

SB0064S01 compared with SB0064

~~deleted text~~ shows text that was in SB0064 but was deleted in SB0064S01.

inserted text shows text that was not in SB0064 but was inserted into SB0064S01.

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Senator Aaron Osmond proposes the following substitute bill:

PUBLIC EDUCATION EMPLOYMENT REFORM

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: _____

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;
- ▶ requires a charter school to comply with Title 52, Chapter 3, Prohibiting Employment of Relatives;
- ▶ 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;

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- ~~{ → requires data on school district employee 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:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- ~~{ → 53A-1-301, as last amended by Laws of Utah 2010, Chapters 139 and 206~~
- { 53A-1a-512, as last amended by Laws of Utah 2010, Chapters 266 and 353
- 53A-3-425, as last amended by Laws of Utah 2011, Chapter 402
- 53A-11-605, as enacted by Laws of Utah 2007, Chapter 111

ENACTS:

- 53A-8a-101, Utah Code Annotated 1953
- 53A-8a-301, Utah Code Annotated 1953
- 53A-8a-302, Utah Code Annotated 1953
- ~~{ → 53A-8a-303, Utah Code Annotated 1953~~
- { 53A-8a-409, Utah Code Annotated 1953
- 53A-8a-503, Utah Code Annotated 1953
- 53A-8a-506, Utah Code Annotated 1953
- 53A-8a-601, Utah Code Annotated 1953
- 53A-8a-602, Utah Code Annotated 1953

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

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

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

RENUMBERS AND AMENDS:

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

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

53A-8a-401, (Renumbered from 53A-10-101, as last amended by Laws of Utah 2011, Chapter 434)

53A-8a-402, (Renumbered from 53A-10-102, as last amended by Laws of Utah 2011, Chapter 434)

53A-8a-403, (Renumbered from 53A-10-103, as last amended by Laws of Utah 2011, Chapter 434)

53A-8a-404, (Renumbered from 53A-10-105, as enacted by Laws of Utah 1988, Chapter 2)

53A-8a-405, (Renumbered from 53A-10-106, as last amended by Laws of Utah 2011, Chapter 434)

53A-8a-406, (Renumbered from 53A-10-106.5, as last amended by Laws of Utah 2011, Chapter 434)

53A-8a-407, (Renumbered from 53A-10-107, as last amended by Laws of Utah 2011, Chapter 434)

53A-8a-408, (Renumbered from 53A-10-108, as last amended by Laws of Utah 2009, Chapter 287)

53A-8a-501, (Renumbered from 53A-8-103, as last amended by Laws of Utah 1994, Chapter 51)

53A-8a-502, (Renumbered from 53A-8-104, as last amended by Laws of Utah 2011, Chapter 286)

53A-8a-504, (Renumbered from 53A-8-105, as last amended by Laws of Utah 2007, Chapter 306)

53A-8a-505, (Renumbered from 53A-8-107, as last amended by Laws of Utah 2011,

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Chapter 420)

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

Section 1. Section ~~{53A-1-301}~~53A-1a-512 is amended to read:

~~{~~ ~~53A-1-301. Appointment -- Qualifications -- Duties.~~

~~_____ (1) (a) The State Board of Education shall appoint a superintendent of public instruction, hereinafter called the state superintendent, who is the executive officer of the board and serves at the pleasure of the board.~~

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

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

~~_____ (2) The superintendent shall develop a statewide education strategy focusing on core academics, including the development of:~~

~~_____ (a) core curriculum and graduation requirements;~~

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

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

~~_____ (d) remediation programs;~~

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

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

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

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

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

~~_____ (j) a method for identifying and sharing best demonstrated practices across districts and~~

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schools:

- ~~—— (3) The superintendent shall perform duties assigned by the board, including the following:~~
- ~~—— (a) investigating all matters pertaining to the public schools;~~
- ~~—— (b) adopting and keeping an official seal to authenticate the superintendent's official acts;~~
- ~~—— (c) holding and conducting meetings, seminars, and conferences on educational topics;~~
- ~~—— (d) presenting to the governor and the Legislature each December a report of the public school system for the preceding year to include:~~
- ~~—— (i) data on the general condition of the schools with recommendations considered desirable for specific programs;~~
- ~~—— (ii) a complete statement of fund balances;~~
- ~~—— (iii) a complete statement of revenues by fund and source;~~
- ~~—— (iv) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;~~
- ~~—— (v) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the U.S. Department of Education publication "Financial Accounting for Local and State School Systems";~~
- ~~—— (vi) a complete statement, by school district and charter school, of the amount of and percentage increase or decrease in expenditures from the previous year attributed to:~~
- ~~—— (A) wage increases, with expenditure data for base salary adjustments identified separately from step and lane expenditures;~~
- ~~—— (B) medical and dental premium cost adjustments; and~~
- ~~—— (C) adjustments in the number of teachers and other staff;~~
- ~~—— (vii) a statement that includes data on:~~
- ~~—— (A) fall enrollments[.];~~
- ~~—— (B) average membership[.];~~
- ~~—— (C) high school graduates[.];~~
- ~~—— (D) licensed and classified employees, including data reported by school districts on~~

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~~employee ratings pursuant to Section 53A-8a-302;~~

~~—— (E) pupil-teacher ratios[.];~~

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

~~—— (G) average salaries[.];~~

~~—— (H) applicable private school data[.]; and~~

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

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

~~—— (A) alcohol and drug abuse;~~

~~—— (B) weapon possession;~~

~~—— (C) assaults; and~~

~~—— (D) arson;~~

~~—— (ix) information about:~~

~~—— (A) the development and implementation of the strategy of focusing on core academics;~~

~~—— (B) the development and implementation of competency-based education and progress-based assessments; and~~

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

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

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

~~—— (i) data that are:~~

~~—— (A) comparable across schools and school districts;~~

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- ~~—— (B) appropriate for use in longitudinal studies; and~~
- ~~—— (C) comprehensive with regard to the data elements required under applicable state or federal law or state board rule;~~
- ~~—— (ii) features that enable users, most particularly school administrators, teachers, and parents, to:~~
 - ~~—— (A) retrieve school and school district level data electronically;~~
 - ~~—— (B) interpret the data visually; and~~
 - ~~—— (C) draw conclusions that are statistically valid; and~~
- ~~—— (iii) procedures for the collection and management of education data that:~~
 - ~~—— (A) require the state superintendent of public instruction to:~~
 - ~~—— (I) collaborate with school districts in designing and implementing uniform data standards and definitions;~~
 - ~~—— (II) undertake or sponsor research to implement improved methods for analyzing education data;~~
 - ~~—— (III) provide for data security to prevent unauthorized access to or contamination of the data; and~~
 - ~~—— (IV) protect the confidentiality of data under state and federal privacy laws; and~~
 - ~~—— (B) require all school districts and schools to comply with the data collection and management procedures established under Subsection (3)(c);~~
 - ~~—— (f) administering and implementing federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act; and~~
 - ~~—— (g) with the approval of the board, preparing and submitting to the governor a budget for the board to be included in the budget that the governor submits to the Legislature.~~
- ~~—— (4) The state superintendent shall distribute funds deposited in the Autism Awareness Restricted Account created in Section 53A-1-304 in accordance with the requirements of Section 53A-1-304.~~
- ~~—— (5) Upon leaving office, the state superintendent shall deliver to the state superintendent's successor all books, records, documents, maps, reports, papers, and other articles pertaining to the state superintendent's office.~~
- ~~—— (6) (a) For the purpose of Subsection (3)(d)(vii):~~
 - ~~—— (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of~~

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~~students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;~~

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

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

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

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

~~—— (i) include the pupil-teacher ratio for:~~

~~—— (A) each school district;~~

~~—— (B) the charter schools aggregated; and~~

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

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

~~—— Section 2. Section 53A-1a-512 is amended to read:~~

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

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

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

(3) ~~[The following statutes governing public employees and officers do]~~ Chapter 8a, Public Education Human Resource Management Act, does not apply to a charter ~~[schools.]~~ school.

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

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

{ ~~(a) Chapter 8a, Public Education Human Resource Management Act, and~~

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

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

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(i) are licensed; or

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

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

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

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

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

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

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

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

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

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

(b) A charter school that was approved prior to July 1, 2004₂ may make an election of nonparticipation prior to December 31, 2004.

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

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

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

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

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

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school.

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

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

or

(ii) under any other program.

