

CRIMINAL INVESTIGATIONS OF SCHOOL EMPLOYEES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill requires certain administrative leave for school employees who are the subject of a criminal investigation.

Highlighted Provisions:

This bill:

- ▶ requires paid administrative leave for a school employee who is the subject of a criminal investigation;
- ▶ if the criminal investigation substantiates wrongdoing, requires:
 - the local school board to take further employment action; and
 - the employee to pay back all salary compensation that the employee received during the leave period; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-11-202, as renumbered and amended by Laws of Utah 2018, Chapter 3



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

29 Section 1. Section **53G-11-202** is amended to read:

30 **53G-11-202. Employment of school personnel -- Length of contract --**

31 **Termination for cause -- Individual contract of employment -- Employee**

32 **acknowledgment of liability protection -- Leave pending criminal investigation.**

33 (1) A local school board may enter into a written employment contract for a term not to
34 exceed five years.

35 (2) Nothing in the terms of the contract shall restrict the power of a local school board
36 to terminate the contract for cause at any time.

37 (3) (a) A local school board may not enter into a collective bargaining agreement that
38 prohibits or limits individual contracts of employment.

39 (b) Subsection (3)(a) does not apply to an agreement that was entered into before May
40 5, 2003.

41 (4) Each local school board shall:

42 (a) ensure that each employment contract complies with the requirements of Section
43 [34-32-1.1](#);

44 (b) comply with the requirements of Section [34-32-1.1](#) in employing any personnel,
45 whether by employment contract or otherwise; and

46 (c) ensure that at the time an employee enters into an employment contract, the
47 employee shall sign a separate document acknowledging that the employee:

48 (i) has received:

49 (A) the disclosure required under Subsection [63A-4-204](#)(4)(d) if the school district
50 participates in the Risk Management Fund; or

51 (B) written disclosure similar to the disclosure required under Section [63A-4-204](#) if the
52 school district does not participate in the Risk Management Fund; and

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

55 (5) (a) (i) If a local school board has actual or constructive knowledge that an employee
56 is the subject of an ongoing criminal investigation related to an offense against a minor
57 described in Subsection [30-5a-103](#)(10), the local school board shall place the employee on
58 administrative leave.

59 (ii) If a local school board places an employee on administrative leave as described in
 60 Subsection (5)(a)(i), the local school board shall:

61 (A) maintain the confidentiality of the reason for the administrative leave; and

62 (B) ensure that the employee remains on administrative leave until the local school
 63 board alters the employment circumstances under Subsection (5)(b) or (c).

64 (b) The local school board shall provide the employee the opportunity to return to
 65 regular work if ~~H~~→ :

65a (i) ~~H~~→ the investigation described in Subsection (5)(a):

66 ~~H~~→ [(i)] (A) ~~H~~→ concludes without leading to criminal charges; or

67 ~~H~~→ [(ii)] (B) ~~H~~→ does not result in the conviction of the employee ~~H~~→ [e] ; and

67a **(ii) the local school board determines that no further employment action is warranted.** ~~H~~→

68 (c) If the investigation results in the conviction of the employee:

69 (i) the local school board shall take further employment action in response to the
 70 conviction, including leave without pay or termination; and

71 (ii) the employee shall pay back all salary compensation that the employee received
 72 during the paid administrative leave period described in Subsection (5)(a).

73 (6) There is a rebuttable presumption that the administrative leave described in
 74 Subsection (5)(a) is paid leave, unless the local school board has established criteria regarding
 75 the circumstances under which the administrative leave may be unpaid leave.

76 (7) (a) Nothing in this section restricts the power of a local school board to take
 77 employment action against the employee beyond the action described in Subsection (5) while
 78 the employee is under criminal investigation, regardless of whether the employment action is
 79 related to the basis for the criminal investigation, including termination for cause based on:

80 (i) a violation of work policies;

81 (ii) a violation of local school board policies, state board rule, or law;

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

83 (iv) insubordination.

84 (b) If the local school board determines that the actions of the employee justify
 85 termination for cause, the local school board may terminate the employee and cease paid leave
 86 upon the termination.

87 **Section 2. Effective date.**

88 If approved by two-thirds of all the members elected to each house, this bill takes effect
 89 upon approval by the governor, or the day following the constitutional time limit of Utah

90 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
91 the date of veto override.