a willful violation of this section or of a policy adopted in accordance with
361 Subsection (3) or (4) may be used for disciplinary action under Section [~~53A-8-104~~]
362 53A-8a-502.

363 Section 4. Section **53A-8a-101** is enacted to read:

364 **CHAPTER 8a. PUBLIC EDUCATION HUMAN RESOURCE MANAGEMENT ACT**

365 **Part 1. General Provisions**

366 **53A-8a-101. Title.**

367 This chapter is known as the "Public Education Human Resource Management Act."

368 Section 5. Section **53A-8a-102**, which is renumbered from Section 53A-8-102 is
369 renumbered and amended to read:

370 ~~[53A-8-102].~~ **53A-8a-102. Definitions.**

371 As used in this chapter:

372 (1) "Career employee" means an employee of a school district who has obtained a
373 reasonable expectation of continued employment based upon Section ~~[53A-8-106]~~ 53A-8a-201
374 and an agreement with the employee or the employee's association, district practice, or policy.

375 (2) "Contract term" or "term of employment" means the period of time during which an
376 employee is engaged by the school district under a contract of employment, whether oral or
377 written.

378 (3) "Dismissal" or "termination" means:

379 (a) termination of the status of employment of an employee;

380 (b) failure to renew or continue the employment contract of a career employee beyond
381 the then-current school year;

382 (c) reduction in salary of an employee not generally applied to all employees of the
383 same category employed by the school district during the employee's contract term; or

384 (d) change of assignment of an employee with an accompanying reduction in pay,
385 unless the assignment change and salary reduction are agreed to in writing.

386 (4) ~~(a)~~ "Employee" means a career or provisional employee of a school district, ~~[but]~~
387 except as provided in Subsection (4)(b).

388 (b) For purposes of Part 2, Status of Employment, Part 4, Educator Evaluations, and
389 Part 5, Orderly School Termination Procedures, "employee" does not include:

390 ~~[(a)]~~ (i) the district superintendent, or the equivalent at the Schools for the Deaf and the
391 Blind;

392 ~~[(b)]~~ (ii) the district business administrator or the equivalent at the Schools for the Deaf
393 and the Blind; or

394 [Ⓣ] (iii) a temporary employee.

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

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

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

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

403 (a) a public school district; or

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

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

410 (10) (a) "Unsatisfactory performance" means a deficiency in performing work tasks
411 which may be:

412 (i) due to insufficient or undeveloped skills, lack of knowledge or aptitude, poor
413 attitude, or insufficient effort; and

414 (ii) remediated through training, study, mentoring, practice, or greater effort.

415 (b) "Unsatisfactory performance" does not include the following conduct that is
416 designated as a cause for termination under Section 53A-8a-501 or a reason for license
417 discipline by the State Board of Education or Utah Professional Practices Advisory
418 Commission:

419 (i) a violation of work rules;

420 (ii) a violation of local school board policies, State Board of Education rules, or law;

421 (iii) a violation of standards of ethical, moral, or professional conduct; or

422 (iv) insubordination.

423 Section 6. Section **53A-8a-201**, which is renumbered from Section 53A-8-106 is
424 renumbered and amended to read:

425 **Part 2. Status of Employment**

426 ~~[53A-8-106].~~ **53A-8a-201. Career employee status for provisional**
427 **employees -- Career status in the event of change of position -- Continuation of**
428 **probationary status when position changes -- Temporary status for extra duty**
429 **assignments -- Employees not eligible for career status.**

430 (1) (a) A provisional employee must work for a school district on at least a half-time
431 basis for three consecutive years to obtain career employee status.

432 (b) A school district may extend the provisional status of an employee up to an
433 additional two consecutive years in accordance with a written policy adopted by the district's
434 school board that specifies the circumstances under which an employee's provisional status
435 may be extended.

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

438 (a) the employee accepts a position which is substantially different from the position in
439 which career status was achieved; or

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

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

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

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

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

452 (b) holds an administrative/supervisory letter of authorization pursuant to Section
453 53A-6-110.

