

EDUCATOR GROWTH PLAN FRAMEWORK

2023 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill amends requirements and processes for the evaluation of public educator performance.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the scope of the role of the State Board of Education (state board) and local education agency (LEA) governing boards in enhancing educator effectiveness;
- ▶ requires LEA governing boards to:
 - annually monitor and review educator growth; and
 - adopt an educator growth plan framework in consultation with the LEA's joint committee;
- ▶ requires the state board to:
 - make rules regarding the establishment and implementation of local educator growth plan frameworks; and
 - make rules regarding annual educator growth reviews;
- ▶ requires the assignment of a mentor for a provisional educator
- ▶ modifies requirements and timelines for the individual responsible for administering an educator's growth plan and annual growth review;
- ▶ separates growth performance from conduct that could trigger certain employment actions and repeals certain associated requirements;
- ▶ repeals an out-of-date exemption for the employee evaluation requirement;
- ▶ repeals a restriction on the transfer of an employee based on performance;
- ▶ repeals state board rulemaking authority regarding performance compensation; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

33 None

34 **Other Special Clauses:**

35 This bill provides a special effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **53E-1-203**, as last amended by Laws of Utah 2022, Chapters 36, 218

39 **53G-11-501**, as last amended by Laws of Utah 2020, Chapter 354

40 **53G-11-501.5**, as last amended by Laws of Utah 2019, Chapter 293

41 **53G-11-503**, as last amended by Laws of Utah 2018, Chapter 22 and renumbered and
42 amended by Laws of Utah 2018, Chapter 3

43 **53G-11-504**, as last amended by Laws of Utah 2020, Chapter 408

44 **53G-11-505**, as last amended by Laws of Utah 2021, Chapter 251

45 **53G-11-506**, as last amended by Laws of Utah 2019, Chapter 293

46 **53G-11-507**, as last amended by Laws of Utah 2019, Chapter 293

47 **53G-11-508**, as last amended by Laws of Utah 2020, Chapter 408

48 **53G-11-509**, as last amended by Laws of Utah 2019, Chapter 293

49 **53G-11-510**, as last amended by Laws of Utah 2020, Chapter 408

50 **53G-11-511**, as last amended by Laws of Utah 2020, Chapter 408

51 **53G-11-512**, as last amended by Laws of Utah 2019, Chapter 293

52 **53G-11-513**, as renumbered and amended by Laws of Utah 2018, Chapter 3

53 **53G-11-514**, as renumbered and amended by Laws of Utah 2018, Chapter 3

54 **53G-11-515**, as last amended by Laws of Utah 2021, Chapter 130

55 **53G-11-516**, as renumbered and amended by Laws of Utah 2018, Chapter 3

56 REPEALS:

57 **53G-11-504.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 10

58 **53G-11-517**, as renumbered and amended by Laws of Utah 2018, Chapter 3

59 **53G-11-518**, as last amended by Laws of Utah 2020, Chapter 408

60

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

62 Section 1. Section **53E-1-203** is amended to read:

63 **53E-1-203. State Superintendent's Annual Report.**

- 64 (1) The state board shall prepare and submit to the governor, the Education Interim
65 Committee, and the Public Education Appropriations Subcommittee, by January 15 of each
66 year, an annual written report known as the State Superintendent's Annual Report that includes:
- 67 (a) the operations, activities, programs, and services of the state board;
- 68 (b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and
- 69 (c) data on the general condition of the schools with recommendations considered
70 desirable for specific programs, including:
- 71 (i) a complete statement of fund balances;
- 72 (ii) a complete statement of revenues by fund and source;
- 73 (iii) a complete statement of adjusted expenditures by fund, the status of bonded
74 indebtedness, the cost of new school plants, and school levies;
- 75 (iv) a complete statement of state funds allocated to each school district and charter
76 school by source, including supplemental appropriations, and a complete statement of
77 expenditures by each school district and charter school, including supplemental appropriations,
78 by function and object as outlined in the United States Department of Education publication
79 "Financial Accounting for Local and State School Systems";
- 80 (v) a statement that includes data on:
- 81 (A) fall enrollments;
- 82 (B) average membership;
- 83 (C) high school graduates;
- 84 (D) licensed and classified employees, including data reported by [~~school districts~~]
85 LEAs on educator ratings described in Section 53G-11-511;
- 86 (E) pupil-teacher ratios;
- 87 (F) average class sizes;
- 88 (G) average salaries;
- 89 (H) applicable private school data; and
- 90 (I) data from statewide assessments described in Section 53E-4-301 for each school
91 and school district;
- 92 (vi) statistical information regarding incidents of delinquent activity in the schools or at
93 school-related activities; and
- 94 (vii) other statistical and financial information about the school system that the state

95 superintendent considers pertinent.