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

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

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

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

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

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

(ii) is a one-time election;

(iii) is irrevocable; and

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

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

(a) has received:

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

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

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

Section ~~33~~2. Section **53A-3-425** is amended to read:

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

(1) As used in this section:

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

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

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

or

(ii) performs union duties.

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

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

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

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

(B) at a school district leadership meeting; or

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

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

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

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

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

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

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

(c) Except as provided in Subsection (3)(d), a local school board policy that governs

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association leave shall require reimbursement to the school district of the costs for an employee, including benefits, for the time that the employee is:

- (i) on unpaid association leave; or
- (ii) participating in a paid association leave activity that does not provide a direct

benefit to the school district.

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

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

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

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

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

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

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

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

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

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

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

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

(g) require the reimbursement to the school district of the cost of paid association leave

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activities that do not provide a direct benefit to education within the school district.

(5) If a local school board adopts a policy to allow paid association leave, that policy shall indicate that a willful violation of this section or of a policy adopted in accordance with Subsection (3) or (4) may be used for disciplinary action under Section [~~53A-8-104~~] 53A-8a-503.

Section ~~{4}~~3. Section **53A-8a-101** is enacted to read:

CHAPTER 8a. PUBLIC EDUCATION HUMAN RESOURCE MANAGEMENT ACT

Part 1. General Provisions

53A-8a-101. Title.

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

Section ~~{5}~~4. Section **53A-8a-102**, which is renumbered from Section 53A-8-102 is renumbered and amended to read:

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

As used in this chapter:

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

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

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

(b) For purposes of Part 2, Status of Employment, Part 4, Educator Evaluations, and

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Part 5, Orderly School Termination Procedures, "employee" does not include:

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

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

~~[(c)]~~ (iii) 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 temporary employee, who is employed by a school district.

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

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

(a) a public school district; or

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

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

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

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

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

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

(i) a violation of work rules;

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

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

(iv) insubordination.

Section ~~6~~5. Section **53A-8a-201**, which is renumbered from Section 53A-8-106 is renumbered and amended to read:

Part 2. Status of Employment

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

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

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

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

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

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

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

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

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

(a) is a teacher who holds a competency-based license pursuant to Section 53A-6-104.5

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and does not hold a level 1, 2, or 3 license as defined in Section 53A-6-103; or

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

Section ~~{7}~~6. Section **53A-8a-301** is enacted to read:

Part 3. Employee Evaluations

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

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

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

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

~~{(3) An evaluation of employee performance shall differentiate among four levels of performance.~~

~~Section 8}~~Section 7. Section **53A-8a-302** is enacted to read:

53A-8a-302. ~~{ Report of employee ratings.~~

~~(1) A school district shall report to the State Board of Education the number and percent of employees in each of the four rating categories referred to in Section 53A-8a-301 based on an employee's annual evaluation.~~

~~(2) The data reported under Subsection (1) shall be separately reported for the following employee classifications:~~

~~(a) administrators;~~

~~(b) teachers;~~

~~(c) licensed employees, other than administrators and teachers; and~~

~~(d) classified employees.~~

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

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

~~Section 9. Section 53A-8a-303 is enacted to read:~~

~~53A-8a-303.~~ **State Board of Education rules -- Reporting to Legislature.**

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

~~(1) establish a timeline for school districts to develop and implement employee evaluations as required by this part;~~

~~(2) establish~~ a) provide general guidelines, requirements, and procedures for ~~{developing}~~ the development and ~~{implementing}~~ implementation of employee evaluations; ~~{~~ and ~~}~~

~~(3) b)~~ establish required components ~~{~~ and allow for optional components ~~}~~ of employee evaluations;

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

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

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

Section ~~{10}~~ 8. Section **53A-8a-401**, which is renumbered from Section 53A-10-101 is renumbered and amended to read:

Part 4. Educator Evaluations

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

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

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

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

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

Section ~~{11}~~9. Section **53A-8a-402**, which is renumbered from Section 53A-10-102 is renumbered and amended to read:

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

As used in this chapter:

(1) "Career educator" means a licensed employee who has a reasonable expectation of continued employment ~~{}~~under the policies of a local school board ~~{}~~based upon Section 53A-8a-201 and an agreement with the employee or the employee's association, district practice, or policy.