454 Section 7. Section **53A-8a-301** is enacted to read:

455 **Part 3. Employee Evaluations**

456 **53A-8a-301. Evaluation of employee performance.**

457 (1) Except as provided in Subsection (2), a local school board shall require that the
458 performance of each school district employee be evaluated annually in accordance with rules of
459 the State Board of Education adopted in accordance with this chapter and Title 63G, Chapter 3,
460 Utah Administrative Rulemaking Act.

461 (2) (a) Rules adopted by the State Board of Education under Subsection (1) may
462 include an exemption from annual performance evaluations for temporary or part-time
463 employees.

464 (b) As provided by Section 53A-8a-405, a provisional or probationary educator shall be
465 evaluated at least twice each school year.

466 Section 8. Section **53A-8a-302** is enacted to read:

467 **53A-8a-302. State Board of Education rules -- Reporting to Legislature.**

468 (1) Subject to Part 4, Educator Evaluations, and Part 7, Evaluation and Compensation
469 of Administrators, rules adopted by the State Board of Education under Section 53A-8a-301
470 shall:

471 (a) provide general guidelines, requirements, and procedures for the development and
472 implementation of employee evaluations;

473 (b) establish required components and allow for optional components of employee
474 evaluations;

475 (c) require school districts to chose valid and reliable methods and tools to implement
476 the evaluations; and

477 (d) establish a timeline for school districts to implement employee evaluations.

478 (2) The State Board of Education shall report to the Education Interim Committee, as
479 requested, on progress in implementing employee evaluations in accordance with this part, Part
480 4, Educator Evaluations, and Part 7, Evaluation and Compensation of Administrators.

481 Section 9. Section **53A-8a-401**, which is renumbered from Section 53A-10-101 is
482 renumbered and amended to read:

483 **Part 4. Educator Evaluations**

484 ~~[53A-10-101].~~ **53A-8a-401. Legislative findings.**

485 (1) The Legislature recognizes that the quality of public education can be improved and
486 enhanced by systematic, fair, and competent annual evaluation of public educators and
487 remediation of those whose performance is inadequate.

488 (2) In accordance with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b), the
489 desired purposes of evaluation are to:

490 (a) allow the educator and the school district to promote the professional growth of the
491 educator; and

492 (b) identify and encourage quality instruction in order to improve student achievement.

493 Section 10. Section **53A-8a-402**, which is renumbered from Section 53A-10-102 is
494 renumbered and amended to read:

495 ~~[53A-10-102].~~ **53A-8a-402. Definitions.**

496 As used in this chapter:

497 (1) "Career educator" means a licensed employee who has a reasonable expectation of
498 continued employment under the policies of a local school board.

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

501 (a) a superintendent; or

502 (b) an individual who:

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

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

505 (3) "Probationary educator" means an educator employed by a school district who,

506 under local school board policy, has been advised by the district that the educator's
507 performance is inadequate.

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

510 Section 11. Section **53A-8a-403**, which is renumbered from Section 53A-10-103 is
511 renumbered and amended to read:

512 ~~[53A-10-103].~~ **53A-8a-403. Establishment of educator evaluation program**
513 **-- Joint committee.**

514 (1) A local school board shall develop an educator evaluation program in consultation
515 with its joint committee.

516 (2) The joint committee described in Subsection (1) shall consist of an equal number of
517 classroom teachers, parents, and administrators appointed by the local school board.

518 (3) A local school board may appoint members of the joint committee from a list of
519 nominees:

520 (a) voted on by classroom teachers in a nomination election;

521 (b) voted on by the administrators in a nomination election; and

522 (c) of parents submitted by school community councils within the district.

523 (4) Subject to Subsection (5), the joint committee may:

524 (a) adopt or adapt an evaluation program for teachers based on a model developed by
525 the State Board of Education; or

526 (b) create its own evaluation program for teachers.

527 ~~(4)~~ (5) The evaluation program developed by the joint committee must comply with
528 the requirements of this [chapter] part and rules adopted by the State Board of Education under
529 Section 53A-8a-409.