96 (2) (a) For the purposes of Subsection (1)(c)(v):

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

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

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

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

107 (b) The report shall:

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

109 (A) each school district;

110 (B) the charter schools aggregated; and

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

112 (ii) identify a website where pupil-teacher ratios for each school in the state may be
113 accessed.

114 (3) For each operation, activity, program, or service provided by the state board, the
115 annual report shall include:

116 (a) a description of the operation, activity, program, or service;

117 (b) data and metrics:

118 (i) selected and used by the state board to measure progress, performance,
119 effectiveness, and scope of the operation, activity, program, or service, including summary
120 data; and

121 (ii) that are consistent and comparable for each state operation, activity, program, or
122 service;

123 (c) budget data, including the amount and source of funding, expenses, and allocation
124 of full-time employees for the operation, activity, program, or service;

125 (d) historical data from previous years for comparison with data reported under

126 Subsections (3)(b) and (c);

127 (e) goals, challenges, and achievements related to the operation, activity, program, or
128 service;

129 (f) relevant federal and state statutory references and requirements;

130 (g) contact information of officials knowledgeable and responsible for each operation,
131 activity, program, or service; and

132 (h) other information determined by the state board that:

133 (i) may be needed, useful, or of historical significance; or

134 (ii) promotes accountability and transparency for each operation, activity, program, or
135 service with the public and elected officials.

136 (4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

137 (i) the report described in Section 53E-3-507 by the state board on career and technical
138 education needs and program access;

139 (ii) the report described in Section 53E-3-515 by the state board on the Hospitality and
140 Tourism Management Career and Technical Education Pilot Program;

141 (iii) beginning on July 1, 2023, the report described in Section 53E-3-516 by the state
142 board on certain incidents that occur on school grounds;

143 (iv) the report described in Section 53E-4-202 by the state board on the development
144 and implementation of the core standards for Utah public schools;

145 (v) the report described in Section 53E-5-310 by the state board on school turnaround
146 and leadership development;

147 (vi) the report described in Section 53E-10-308 by the state board and Utah Board of
148 Higher Education on student participation in the concurrent enrollment program;

149 (vii) the report described in Section 53F-5-207 by the state board on the
150 Intergenerational Poverty Interventions Grant Program;

151 (viii) the report described in Section 53F-5-506 by the state board on information
152 related to personalized, competency-based learning; and

153 (ix) the report described in Section 53G-9-802 by the state board on dropout prevention
154 and recovery services.

155 (b) The Education Interim Committee or the Public Education Appropriations

156 Subcommittee may request a report described in Subsection (4)(a) to be reported separately

157 from the State Superintendent's Annual Report.

158 (5) The annual report shall be designed to provide clear, accurate, and accessible
159 information to the public, the governor, and the Legislature.

160 (6) The state board shall:

161 (a) submit the annual report in accordance with Section 68-3-14; and

162 (b) make the annual report, and previous annual reports, accessible to the public by
163 placing a link to the reports on the state board's website.

164 (7) (a) Upon request of the Education Interim Committee or Public Education
165 Appropriations Subcommittee, the state board shall present the State Superintendent's Annual
166 Report to either committee.

167 (b) After submitting the State Superintendent's Annual Report in accordance with this
168 section, the state board may supplement the report at a later time with updated data,
169 information, or other materials as necessary or upon request by the governor, the Education
170 Interim Committee, or the Public Education Appropriations Subcommittee.

171 Section 2. Section **53G-11-501** is amended to read:

172 **53G-11-501. Definitions.**

173 As used in this part:

174 (1) "Administrator" means an individual who supervises educators and holds an
175 appropriate license issued by the state board.

176 (2) "Annual growth review" means a yearly, collaborative exchange between an
177 educator and an evaluator to review and summarize the educator's growth.