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

(a) a superintendent; or

(b) an individual who:

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

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

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

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

Section ~~{12}~~10. Section **53A-8a-403**, which is renumbered from Section 53A-10-103 is renumbered and amended to read:

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

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

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

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

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

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- (b) voted on by the administrators in a nomination election; and
- (c) of parents submitted by school community councils within the district.
- (4) The evaluation program developed by the joint committee must comply with the requirements of this chapter.

Section ~~{13}~~11. Section **53A-8a-404**, which is renumbered from Section 53A-10-105 is renumbered and amended to read:

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

(1) The principal of each school shall orient all educators assigned to the school concerning the school board's educator evaluation program, including the purpose of the evaluations and the method used to evaluate.

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

Section ~~{14}~~12. Section **53A-8a-405**, which is renumbered from Section 53A-10-106 is renumbered and amended to read:

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

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

- (1) a reliable and valid evaluation program consistent with generally accepted professional standards for personnel evaluation systems;
- (2) (a) the evaluation of provisional and probationary educators at least twice each school year; and
 - (b) the annual evaluation of all career educators;
 - (3) systematic evaluation procedures for both provisional and career educators;
 - (4) the use of multiple lines of evidence, such as:
 - (a) self-evaluation;
 - (b) student and parent input;
 - (c) peer observation;
 - (d) supervisor observations;
 - (e) evidence of professional growth;
 - (f) student achievement data; and
 - (g) other indicators of instructional improvement;

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

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

(a) the principal;

(b) the principal's designee;

(c) the educator's immediate supervisor; or

(d) another person specified in the evaluation program; ~~and~~

(7) an orientation for educators on the educator evaluation program~~;~~

~~Section 15}[-]; and~~

(8) a summative evaluation that differentiates among four levels of performance.

Section 13. Section **53A-8a-406**, which is renumbered from Section 53A-10-106.5 is renumbered and amended to read:

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

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

(a) at least 15 days before an educator's first evaluation:

(i) notify the educator of the evaluation process; and

(ii) give the educator a copy of the evaluation instrument, if an instrument is used;

(b) (i) allow the educator to make a written response to any part of the evaluation; and

(ii) attach the educator's response to the evaluation;

(c) within 15 days after the evaluation process is completed, discuss the written evaluation with the educator; and

(d) following any revision of the written evaluation made after the discussion:

(i) file the evaluation and any related reports or documents in the educator's personnel file; and

(ii) give a copy of the written evaluation and attachments to the educator.

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

(3) (a) If a review is requested, the school district superintendent or the superintendent's designee shall appoint a person not employed by the school district who has expertise in teacher or personnel evaluation to review the evaluation procedures and make

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recommendations to the superintendent regarding the ~~[teacher's]~~ educator's summative evaluation.

(b) The State Board of Education shall make rules prescribing standards for an independent review of an educator's summative evaluation.

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

Section ~~{16}~~14. Section **53A-8a-407**, which is renumbered from Section 53A-10-107 is renumbered and amended to read:

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

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

- (a) specific, measurable, and actionable deficiencies;
- (b) the available resources that will be provided for improvement; and
- (c) a recommended course of action that will improve the educator's performance.

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

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

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

(3) Subsections (1)(b), (1)(c), and (2) do not apply if the educator's unsatisfactory performance was documented for the same deficiency within the previous three years and a plan of assistance was implemented as provided in Section 53A-8a-504.

Section ~~{17}~~15. Section **53A-8a-408**, which is renumbered from Section 53A-10-108 is renumbered and amended to read:

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

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

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

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

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

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

Section ~~{18}~~16. Section **53A-8a-409** is enacted to read:

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

The State Board of Education shall:

~~(1) }~~ make rules:

(1) establishing a framework for the evaluation of educators that:

~~(a) }~~ is consistent with the requirements of Part 3, Employee Evaluations, and this part; and

~~(b) includes valid and reliable measurement tools; and~~

~~(2) require~~

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

(a) student learning growth; and

(b) standards of instructional quality; and

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

Section ~~{19}~~17. Section **53A-8a-501**, which is renumbered from Section 53A-8-103 is renumbered and amended to read:

Part 5. Orderly School Termination Procedures

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

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procedures.