530 Section 12. Section **53A-8a-404**, which is renumbered from Section 53A-10-105 is
531 renumbered and amended to read:

532 ~~[53A-10-105].~~ **53A-8a-404. Evaluation orientation.**

533 (1) The principal of each school shall orient all educators assigned to the school

534 concerning the school board's educator evaluation program, including the purpose of the
535 evaluations and the method used to evaluate.

536 (2) Evaluations may not occur prior to the orientation by the principal.

537 Section 13. Section **53A-8a-405**, which is renumbered from Section 53A-10-106 is
538 renumbered and amended to read:

539 ~~[53A-10-106].~~ **53A-8a-405. Components of educator evaluation program.**

540 An educator evaluation program adopted by a local school board in consultation with a
541 joint committee established in Section ~~[53A-10-103]~~ 53A-8a-403 shall include the following
542 components:

543 (1) a reliable and valid evaluation program consistent with generally accepted
544 professional standards for personnel evaluation systems;

545 (2) (a) the evaluation of provisional and probationary educators at least twice each
546 school year; and

547 (b) the annual evaluation of all career educators;

548 (3) systematic evaluation procedures for both provisional and career educators;

549 (4) the use of multiple lines of evidence, such as:

550 (a) self-evaluation;

551 (b) student and parent input;

552 (c) peer observation;

553 (d) supervisor observations;

554 (e) evidence of professional growth;

555 (f) student achievement data; and

556 (g) other indicators of instructional improvement;

557 (5) a reasonable number of observation periods for an evaluation to insure adequate
558 reliability;

559 (6) administration of an educator's evaluation by:

560 (a) the principal;

561 (b) the principal's designee;

- 562 (c) the educator's immediate supervisor; or
- 563 (d) another person specified in the evaluation program; [~~and~~]
- 564 (7) an orientation for educators on the educator evaluation program[-]; and
- 565 (8) a summative evaluation that differentiates among four levels of performance.

566 Section 14. Section **53A-8a-406**, which is renumbered from Section 53A-10-106.5 is
567 renumbered and amended to read:

568 ~~[53A-10-106.5].~~ **53A-8a-406. Summative evaluation timelines -- Review of**
569 **summative evaluations.**

570 (1) The person responsible for administering an educator's summative evaluation shall:

- 571 (a) at least 15 days before an educator's first evaluation:
 - 572 (i) notify the educator of the evaluation process; and
 - 573 (ii) give the educator a copy of the evaluation instrument, if an instrument is used;
- 574 (b) (i) allow the educator to make a written response to any part of the evaluation; and
- 575 (ii) attach the educator's response to the evaluation;
- 576 (c) within 15 days after the evaluation process is completed, discuss the written
577 evaluation with the educator; and
- 578 (d) following any revision of the written evaluation made after the discussion:
 - 579 (i) file the evaluation and any related reports or documents in the educator's personnel
580 file; and
 - 581 (ii) give a copy of the written evaluation and attachments to the educator.

582 (2) An educator who is not satisfied with a summative evaluation may request a review
583 of the evaluation within 15 days after receiving the written evaluation.

584 (3) (a) If a review is requested, the school district superintendent or the
585 superintendent's designee shall appoint a person not employed by the school district who has
586 expertise in teacher or personnel evaluation to review the evaluation procedures and make
587 recommendations to the superintendent regarding the [~~teacher's~~] educator's summative
588 evaluation.

589 (b) The State Board of Education shall make rules prescribing standards for an

590 independent review of an educator's summative evaluation.

591 (c) A review of an educator's summative evaluation under Subsection (3)(a) shall be
 592 conducted in accordance with State Board of Education rules made under Subsection (3)(b).