178 [(2)] (3) "Career educator" means a licensed employee who has a reasonable
179 expectation of continued employment under the policies of [~~a local school~~] an LEA governing
180 board.

181 [(3)] (4) "Career employee" means an employee of [~~a school district~~] an LEA who has
182 obtained a reasonable expectation of continued employment based upon Section 53G-11-503
183 and an agreement with the employee or the employee's association, [~~district~~] LEA practice, or
184 policy.

185 [(4)] (5) "Contract term" or "term of employment" means the period of time during
186 which an employee is engaged by the [~~school district~~] LEA under a contract of employment,
187 whether oral or written.

188 ~~[(5)]~~ (6) "Dismissal" or "termination" means:

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

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

192 (c) reduction in salary of an employee not generally applied to all employees of the
193 same category employed by the ~~[school district]~~ LEA during the employee's contract term; or

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

196 (7) "Educational practice visits" means live or recorded instruction or educator and
197 interactions, scheduled or unscheduled classroom visits, grade level/content team/professional
198 learning communities meetings, student-based discussions, or other similar opportunities.

199 ~~[(6)]~~ (8) "Educator" means an individual employed by ~~[a school district]~~ an LEA who
200 is required to hold a professional license issued by the state board, except:

201 (a) a superintendent; or

202 (b) an individual who works less than three hours per day or is hired for less than half
203 of a school year.

204 ~~[(7)]~~ (9) (a) "Employee" means a career or provisional employee of ~~[a school district]~~
205 an LEA, except as provided in Subsection (7)(b).

206 (b) ~~[Excluding Section 53G-11-518, for purposes of this part, "employee"]~~ "Employee"
207 does not include:

208 (i) a district superintendent or the equivalent at the Utah Schools for the Deaf and the
209 Blind or at a charter school;

210 (ii) a district business administrator or the equivalent at the Utah Schools for the Deaf
211 and the Blind or at a charter school; or

212 (iii) a temporary employee.

213 (10) "Formative assessment" means a planned, ongoing process that:

214 (a) all students and teachers use during learning and teaching within classrooms and
215 schools; and

216 (b) elicits evidence of student learning to improve student understanding as evidence of
217 intended learning outcomes.

218 (11) (a) "Lack of growth" means a deficiency in performing work tasks that may be:

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

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

221 (b) "Lack of growth" does not include the following conduct that is designated as a

222 cause for termination under Section 53G-11-512 or a reason for license discipline by the state

223 board or Utah Professional Practices Advisory Commission:

224 (i) a violation of work policies;

225 (ii) a violation of LEA governing board policies, state board rules, or law;

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

227 (iv) insubordination.

228 ~~[(8)]~~ (12) "Last-hired, first-fired layoff policy" means a staff reduction policy that

229 mandates the termination of an employee who started to work for ~~[a district]~~ an LEA most

230 recently before terminating a more senior employee.

231 ~~[(9)]~~ (13) "Provisional educator" means an educator employed by ~~[a school district]~~ an

232 LEA who has not achieved status as a career educator within the ~~[school district]~~ LEA.

233 ~~[(10)]~~ (14) "Provisional employee" means an individual, other than a career employee

234 or a temporary employee, who is employed by ~~[a school district]~~ an LEA.

235 (15) "Reciprocal feedback" means a collaborative exchange between the educator and

236 the evaluator about the successes and opportunities for the educator's growth based on

237 observation of the educator.

238 (16) "Reflection" or "reflective" means a process of:

239 (a) following a reflective framework to examine one's own practice using evidence to

240 produce actionable improvement in instruction; and

241 (b) implementing changes that increase the quality of teaching and learning.

242 (17) "Reliable and valid" means that a given measure produces a growth rating that

243 consistently and accurately reflects:

244 (a) the educator's growth in the standard-based goal chosen; and

245 (b) the degree to which the growth results can authentically inform feedback, coaching,

246 and professional learning.

