

**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

**53A-8a-401**, as renumbered and amended by Laws of Utah 2012, Chapter 425

**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

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]~~ the board's policies based upon an agreement with that organization.

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

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

(i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and

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

(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;

(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 2. Section ~~53A-8a-301~~ is amended to read:

**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 a temporary ~~[or] employee or a part-time [employees] employee.~~

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

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

**53A-8a-302. 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** shall:

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

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

(c) require school districts to ~~[choose]~~ choose 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~~[-]~~ and Part 4, Educator Evaluations~~[, and Part 7, Evaluation and Compensation of Administrators].~~

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

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

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

(2) ~~[In]~~ The State Board of Education and each local school board shall implement this part, 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

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

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

**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.

(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]~~ less 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 school 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.

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

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

**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;

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

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

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

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

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

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

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

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

~~(1) [An educator evaluation program adopted by a]~~ A local school board in consultation with a joint committee established in Section 53A-8a-403 ~~[: (1)]~~ shall ~~[include the following components]~~ adopt a reliable and valid educator evaluation program that evaluates educators based on educator professional standards established by the State Board of Education and includes:

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

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

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

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

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

(i) self-evaluation;

(ii) student and parent input;

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

(iii) for an administrator, employee input;

(iv) a reasonable number of supervisor observations to ensure adequate reliability;  
(v) evidence of professional growth[;] and other indicators of instructional improvement based on educator professional standards established by the State Board of Education; and  
(vi) student ~~[achievement]~~ academic growth data; [and]  
~~[(vii) other indicators of instructional improvement;]~~  
~~[(e) a reasonable number of observation periods for an evaluation to ensure adequate reliability;]~~  
~~[(f) administration of an educator's evaluation by:]~~  
~~[(i) the principal;]~~  
~~[(ii) the principal's designee;]~~  
~~[(iii) the educator's immediate supervisor; or]~~  
~~[(iv) another person specified in the evaluation program;]~~  
~~[(g) an orientation for educators on the educator evaluation program; and]~~  
~~[(h)]~~ (c) a summative evaluation that differentiates among four levels of performance;

and

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

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

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

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

**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]~~ respond to any part of the evaluation; ~~[and]~~

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

~~[(e)]~~ (d) 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.]~~

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

(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 in accordance with Subsection (2), 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 recommendations to the superintendent regarding the educator's summative evaluation.

(b) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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 9. Section **53A-8a-409** is amended to read:

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

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

State Board of Education shall make rules:

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

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

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

(ii) the requirements described in Subsection 53A-8a-405(1).

~~[(c) 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 2015-16 school year.]~~

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

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

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

(1) A school district shall report to the State Board of Education the number and percent of educators in each of the four ~~[rating categories referred to in Section 53A-8a-405 based on an educator's annual evaluation]~~ levels of performance assigned under Section 53A-8a-406.

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

(a) administrators;

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

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

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

(3) The state superintendent shall include 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.

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

**Section 11. Repealer.**

This bill repeals:

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

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

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

Section 53A-8a-701, Definitions.

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

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