

**EDUCATOR EVALUATION AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: Ann Millner

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**LONG TITLE**

**General Description:**

This bill amends provisions related to educator evaluations.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends provisions related to components of an educator evaluation program;
- ▶ amends provisions related to a mentor for a provisional educator;
- ▶ amends duties of the State Board of Education related to educator evaluations;
- ▶ amends provisions related to reporting regarding educator evaluations;
- ▶ repeals provisions related to educator and administrator evaluations; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-8a-102**, as last amended by Laws of Utah 2015, Chapter 203

**53A-8a-301**, as enacted by Laws of Utah 2012, Chapter 425

**53A-8a-302**, as enacted by Laws of Utah 2012, Chapter 425



- 28 [53A-8a-401](#), as renumbered and amended by Laws of Utah 2012, Chapter 425
- 29 [53A-8a-402](#), as renumbered and amended by Laws of Utah 2012, Chapter 425
- 30 [53A-8a-403](#), as renumbered and amended by Laws of Utah 2012, Chapter 425
- 31 [53A-8a-405](#), as last amended by Laws of Utah 2016, Chapter 204
- 32 [53A-8a-406](#), as renumbered and amended by Laws of Utah 2012, Chapter 425
- 33 [53A-8a-409](#), as last amended by Laws of Utah 2016, Chapter 204
- 34 [53A-8a-410](#), as enacted by Laws of Utah 2012, Chapter 425

35 REPEALS:

- 36 [53A-8a-404](#), as renumbered and amended by Laws of Utah 2012, Chapter 425
- 37 [53A-8a-407](#), as renumbered and amended by Laws of Utah 2012, Chapter 425
- 38 [53A-8a-602](#), as enacted by Laws of Utah 2012, Chapter 425
- 39 [53A-8a-701](#), as enacted by Laws of Utah 2012, Chapter 425
- 40 [53A-8a-702](#), as last amended by Laws of Utah 2016, Chapter 204
- 41 [53A-8a-703](#), as last amended by Laws of Utah 2014, Chapter 262

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

44 Section 1. Section **53A-8a-102** is amended to read:

45 **53A-8a-102. Definitions.**

46 As used in this chapter:

47 (1) "Administrator" means an individual who:

48 (a) serves in a position that requires:

49 (i) an educator license with an administrative area of concentration; or

50 (ii) a letter of authorization described in Section [53A-3-301](#) or [53A-6-110](#); and

51 (b) supervises school administrators or teachers.

52 [~~1~~] (2) "Career employee" means an employee of a school district who has obtained a  
53 reasonable expectation of continued employment based upon Section [53A-8a-201](#) and an  
54 agreement with the employee or the employee's association, district practice, or policy.

55 [~~2~~] (3) "Contract term" or "term of employment" means the period of time during  
56 which an employee is engaged by the school district under a contract of employment, whether  
57 oral or written.

58 [~~3~~] (4) "Dismissal" or "termination" means:

59 (a) termination of the status of employment of an employee;  
60 (b) failure to renew or continue the employment contract of a career employee beyond  
61 the then-current school year;

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

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

66 ~~[(4)]~~ (5) (a) "Employee" means a career or provisional employee of a school district,  
67 except as provided in Subsection ~~[(4)]~~ (5)(b).

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

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

72 (ii) ~~[the]~~ a district business administrator or the equivalent at the Utah Schools for the  
73 Deaf and the Blind; or

74 (iii) a temporary employee.

75 ~~[(5)]~~ (6) "Last-hired, first-fired layoff policy" means a staff reduction policy that  
76 mandates the termination of an employee who started to work for ~~[the]~~ a district most recently  
77 before terminating a more senior employee.

78 ~~[(6)]~~ (7) "Provisional employee" means an individual, other than a career employee or  
79 a temporary employee, who is employed by a school district.

80 ~~[(7)]~~ (8) "School board" or "board" means a district school board or ~~[its equivalent at]~~,  
81 for the Utah Schools for the Deaf and the Blind, the State Board of Education.

82 ~~[(8)]~~ (9) "School district" or "district" means:

83 (a) a public school district; or

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

85 ~~[(9)]~~ (10) "Temporary employee" means an individual who is employed on a temporary  
86 basis as defined by policies adopted by the local board of education. If the class of employees  
87 in question is represented by an employee organization recognized by the local board, the board  
88 shall adopt ~~[its]~~ the board's policies based upon an agreement with that organization.

89 Temporary employees serve at will and have no expectation of continued employment.

90           ~~[(10)]~~ (11) (a) "Unsatisfactory performance" means a deficiency in performing work  
91 tasks ~~[which]~~ that may be:

92           (i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and  
93           (ii) remediated through training, study, mentoring, or practice.