247 ~~[(11) "School board" means a local school board or, for the Utah Schools for the Deaf~~

248 ~~and the Blind, the state board.]~~

249 ~~[(12) "School district" or "district" means:]~~

250 ~~[(a) a public school district; or]~~
 251 ~~[(b) the Utah Schools for the Deaf and the Blind.]~~
 252 ~~[(13) "Summative evaluation" means the annual evaluation that summarizes an~~
 253 ~~educator's performance during a school year and that is used to make decisions related to the~~
 254 ~~educator's employment.]~~
 255 ~~[(14)] (18) "Temporary employee" means an individual who:~~
 256 ~~(a) is employed on a temporary basis as defined by policies adopted by the [school]~~
 257 ~~LEA governing board[.If], which the LEA governing board shall adopt based upon an~~
 258 ~~agreement with an employee organization that the governing board recognizes if the class of~~
 259 ~~employees in question is represented by [an] that employee organization [recognized by the~~
 260 ~~school board, the school board shall adopt the school board's policies based upon an agreement~~
 261 ~~with that organization.];~~
 262 ~~(b) [Temporary employees serve] serves at will; and [have]~~
 263 ~~(c) has no expectation of continued employment.~~
 264 ~~[(15)(a) "Unsatisfactory performance" means a deficiency in performing work tasks~~
 265 ~~that may be:]~~
 266 ~~[(i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and]~~
 267 ~~[(ii) remediated through training, study, mentoring, or practice.]~~
 268 ~~[(b) "Unsatisfactory performance" does not include the following conduct that is~~
 269 ~~designated as a cause for termination under Section 53G-11-512 or a reason for license~~
 270 ~~discipline by the state board or Utah Professional Practices Advisory Commission:]~~
 271 ~~[(i) a violation of work policies;]~~
 272 ~~[(ii) a violation of school board policies, state board rules, or law;]~~
 273 ~~[(iii) a violation of standards of ethical, moral, or professional conduct; or]~~
 274 ~~[(iv) insubordination.]~~
 275 Section 3. Section **53G-11-501.5** is amended to read:
 276 **53G-11-501.5. Public education system to enhance educator effectiveness.**
 277 ~~[(1) The Legislature finds that the] The state board and each LEA governing board:~~
 278 ~~(1) are able to improve and enhance the effectiveness of public educators [can be~~
 279 ~~improved and enhanced] by providing [specific] ongoing feedback [and support for~~
 280 ~~improvement through a systematic, fair, and competent annual evaluation and remediation of~~

281 ~~public educators whose performance is inadequate.] to build reflective practitioners who yield~~
 282 ~~increases in student learning through personalized, professional growth plans; and~~

283 (2) ~~[The state board and each local school board]~~ shall implement ~~[Sections~~
 284 ~~53G-11-501, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and~~
 285 ~~53G-11-511]~~ this part in accordance with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and
 286 (b), to:

287 (a) allow the educator and the ~~[school district]~~ LEA to promote the professional growth
 288 of the educator; and

289 (b) identify and encourage quality instruction in order to improve student academic
 290 growth.

291 Section 4. Section **53G-11-503** is amended to read:

292 **53G-11-503. Career employee status for provisional employees -- Career status in**
 293 **the event of change of position -- Continuation of probationary status when position**
 294 **changes -- Temporary status for extra duty assignments.**

295 (1) (a) A provisional employee must work for ~~[a school district]~~ an LEA on at least a
 296 half-time basis for three consecutive years to obtain career employee status.

297 (b) ~~[A school district]~~ An LEA may extend the provisional status of an employee up to
 298 an additional two consecutive years in accordance with a written policy adopted by the
 299 ~~[district's school]~~ LEA governing board that specifies the circumstances under which an
 300 employee's provisional status may be extended.

301 (2) Policies of an employing ~~[school district]~~ LEA shall determine the status of a career
 302 employee in the event of the following:

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

305 (b) the employee accepts employment in another ~~[school district]~~ LEA.

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

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

312 assignment.

313 Section 5. Section **53G-11-504** is amended to read:

314 **53G-11-504. Evaluation of educator growth.**

315 ~~[(1)]~~ Except as provided in Subsection ~~[(2)]~~ 53G-11-505(2), ~~[a local school]~~ an LEA
 316 governing board shall require ~~[that the performance of each school district employee be~~
 317 evaluated annually] the annual monitoring and review of the growth of each educator whom the
 318 LEA employs in accordance with ~~[rules of]~~ the state board rules described in Section
 319 53G-11-505.~~[adopted in accordance with this part and Title 63G, Chapter 3, Utah~~
 320 Administrative Rulemaking Act.]