593 Section 15. Section **53A-8a-407**, which is renumbered from Section 53A-10-107 is
 594 renumbered and amended to read:

595 ~~[53A-10-107].~~ **53A-8a-407. Deficiencies -- Improvement.**

596 (1) The person responsible for administering an educator's evaluation shall give an
 597 educator whose performance is inadequate or in need of improvement a written document
 598 clearly identifying:

599 (a) specific, measurable, and actionable deficiencies;

600 (b) the available resources that will be provided for improvement; and

601 (c) a recommended course of action that will improve the educator's performance.

602 (2) An educator is responsible for improving performance, including using any
 603 resources identified by the school district, and demonstrating acceptable levels of improvement
 604 in the designated areas of deficiencies.

605 ~~[(3)(a) The person responsible for administering the evaluation of an educator whose~~
 606 ~~performance has been determined to be inadequate or in need of improvement shall complete~~
 607 ~~written evaluations and recommendations regarding the educator at least 30 days before the end~~
 608 ~~of the educator's contract school year.]~~

609 ~~[(b) The final evaluation shall include only data previously considered and discussed~~
 610 ~~with the educator as required by Section 53A-10-106.5.]~~

611 (3) Subsections (1)(b), (1)(c), and (2) do not apply if the educator's unsatisfactory
 612 performance was documented for the same deficiency within the previous three years and a
 613 plan of assistance was implemented as provided in Section 53A-8a-503.

614 Section 16. Section **53A-8a-408**, which is renumbered from Section 53A-10-108 is
 615 renumbered and amended to read:

616 ~~[53A-10-108].~~ **53A-8a-408. Mentor for provisional educator.**

617 (1) In accordance with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b), the

618 principal or immediate supervisor of a provisional educator shall assign a person who has
619 received training or will receive training in mentoring educators as a mentor to the provisional
620 educator.

621 (2) Where possible, the mentor shall be a career educator who performs substantially
622 the same duties as the provisional educator and has at least three years of educational
623 experience.

624 (3) The mentor shall assist the provisional educator to become effective and competent
625 in the teaching profession and school system, but may not serve as an evaluator of the
626 provisional educator.

627 (4) An educator who is assigned as a mentor may receive compensation for those
628 services in addition to the educator's regular salary.

629 Section 17. Section **53A-8a-409** is enacted to read:

630 **53A-8a-409. State Board of Education to establish a framework for the evaluation**
631 **of educators.**

632 The State Board of Education shall make rules:

633 (1) establishing a framework for the evaluation of educators that is consistent with the
634 requirements of Part 3, Employee Evaluations, and this part;

635 (2) requiring a teacher's summative evaluation to be based on:

636 (a) student learning growth or achievement, if measures of student learning growth are
637 not available; and

638 (b) standards of instructional quality; and

639 (3) requiring each school district to fully implement an evaluation system for educators
640 in accordance with the framework established by the State Board of Education no later than the
641 2014-15 school year.

642 Section 18. Section **53A-8a-410** is enacted to read:

643 **53A-8a-410. Report of educator ratings.**

644 (1) A school district shall report to the State Board of Education the number and
645 percent of educators in each of the four rating categories referred to in Section 53A-8a-405

646 based on an educator's annual evaluation.

647 (2) The data reported under Subsection (1) shall be separately reported for the
648 following educator classifications:

649 (a) administrators;

650 (b) teachers; and

651 (c) educators other than administrators or teachers.

652 (3) The data reported by school districts under this section shall be included in the state
653 superintendent's annual report of the public school system required by Section 53A-1-301.

654 (4) The State Board of Education shall make rules to ensure the privacy and protection
655 of individual evaluation data.

656 Section 19. Section **53A-8a-501**, which is renumbered from Section 53A-8-103 is
657 renumbered and amended to read:

658 **Part 5. Orderly School Termination Procedures**

659 ~~[53A-8-103].~~ **53A-8a-501. Local school board to establish dismissal**
660 **procedures.**

661 (1) A local school board shall, by contract with its employees or their associations, or
662 by resolution of the board, establish procedures for dismissal of employees in an orderly
663 manner without discrimination.