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

98           (i) a violation of work rules;

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

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

101           (iv) insubordination.

102           Section 2. Section **53A-8a-301** is amended to read:

103           **53A-8a-301. Evaluation of employee performance.**

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

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

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

113           Section 3. Section **53A-8a-302** is amended to read:

114           **53A-8a-302. State Board of Education rules -- Reporting to Legislature.**

115           (1) Subject to Part 4, Educator Evaluations, ~~[and Part 7, Evaluation and Compensation~~  
116 ~~of Administrators,]~~ rules adopted by the State Board of Education under Section [53A-8a-301](#)  
117 shall:

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

120           (b) establish required components and allow for optional components of employee

121 evaluations;

122 (c) require school districts to ~~[chose]~~ choose valid and reliable methods and tools to  
123 implement the evaluations; and

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

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

129 Section 4. Section **53A-8a-401** is amended to read:

130 **53A-8a-401. Legislative findings.**

131 (1) The Legislature ~~[recognizes]~~ finds that the ~~[quality]~~ effectiveness of public  
132 ~~[education]~~ educators can be improved and enhanced by providing specific feedback and  
133 support for improvement through a systematic, fair, and competent annual evaluation ~~[of public~~  
134 ~~educators]~~ and remediation of ~~[those]~~ public educators whose performance is inadequate.

135 (2) ~~[It]~~ The State Board of Education and each local school board shall implement this  
136 part, in accordance with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b), ~~[the desired~~  
137 ~~purposes of evaluation are]~~ to:

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

140 (b) identify and encourage quality instruction in order to improve student  
141 ~~[achievement]~~ academic growth.

142 Section 5. Section **53A-8a-402** is amended to read:

143 **53A-8a-402. Definitions.**

144 As used in this chapter:

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

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

149 (a) a superintendent; or

150 (b) an individual who ~~[:(i)]~~ works ~~[fewer]~~ less than three hours per day~~[:]~~ or ~~[(ii)]~~ is  
151 hired for less than half of a school year.

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

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

157 (5) "Summative evaluation" means the annual evaluation that summarizes an  
158 educator's performance during a school year and that is used to make decisions related to the  
159 educator's employment.

160 Section 6. Section **53A-8a-403** is amended to read:

161 **53A-8a-403. Establishment of educator evaluation program -- Joint committee.**

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

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

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

- 168 (a) voted on by classroom teachers in a nomination election;
- 169 (b) voted on by the administrators in a nomination election; and
- 170 (c) of parents submitted by school community councils within the district.

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

172 (a) adopt or adapt an evaluation program for [~~teachers~~] educators based on a model  
173 developed by the State Board of Education; or

174 (b) create [~~its~~] the local school board's own evaluation program for [~~teachers~~]  
175 educators.

176 (5) The evaluation program developed by the joint committee [~~must~~] shall comply with  
177 the requirements of this part and rules adopted by the State Board of Education under Section  
178 53A-8a-409.

179 Section 7. Section **53A-8a-405** is amended to read:

180 **53A-8a-405. Components of educator evaluation program.**

181 (1) [~~An educator evaluation program adopted by a~~] A local school board in  
182 consultation with a joint committee established in Section 53A-8a-403 [~~:(1)] shall [~~include the~~~~

183 ~~following components]~~ adopt a reliable and valid educator evaluation program that evaluates  
 184 educators based on educator professional standards established by the State Board of Education  
 185 and includes:

186 ~~[(a) a reliable and valid evaluation program consistent with generally accepted~~  
 187 ~~professional standards for personnel evaluation systems;]~~

188 ~~[(b) (i) the evaluation of provisional and probationary educators at least twice each~~  
 189 ~~school year; and]~~

190 ~~[(ii) the]~~ (a) a systematic annual evaluation of all provisional, probationary, and career  
 191 educators;

192 ~~[(c) systematic evaluation procedures for both provisional and career educators;]~~

193 ~~[(d) the]~~ (b) use of multiple lines of evidence, including:

194 (i) self-evaluation;

195 (ii) student and parent input;

196 ~~[(iii) peer observation;]~~

197 (iii) for an administrator, employee input;

198 (iv) a reasonable number of supervisor observations to ensure adequate reliability;

199 (v) evidence of professional growth[;] and other indicators of instructional

200 improvement based on educator professional standards established by the State Board of  
 201 Education; and

202 (vi) student [achievement] academic growth data; [and]

203 ~~[(vii) other indicators of instructional improvement;]~~

204 ~~[(e) a reasonable number of observation periods for an evaluation to ensure adequate~~  
 205 ~~reliability;]~~

206 ~~[(f) administration of an educator's evaluation by:]~~

207 ~~[(i) the principal;]~~

208 ~~[(ii) the principal's designee;]~~

209 ~~[(iii) the educator's immediate supervisor; or]~~

210 ~~[(iv) another person specified in the evaluation program;]~~

211 ~~[(g) an orientation for educators on the educator evaluation program; and]~~

212 ~~[(h)]~~ (c) a summative evaluation that differentiates among four levels of performance;

213 and

214 (d) for an administrator, the effectiveness of evaluating employee performance in a  
215 school or school district for which the administrator has responsibility.