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

(2) The procedures shall include:

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

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

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

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

(a) specific, measurable, and actionable deficiencies;

(b) the available resources provided for improvement; and

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

Section ~~{20}~~18. Section **53A-8a-502**, which is renumbered from Section 53A-8-104 is renumbered and amended to read:

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

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

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

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

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

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

~~[(3)(a) A district shall notify a career employee, at least 30 days prior to issuing under~~

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~~Subsection (3)(d) notice of intent not to renew or continue the career employee's contract beyond the current school year, that continued employment is in question and the reasons for the anticipated nonrenewal or discontinuance.]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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termination;

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

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

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

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

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

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

Section ~~{21}~~19. Section **53A-8a-503** is enacted to read:

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

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

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

(b) provide written notice that the career employee's contract is subject to nonrenewal or termination if, upon a reevaluation of the career employee's performance, the career

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employee's performance is determined to be unsatisfactory;

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

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

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

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

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

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

(iii) should be sufficient to successfully complete the plan of assistance.

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

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

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

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

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

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

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

(ii) give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection 53A-8a-502(5).

Section ~~{22}~~20. Section **53A-8a-504**, which is renumbered from Section 53A-8-105 is

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renumbered and amended to read:

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

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

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

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

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

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

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

Section ~~{23}~~21. Section **53A-8a-505**, which is renumbered from Section 53A-8-107 is renumbered and amended to read:

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

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

(a) declining student enrollments in the district;

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

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

(d) school consolidation.

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

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

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

(b) a school's personnel needs.

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Section ~~{24}~~22. Section ~~{53A-8a-601}~~53A-8a-506 is enacted to read:

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

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

Section 23. Section 53A-8a-601 is enacted to read:

Part 6. Performance Compensation

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

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

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

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

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

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

(ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument ~~{ that differentiates among four levels of performance pursuant to Section 53A-8a-301}~~.

Section ~~{25}~~24. Section **53A-8a-602** is enacted to read:

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

An educator, as defined in Section 53A-6-103, may not advance on an adopted salary schedule if the educator's rating on the most recent evaluation is at the second lowest level of an evaluation instrument that differentiates among four levels of performance as described in Section ~~{53A-8a-301}~~53A-8a-405, unless the educator:

(1) is a provisional educator; ~~or~~

(2) is in the first ~~{three years}~~year of an assignment, including a new subject, grade level, or school ~~{, or~~

~~——~~ (3) is working under a plan of assistance pursuant to Section 53A-8a-503 and is making progress in improving performance in accordance with criteria for evaluating progress

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~~in improving performance established by the State Board of Education in rules~~.

Section ~~{26}~~25. Section **53A-8a-701** is enacted to read:

Part 7. Evaluation and Compensation of Administrators

53A-8a-701. Definitions.

As used in this part:

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

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

(b) supervises school administrators.

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

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

(b) supervises teachers.

Section ~~{27}~~26. Section **53A-8a-702** is enacted to read:

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

The State Board of Education shall:

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

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

(b) the results of ~~{a periodic 360 degree}~~an evaluation tool utilized by the local school board that includes input from employees, parents, and students;

(c) the effectiveness of ~~{an evaluation and rating process of employees}~~evaluating employee performance in a school or district for which the school or district administrator has responsibility; and

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

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

Section ~~{28}~~27. Section **53A-8a-703** is enacted to read:

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

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(1) Beginning ~~with the school year following the school year in which a school district fully implements an evaluation system for school and district administrators pursuant to Section 53A-8a-702~~ ~~no later than the 2015-16 school year~~, a school or district administrator's salary shall be based on the school or district administrator's most recent evaluation.

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

Section ~~(29)~~ 28. Section **53A-11-605** is amended to read:

53A-11-605. Definitions -- School personnel -- Medical recommendations -- Exceptions -- Penalties.

(1) As used in this section:

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

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

(2) School personnel may:

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

(i) progress;

(ii) health and wellness;

(iii) social interactions;

(iv) behavior; or

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

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

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

(d) consult or use appropriate health care professionals in the event of an emergency

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while the student is at school, consistent with the student emergency information provided at student enrollment;

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

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

(3) School personnel shall:

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

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

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

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

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

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

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

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

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

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

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

(5) Notwithstanding Subsection (4)(e), school personnel may make a report that would

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otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.

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

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

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

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

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

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

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

(b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section [~~53A-8-104~~] 53A-8a-502.

(8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent or guardian.

†

Legislative Review Note

~~as of 1-30-12 3:10 PM~~

~~Office of Legislative Research and General Counsel~~