664 (2) The procedures shall include:

665 (a) standards of due process [and];

666 (b) causes for dismissal[-]; and

667 (c) procedures and standards related to developing and implementing a plan of
668 assistance for a career employee whose performance is unsatisfactory.

669 (3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c)
670 shall require a plan of assistance to identify:

671 (a) specific, measurable, and actionable deficiencies;

672 (b) the available resources provided for improvement; and

673 (c) a course of action to improve employee performance.

674 Section 20. Section ~~53A-8a-502~~, which is renumbered from Section 53A-8-104 is
675 renumbered and amended to read:

676 ~~[53A-8-104].~~ 53A-8a-502. Dismissal procedures.

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

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

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

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

684 (2) ~~[If the district intends to terminate a]~~ A career employee's contract may be
685 terminated during its term for reasons of unsatisfactory performance or ~~[discontinue a career~~
686 ~~employee's contract]~~ discontinued beyond the current school year for reasons of unsatisfactory
687 performance~~[- the unsatisfactory performance must be documented in at least two evaluations~~
688 ~~conducted at any time within the preceding three years in accordance with district policies or~~
689 ~~practices]~~ as provided in Section 53A-8a-503.

690 ~~[(3) (a) A district shall notify a career employee, at least 30 days prior to issuing under~~
691 ~~Subsection (3)(d) notice of intent not to renew or continue the career employee's contract~~
692 ~~beyond the current school year, that continued employment is in question and the reasons for~~
693 ~~the anticipated nonrenewal or discontinuance:]~~

694 ~~[(b) If a career employee receives a notice under Subsection (3)(a) that continued~~
695 ~~employment is in question, the board:]~~

696 ~~[(i) shall give the career employee an opportunity to correct the problem in accordance~~
697 ~~with the district evaluation policies; and]~~

698 ~~[(ii) may grant the career employee assistance to correct the deficiencies, including~~
699 ~~informal conferences and the services of school personnel within the district.]~~

700 ~~[(c) If a career employee does not correct the deficiencies as determined in accordance~~
701 ~~with the evaluation and personnel policies of the district and the district intends to not renew or~~

702 ~~discontinue the contract of employment of the career employee at the end of the current school~~
703 ~~year, it shall give notice of that intention to the employee.]~~

704 ~~[(d) The district shall issue the notice at least 30 days before the end of the career~~
705 ~~employee's contract term.]~~

706 ~~[(4)]~~ (3) (a) A district is not required to provide a cause for not offering a contract to a
707 provisional employee.

708 (b) If a district intends to not offer a contract for a subsequent term of employment to a
709 provisional employee, the district shall give notice of that intention to the employee at least 60
710 days before the end of the provisional employee's contract term.

711 ~~[(5)]~~ (4) In the absence of a notice, an employee is considered employed for the next
712 contract term with a salary based upon the salary schedule applicable to the class of employee
713 into which the individual falls.

714 ~~[(6)]~~ (5) If a district intends to not renew or discontinue the contract of a career
715 employee or to terminate a career or provisional employee's contract during the contract term:

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

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

719 (c) ~~[except as provided under Subsection (3),]~~ the district shall give notice at least 30
720 days prior to the proposed date of termination;

721 (d) the notice shall state the date of termination and the detailed reasons for
722 termination;

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

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

730 [~~7~~] (6) (a) The procedure under which a contract is terminated during its term may
731 include a provision under which the active service of the employee is suspended pending a
732 hearing if it appears that the continued employment of the individual may be harmful to
733 students or to the district.

734 (b) Suspension pending a hearing may be without pay if an authorized representative of
735 the district determines, after providing the employee with an opportunity for an informal
736 conference to discuss the allegations, that it is more likely than not that the allegations against
737 the employee are true.

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

740 [~~8~~] (7) The procedure under which an employee's contract is terminated during its
741 term shall provide for a written notice of suspension or final termination including findings of
742 fact upon which the action is based.