321 ~~[(2) Rules adopted by the state board under Subsection (1) may include an exemption~~
 322 ~~from annual performance evaluations for a temporary employee or a part-time employee.]~~

323 Section 6. Section **53G-11-505** is amended to read:

324 **53G-11-505. State board rules.**

325 (1) Subject to ~~[Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509,~~
 326 ~~53G-11-510, and 53G-11-511]~~ this part, the state board shall make rules, in accordance with
 327 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ~~[rules adopted by the state~~
 328 board under Section 53G-11-504 shall]:

329 ~~[(1)]~~ (a) provide general guidelines, requirements, and procedures for the development
 330 and implementation of ~~[employee evaluations]~~ an educator growth plan framework;

331 ~~[(2)]~~ (b) establish required components and allow for optional components of
 332 ~~[employee evaluations]~~ an educator growth plan framework;

333 ~~[(3)]~~ (c) require ~~[school districts]~~ LEAs to choose highly valid and reliable methods
 334 and tools to ~~[implement the evaluations]~~ produce evidence of educator growth; and

335 ~~[(4)]~~ (d) establish a timeline for ~~[school districts]~~ LEAs to implement ~~[employee~~
 336 evaluations] an educator growth plan framework.

337 (2) The state board may include in the rules described in Subsection (1) an exemption
 338 from an annual growth review for a temporary employee or a part-time employee.

339 Section 7. Section **53G-11-506** is amended to read:

340 **53G-11-506. Establishment of educator growth plan framework -- Joint**
 341 **committee.**

342 (1) ~~[A local school]~~ An LEA governing board shall ~~[develop]~~ adopt an educator

343 ~~[evaluation program]~~ growth plan framework in consultation with ~~[its]~~ the LEA's joint
 344 committee.

345 (2) The joint committee described in Subsection (1) shall consist of an equal number
 346 of:

347 (a) classroom teachers;

348 (b) parents or guardians of students enrolled in the LEA; and

349 (c) administrators ~~[appointed by the local school]~~ that the LEA governing board
 350 appoints.

351 (3) ~~[A local school]~~ An LEA governing board may appoint members of the joint
 352 committee, in accordance with LEA governing board policy, from ~~[a list]~~ respective lists of
 353 nominees that are produced by:

354 (a) ~~[voted on by]~~ for the nominees who are classroom teachers, a vote of classroom
 355 teachers in a nomination election;

356 (b) ~~[voted on by]~~ for the nominees who are administrators, a vote of the administrators
 357 in a nomination election; and

358 (c) ~~[of]~~ for the nominees who are parents or guardians, submissions from~~[submitted~~
 359 by] school community councils within the ~~[district]~~ LEA with proportional representation of
 360 the LEA's student population.

361 (4) Subject to Subsection (5), the ~~[joint committee]~~ LEA governing board may~~[-]~~

362 ~~[(a)]~~ adopt or ~~[adapt an evaluation program]~~ or enhance an educator growth plan for
 363 educators based on ~~[a model developed by the state board]~~ the required components described
 364 in Subsection 53G-11-507.~~[- or]~~

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

366 (5) The ~~[evaluation program developed by the]~~ joint committee shall ~~[comply]~~ ensure
 367 that the educator growth plan framework that the committee recommends complies with the
 368 requirements of ~~[Sections 53G-11-507 through 53G-11-511]~~ this part and rules ~~[adopted by]~~
 369 that the state board makes under Section 53G-11-510.

370 Section 8. Section **53G-11-507** is amended to read:

371 **53G-11-507. Components of educator growth plan.**

372 (1) ~~[A local school]~~ An LEA governing board, in consultation with ~~[a]~~ the LEA's joint
 373 committee established in Section 53G-11-506, shall ensure that the ~~[adopt a]~~ educator growth

374 plan framework that the LEA governing board adopts under Section 53G-11-506:

375 (a) (i) is a reliable and [valid educator evaluation program that evaluates educators]
376 evidence-based framework that is based on educator professional standards [established by]
377 and rules that the state board establishes;

378 (ii) provides for educator-directed goals and ongoing feedback;

379 (iii) builds reflective practitioners;

380 (iv) increases student learning; and

381 (2) An LEA governing board shall ensure that the educator growth plan framework
382 described in Subsection (1) includes the following components:

383 (a) a systematic annual evaluation [of all provisional, probationary, and career]
384 educators who work regularly with students;

385 (b) use of multiple lines of evidence, including:

386 (i) self-[evaluation] assessment aligned to the educator professional standards;

387 (ii) no more than three goals that are connected to impacting student learning and
388 aligned to the self-assessment results;

389 (iii) at least two educational practice visits at intervals and lengths that the state board
390 deems necessary to provide reciprocal feedback;

391 (iv) reciprocal feedback following education practice visits that is timely, face-to-face,
392 and includes reflection and plans for adjustments to practice; and

393 (v) reflection that leads to professional and student learning growth that are
394 demonstrated by the use of formative assessment evidence which may include:

395 (A) student input;

396 (B) parent or guardian input;

397 (C) video observation and reflection;

398 (D) student work samples;

399 (E) peer or coach feedback; and

400 (F) other lines of evidence that relate to the educator's goals; and

401 (c) an annual growth review and summary of evidence of goal progress that
402 differentiates among four levels of growth for each goal.

403 [(ii) student and parent input;]

404 [(iii) for an administrator, employee input;]

- 405 ~~[(iv) a reasonable number of supervisor observations to ensure adequate reliability;]~~
 406 ~~[(v) evidence of professional growth and other indicators of instructional improvement~~
 407 ~~based on educator professional standards established by the state board; and]~~
 408 ~~[(vi) student academic growth data;]~~
 409 ~~[(c) a summative evaluation that differentiates among four levels of performance; and]~~
 410 ~~[(d) for an administrator, the effectiveness of evaluating employee performance in a~~
 411 ~~school or school district for which the administrator has responsibility.]~~
 412 ~~[(2)] (3) [(a) An educator evaluation program described in Subsection (1) may include~~
 413 ~~a reasonable number of peer observations.]~~
 414 ~~[(b) An] The educator [evaluation program] growth plan framework described in~~
 415 ~~Subsection (1) may not use end-of-level assessment scores in educator evaluation.~~
 416 Section 9. Section **53G-11-508** is amended to read:
 417 **53G-11-508. Growth setting and review process -- establishing timelines.**
 418 (1) The ~~[person]~~ individual responsible for administering an educator's ~~[summative~~
 419 ~~evaluation]~~ growth plan and annual growth review shall:
 420 (a) ~~[at least 15 days before an educator's first evaluation]~~ no later than the first week of
 421 instruction at the beginning of the school year or, for employees who are hired after the
 422 beginning of the school year, within two weeks of being hired:
 423 (i) notify the educator of the ~~[evaluation process]~~ growth plan framework; and
 424 (ii) give the educator a copy of the ~~[evaluation instrument, if an instrument is used]~~
 425 growth plan framework;
 426 (b) support the educator in developing the educator's growth plan and in identifying
 427 lines of evidence;
 428 (c) impose a deadline of the end of term of the first grading period for the educator's
 429 growth plan;
 430 (d) collaboratively discuss the annual growth review and evidence of reflection for the
 431 educator's growth plan on or before the last day of the school year;
 432 ~~[(b) allow the educator to respond to any part of the evaluation;]~~
 433 ~~[(c)] (e)~~ attach the educator's response to the ~~[evaluation]~~ annual growth review if the
 434 educator's response is provided in writing;
 435 ~~[(d)] (f)~~ within 15 days after the evaluation process is completed, discuss the written

436 [evaluation] annual growth review with the educator; and

437 ~~(e)~~ (g) based upon the educator's performance, assign to the educator one of the four
438 levels of performance described in Section 53G-11-507.

439 (2) An educator who is not satisfied with ~~[a summative evaluation]~~ an annual growth
440 review may request [a] an independent review of the evaluation within 15 days after receiving
441 the written [evaluation] annual growth review.

442 (3) (a) If [a] an independent review is requested in accordance with Subsection (2), the
443 ~~[school district]~~ LEA superintendent or the superintendent's designee shall appoint a person
444 ~~[not employed by the school district]~~ whom the LEA does not employ who has expertise in
445 teacher or personnel evaluation to review the ~~[evaluation procedures]~~ growth plan framework
446 and the educator's annual growth review and make recommendations to the superintendent
447 regarding the educator's ~~[summative evaluation]~~ annual growth review.