216 (2) (a) An educator evaluation program described in Subsection (1) may include a  
217 reasonable number of peer observations.

218 ~~[(2)]~~ (b) An educator evaluation program described in Subsection (1) may not use  
219 end-of-level assessment scores in educator evaluation.

220 Section 8. Section **53A-8a-406** is amended to read:

221 **53A-8a-406. Summative evaluation timelines -- Review of summative evaluations.**

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

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

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

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

226 (b) ~~[(i)]~~ allow the educator to ~~[make a written response]~~ respond to any part of the  
227 evaluation; ~~[and]~~

228 ~~[(ii)]~~ (c) attach the educator's response to the evaluation if the educator's response is  
229 provided in writing;

230 ~~[(c)]~~ (d) within 15 days after the evaluation process is completed, discuss the written  
231 evaluation with the educator; and

232 ~~[(d) following any revision of the written evaluation made after the discussion:]~~

233 ~~[(i) file the evaluation and any related reports or documents in the educator's personnel~~  
234 ~~file; and]~~

235 ~~[(ii) give a copy of the written evaluation and attachments to the educator.]~~

236 (e) based upon the educator's performance, assign to the educator one of the four levels  
237 of performance described in Section [53A-8a-405](#).

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

240 (3) (a) If a review is requested in accordance with Subsection (2), the school district  
241 superintendent or the superintendent's designee shall appoint a person not employed by the  
242 school district who has expertise in teacher or personnel evaluation to review the evaluation  
243 procedures and make recommendations to the superintendent regarding the educator's  
244 summative evaluation.



245 (b) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
 246 Act, the State Board of Education shall make rules prescribing standards for an independent  
 247 review of an educator's summative evaluation.

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

250 Section 9. Section **53A-8a-409** is amended to read:

251 **53A-8a-409. State Board of Education to describe a framework for the evaluation**  
 252 **of educators.**

253 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 254 State Board of Education shall make rules:

255 (a) ~~[establishing]~~ describing a framework for the evaluation of educators that is  
 256 consistent with the requirements of Part 3, Employee Evaluations, and this part; and

257 (b) requiring ~~[a teacher's]~~ an educator's summative evaluation to be based on ~~[standards~~  
 258 ~~of instructional quality, and];~~

259 (i) educator professional standards established by the State Board of Education; and

260 (ii) the requirements described in Subsection [53A-8a-405\(1\)](#).

261 ~~[(c) requiring each school district to fully implement an evaluation system for~~  
 262 ~~educators in accordance with the framework established by the State Board of Education no~~  
 263 ~~later than the 2015-16 school year.]~~

264 (2) The rules described in Subsection (1) shall prohibit the use of end-of-level  
 265 assessment scores in educator evaluation.

266 Section 10. Section **53A-8a-410** is amended to read:

267 **53A-8a-410. Report of performance levels.**

268 (1) A school district shall report to the State Board of Education ~~to~~ ~~the~~ ~~State~~ ~~Board~~ ~~of~~ ~~Education~~ ~~through~~ ~~a~~ ~~tool~~  
 269 ~~designated by the State Board of Education for the purposes of analysis and reliability,~~ ~~the~~ the  
 270 number and percent of educators in each of the four ~~[rating categories referred to in Section~~  
 271 ~~[53A-8a-405](#) based on an educator's annual evaluation]~~ levels of performance assigned under  
 272 Section [53A-8a-406](#).

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

275 (a) administrators;

276 (b) teachers, including separately reported data for provisional teachers and career  
277 teachers; and

278 [~~(c) educators other than administrators or teachers.~~]

279 (c) other classifications or demographics of educators as determined by the State Board  
280 of Education.

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

284 (4) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
285 Act, the State Board of Education shall make rules to ensure the privacy and protection of  
286 individual evaluation data.

287 Section 11. **Repealer.**

288 This bill repeals:

289 Section 53A-8a-404, **Evaluation orientation.**

290 Section 53A-8a-407, **Deficiencies -- Improvement.**

291 Section 53A-8a-602, **Educator's eligibility for a wage increase.**

292 Section 53A-8a-701, **Definitions.**

293 Section 53A-8a-702, **Evaluation of school and district administrators.**

294 Section 53A-8a-703, **Compensation of school and district administrators.**

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**