743 Section 21. Section **53A-8a-503** is enacted to read:

744 **53A-8a-503. Nonrenewal or termination of a career employee's contract for**
745 **unsatisfactory performance.**

746 (1) If a district intends to not renew a career employee's contract for unsatisfactory
747 performance or terminate a career employee's contract during the contract term for
748 unsatisfactory performance, the district shall:

749 (a) provide and discuss with the career employee written documentation clearly
750 identifying the deficiencies in performance;

751 (b) provide written notice that the career employee's contract is subject to nonrenewal
752 or termination if, upon a reevaluation of the career employee's performance, the career
753 employee's performance is determined to be unsatisfactory;

754 (c) develop and implement a plan of assistance, in accordance with procedures and
755 standards established by the local school board under Section 53A-8a-501, to allow the career
756 employee an opportunity to improve performance;

757 (d) reevaluate the career employee's performance; and

758 (e) if the career employee's performance remains unsatisfactory, give notice of intent to
759 not renew or terminate the career employee's contract in accordance with Subsection
760 53A-8a-502(5).

761 (2) (a) The period of time for implementing a plan of assistance:

762 (i) may not exceed 120 school days, except as provided under Subsection (2)(b);

763 (ii) may continue into the next school year;

764 (iii) should be sufficient to successfully complete the plan of assistance; and

765 (iv) shall begin when the career employee receives the written notice provided under

766 Subsection (1)(b) and end when the determination is made that the career employee has
767 successfully remediated the deficiency or notice of intent to not renew or terminate the career
768 employee's contract is given in accordance with Subsection 53A-8a-502(5).

769 (b) In accordance with local school board policy, the period of time for implementing a
770 plan of assistance may extend beyond 120 school days if:

771 (i) a career employee is on leave from work during the time period the plan of
772 assistance is scheduled to be implemented; and

773 (ii) (A) the leave was approved and scheduled before the written notice was provided
774 under Subsection (1)(b); or

775 (B) the leave is specifically approved by the local school board.

776 (3) (a) If upon a reevaluation of the career employee's performance, the district
777 determines the career employee's performance is satisfactory, and within a three-year period
778 after the initial documentation of unsatisfactory performance for the same deficiency pursuant
779 to Subsection (1)(a), the career employee's performance is determined to be unsatisfactory, the
780 district may elect to not renew or terminate the career employee's contract.

781 (b) If a district intends to not renew or terminate a career employee's contract as
782 provided in Subsection (3)(a), the district shall:

783 (i) provide written documentation of the career employee's deficiencies in
784 performance; and

785 (ii) give notice of intent to not renew or terminate the career employee's contract in

786 accordance with Subsection 53A-8a-502(5).

787 Section 22. Section **53A-8a-504**, which is renumbered from Section 53A-8-105 is
788 renumbered and amended to read:

789 ~~[53A-8-105].~~ **53A-8a-504. Hearings before district board or hearing**
790 **officers -- Rights of the board and the employee -- Subpoenas -- Appeals.**

791 (1) (a) Hearings are held under this chapter before the board or before hearing officers
792 selected by the board to conduct the hearings and make recommendations concerning findings.

793 (b) The board shall establish procedures to appoint hearing officers.

794 (c) The board may delegate its authority to a hearing officer to make decisions relating
795 to the employment of an employee which are binding upon both the employee and the board.

796 (d) This Subsection (1) does not limit the right of the board or the employee to appeal
797 to an appropriate court of law.

798 (2) At the hearings, an employee has the right to counsel, to produce witnesses, to hear
799 testimony against the employee, to cross-examine witnesses, and to examine documentary
800 evidence.

801 (3) Subpoenas may be issued and oaths administered as provided under Section
802 53A-6-603.

803 Section 23. Section **53A-8a-505**, which is renumbered from Section 53A-8-107 is
804 renumbered and amended to read:

805 ~~[53A-8-107].~~ **53A-8a-505. Necessary staff reduction not precluded --**
806 **Last-hired, first-fired layoffs prohibited.**

807 (1) Nothing in this chapter prevents staff reduction if necessary to reduce the number
808 of employees because of the following:

809 (a) declining student enrollments in the district;

810 (b) the discontinuance or substantial reduction of a particular service or program;

811 (c) the shortage of anticipated revenue after the budget has been adopted; or

812 (d) school consolidation.