448 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
449 state board shall make rules prescribing standards for an independent review of an educator's
450 ~~[summative evaluation]~~ annual growth review.

451 (c) ~~[A]~~ The LEA and the individual conducting the an independent review of an
452 educator's ~~[summative evaluation]~~ annual growth review under Subsection (3)(a) shall ~~[be~~
453 ~~conducted]~~ conduct the independent review in accordance with the state board rules ~~[made~~
454 ~~under]~~ described in Subsection (3)(b).

455 Section 10. Section **53G-11-509** is amended to read:

456 **53G-11-509. Mentor for provisional educator.**

457 (1) In accordance with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b), the
458 principal or immediate supervisor of a provisional educator shall assign ~~[a person who]~~ an
459 individual as a mentor to the provisional educator and ensure that the assigned individual:

460 (a) has received training or will receive training in mentoring educators~~[as a mentor to~~
461 ~~the provisional educator.];~~

462 ~~(2)~~ (b) ~~[Where]~~ where possible, ~~[the mentor shall be]~~ is a career educator who
463 performs substantially the same duties as the provisional educator; and

464 (c) has at least three years of educational experience.

465 ~~(3)~~ (2) The mentor described in Subsection (1):

466 (a) shall assist the provisional educator to become effective and competent in the

467 teaching profession and school system~~[-but]; and~~

468 (b) may not serve as ~~[an evaluator of]~~ the individual responsible for administering the
 469 growth plan and annual growth review of the provisional educator as described in Subsection
 470 53G-11-508(1).

471 ~~[(4)]~~ (3) An educator who is assigned as a mentor may receive compensation for
 472 ~~[those]~~ mentoring services in addition to the educator's regular salary.

473 Section 11. Section **53G-11-510** is amended to read:

474 **53G-11-510. State board rules regarding annual growth reviews.**

475 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 476 state board shall make rules that:

477 (a) ~~[describing]~~ describe a framework for the ~~[evaluation]~~ annual growth review of
 478 educators that is consistent with the requirements this part~~[of Part 3, Licensed Employee~~
 479 ~~Requirements, and Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510,~~
 480 ~~and 53G-11-511]; and~~

481 (b) ~~[requiring]~~ require an educator's ~~[summative evaluation]~~ annual growth review to
 482 be based on:

483 (i) educator professional standards ~~[established by]~~ that the state board establishes; and

484 (ii) the requirements described in ~~[Subsection 53G-11-507(1)]~~ Section 53G-11-507.

485 (2) The state board shall ensure that the rules described in Subsection (1) ~~[shall~~
 486 ~~]prohibit~~ the use of end-of-level assessment scores in educator evaluation.

487 Section 12. Section **53G-11-511** is amended to read:

488 **53G-11-511. Report of performance levels.**

489 (1) ~~[A school district]~~ An LEA shall:

490 (a) report to the state board the number and percent of educators in each of the four
 491 levels of performance assigned under Section 53G-11-508.

492 ~~[(2)]~~ (b) ~~[The]~~ ensure that the data ~~[reported]~~ that the LEA reports under Subsection (1)
 493 ~~[shall be]~~ is separately reported for the following educator classifications:

494 ~~[(a)]~~ (i) administrators;

495 ~~[(b)]~~ (ii) teachers, including separately reported data for provisional teachers and career
 496 teachers; and

497 ~~[(c)]~~ (iii) other classifications or demographics of educators as determined by the state

498 board.

499 ~~[(3)]~~ (2) The state superintendent shall include the data ~~[reported by school districts]~~
 500 that LEAs report under this section in the State Superintendent's Annual Report ~~[required by~~
 501 ~~Section 53E-3-301]~~ described in Section 53E-1-203.

502 ~~[(4)]~~ (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 503 Act, the state board shall make rules to ensure the privacy and protection of individual
 504 evaluation data.

505 Section 13. Section **53G-11-512** is amended to read:

506 **53G-11-512. LEA governing board to establish dismissal procedures.**

507 (1) ~~[A local school]~~ An LEA governing board shall~~;~~:

508 ~~(a)~~ by contract with ~~[its]~~ the LEA's employees or ~~[their]~~ the employees' associations~~;~~
 509 or by resolution of the ~~[local school]~~ LEA governing board, establish procedures for dismissal
 510 of employees in an orderly manner without discrimination.