813 (2) A school district may not utilize a last-hired, first-fired layoff policy when

814 terminating school district employees.

815 (3) A school district may consider the following factors when terminating a school
816 district employee:

817 (a) the results of an employee's performance evaluation; and

818 (b) a school's personnel needs.

819 Section 24. Section **53A-8a-506** is enacted to read:

820 **53A-8a-506. Restriction on transfer of employee with unsatisfactory performance.**

821 An employee whose performance is unsatisfactory may not be transferred to another
822 school unless the local school board specifically approves the transfer of the employee.

823 Section 25. Section **53A-8a-601** is enacted to read:

824 **Part 6. Performance Compensation**

825 **53A-8a-601. State Board of Education to make rules on performance**
826 **compensation.**

827 (1) The State Board of Education shall make rules requiring a school district's
828 employee compensation system to be aligned with the district's annual evaluation system.

829 (2) Rules adopted under Subsection (1) shall:

830 (a) establish a timeline for developing and implementing an employee compensation
831 system that is aligned with an annual evaluation system; and

832 (b) provide that beginning no later than the 2015-16 school year:

833 (i) any advancement on an adopted wage or salary schedule shall be based primarily on
834 an evaluation; and

835 (ii) an employee may not advance on an adopted wage or salary schedule if the
836 employee's rating on the most recent evaluation is at the lowest level of an evaluation
837 instrument.

838 Section 26. Section **53A-8a-602** is enacted to read:

839 **53A-8a-602. Educator's eligibility for a wage increase.**

840 An educator, as defined in Section 53A-6-103, may not advance on an adopted salary
841 schedule if the educator's rating on the most recent evaluation is at the second lowest level of

842 an evaluation instrument that differentiates among four levels of performance as described in
843 Section 53A-8a-405, unless the educator:

- 844 (1) is a provisional educator; or
- 845 (2) is in the first year of an assignment, including a new subject, grade level, or school.

846 Section 27. Section **53A-8a-701** is enacted to read:

847 **Part 7. Evaluation and Compensation of Administrators**

848 **53A-8a-701. Definitions.**

849 As used in this part:

850 (1) "District administrator" means an individual who:

851 (a) serves in a position that requires an educator license with an administrative area of
852 concentration, except as provided in Section 53A-3-301 or 53A-6-110; and

853 (b) supervises school administrators.

854 (2) "School administrator" means an individual who:

855 (a) serves in a position that requires an educator license with an administrative area of
856 concentration, except as provided in Section 53A-6-110; and

857 (b) supervises teachers.

858 Section 28. Section **53A-8a-702** is enacted to read:

859 **53A-8a-702. Evaluation of school and district administrators.**

860 The State Board of Education shall:

861 (1) establish in rules a framework for the evaluation of school and district
862 administrators that includes the following components:

863 (a) student achievement indicators emphasizing learning growth and proficiency;

864 (b) the results of an evaluation tool utilized by the local school board that includes
865 input from employees, parents, and students;

866 (c) the effectiveness of evaluating employee performance in a school or district for
867 which the school or district administrator has responsibility; and

868 (d) other factors as determined by a local school board in implementing state law and
869 State Board of Education rules; and

870 (2) require each school district to fully implement an evaluation system for school and
871 district administrators in accordance with the framework established by the State Board of
872 Education no later than the 2014-15 school year.

873 Section 29. Section **53A-8a-703** is enacted to read:

874 **53A-8a-703. Compensation of school and district administrators.**

875 (1) Beginning no later than the 2015-16 school year, a school or district administrator's
876 salary shall be based on the school or district administrator's most recent evaluation.

877 (2) A school district shall continue each year to award any salary increases to a school
878 or district administrator based on an evaluation administered pursuant to Section 53A-8a-702
879 until at least 15% of a school or district administrator's salary is contingent upon the evaluation
880 administered pursuant to Section 53A-8a-702.

881 Section 30. Section **53A-11-605** is amended to read:

882 **53A-11-605. Definitions -- School personnel -- Medical recommendations --**

883 **Exceptions -- Penalties.**

884 (1) As used in this section:

885 (a) "Health care professional" means a physician, physician assistant, nurse, dentist, or
886 mental health therapist.

887 (b) "School personnel" means any school district or charter school employee, including
888 licensed, part-time, contract, and nonlicensed employees.

889 (2) School personnel may:

890 (a) provide information and observations to a student's parent or guardian about that
891 student, including observations and concerns in the following areas:

892 (i) progress;

893 (ii) health and wellness;

894 (iii) social interactions;

895 (iv) behavior; or

896 (v) topics consistent with Subsection 53A-13-302(6);

897 (b) communicate information and observations between school personnel regarding a

898 child;

899 (c) refer students to other appropriate school personnel and agents, consistent with
900 local school board or charter school policy, including referrals and communication with a
901 school counselor or other mental health professionals working within the school system;

902 (d) consult or use appropriate health care professionals in the event of an emergency
903 while the student is at school, consistent with the student emergency information provided at
904 student enrollment;

905 (e) exercise their authority relating to the placement within the school or readmission
906 of a child who may be or has been suspended or expelled for a violation of Section
907 53A-11-904; and

908 (f) complete a behavioral health evaluation form if requested by a student's parent or
909 guardian to provide information to a licensed physician.

910 (3) School personnel shall:

911 (a) report suspected child abuse consistent with Section 62A-4a-403;

912 (b) comply with applicable state and local health department laws, rules, and policies;

913 and

914 (c) conduct evaluations and assessments consistent with the Individuals with
915 Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

916 (4) Except as provided in Subsection (2) and Subsection (6), school personnel may not:

917 (a) recommend to a parent or guardian that a child take or continue to take a
918 psychotropic medication;

919 (b) require that a student take or continue to take a psychotropic medication as a
920 condition for attending school;

921 (c) recommend that a parent or guardian seek or use a type of psychiatric or
922 psychological treatment for a child;

923 (d) conduct a psychiatric or behavioral health evaluation or mental health screening,
924 test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the
925 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent

926 amendments; or

927 (e) make a child abuse or neglect report to authorities, including the Division of Child
928 and Family Services, solely or primarily on the basis that a parent or guardian refuses to
929 consent to:

930 (i) a psychiatric, psychological, or behavioral treatment for a child, including the
931 administration of a psychotropic medication to a child; or

932 (ii) a psychiatric or behavioral health evaluation of a child.

933 (5) Notwithstanding Subsection (4)(e), school personnel may make a report that would
934 otherwise be prohibited under Subsection (4)(e) if failure to take the action described under
935 Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of
936 others.

937 (6) Notwithstanding Subsection (4), a school counselor or other mental health
938 professional acting in accordance with Title 58, Chapter 60, Mental Health Professional
939 Practice Act, or licensed through the State Board of Education, working within the school
940 system may:

941 (a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

942 (b) recommend, but not require, psychiatric, psychological, or behavioral treatment for
943 a child;

944 (c) conduct a psychiatric or behavioral health evaluation or mental health screening,
945 test, evaluation, or assessment of a child in accordance with Section 53A-13-302; and

946 (d) provide to a parent or guardian, upon the specific request of the parent or guardian,
947 a list of three or more health care professionals or providers, including licensed physicians,
948 psychologists, or other health specialists.

949 (7) Local school boards or charter schools shall adopt a policy:

950 (a) providing for training of appropriate school personnel on the provisions of this
951 section; and

952 (b) indicating that an intentional violation of this section is cause for disciplinary action
953 consistent with local school board or charter school policy and under Section [~~53A-8-104~~]

954 53A-8a-502.

955 (8) Nothing in this section shall be interpreted as discouraging general communication

956 not prohibited by this section between school personnel and a student's parent or guardian.