511 ~~[(2)]~~ ~~(b)~~ ~~[The]~~ ensure that the procedures ~~[shall]~~ described in Subsection (1)(a) include:

512 ~~[(a)]~~ (i) standards of due process;

513 ~~[(b)]~~ (ii) causes for dismissal; and

514 ~~[(c)]~~ (iii) procedures and standards related to developing and implementing a plan of
 515 ~~[assistance]~~ support for a career employee whose ~~[performance]~~ conduct is unsatisfactory.

516 ~~[(3)]~~ (c) ~~[Procedures]~~ ensure that the procedures and standards for a plan of ~~[assistance~~
 517 ~~adopted under Subsection (2)(c) shall]~~ support described in Subsection (1)(b)(iii) require a plan
 518 of assistance to identify:

519 ~~[(a)]~~ (i) specific, measurable, and actionable deficiencies;

520 ~~[(b)]~~ (ii) the available resources provided for improvement; and

521 ~~[(c)]~~ (iii) a course of action to improve employee ~~[performance]~~ conduct.

522 ~~[(4)]~~ (2) If a career employee exhibits ~~[both unsatisfactory performance as described in~~
 523 ~~Subsection 53G-11-501(15)(a) and]~~ the conduct ~~[described in Subsection 53G-11-501(15)(b)]~~
 524 that is expressly exempted from the definition of lack of growth, as that term is defined in
 525 Section 53G-11-501, an employer:

526 (a) may:

527 (i) attempt to remediate the conduct of the career employee; or

528 (ii) terminate the career employee for cause if the conduct merits dismissal consistent

529 with procedures [~~established by the local school~~] that the LEA governing board establishes;
 530 and

531 (b) is not required to develop and implement a plan of assistance for the career
 532 employee, as provided in Section 53G-11-514.

533 [~~(5) If the conduct of a career employee described in Subsection (4) is satisfactorily~~
 534 ~~remediated, and unsatisfactory performance issues remain, an employer shall develop and~~
 535 ~~implement a plan of assistance for the career employee, as provided in Section 53G-11-514. (6)~~
 536 ~~If the conduct of a career employee described in Subsection (4) is not satisfactorily remediated,~~
 537 ~~an employer:]~~

538 [~~(a) may dismiss the career employee for cause in accordance with procedures~~
 539 ~~established by the local school board that include standards of due process and causes for~~
 540 ~~dismissal; and]~~

541 [~~(b) is not required to develop and implement a plan of assistance for the career~~
 542 ~~employee, as provided in Section 53G-11-514.]~~

543 Section 14. Section **53G-11-513** is amended to read:

544 **53G-11-513. Dismissal procedures.**

545 [~~(1) A district shall provide employees with a written statement specifying:]~~

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

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

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

552 [~~(2) A career employee's contract may be terminated during its term for reasons of~~
 553 ~~unsatisfactory performance or discontinued beyond the current school year for reasons of~~
 554 ~~unsatisfactory performance as provided in Section 53G-11-514.]~~

555 [~~(3) (1) (a) [A district] An LEA is not required to provide a cause for not offering a~~
 556 ~~contract to a provisional employee.~~

557 (b) If [~~a district~~] an LEA intends to not offer a contract for a subsequent term of
 558 employment to a provisional employee, the [~~district~~] LEA shall give notice of [~~that~~] the
 559 intention to not offer the contract to the employee at least 60 days before the end of the

560 [provisional] employee's contract term.

561 ~~[(4)]~~ (2) In the absence of a notice, an employee is considered employed for the next
562 contract term with a salary based upon the salary schedule applicable to the class of employee
563 into which the individual falls.

564 ~~[(5)]~~ (3) If ~~[a district]~~ an LEA intends to not renew or discontinue the contract of a
565 career employee or to terminate a career or provisional employee's contract during the contract
566 term, the LEA shall:

567 (a) ~~[the district shall]~~ give written notice of the intent to the employee~~;~~:

568 ~~[(b)]~~ (i) ~~[the notice shall be]~~ served by personal delivery or by certified mail addressed
569 to the employee's last-known address as shown on the records of the ~~[district]~~ LEA; an

570 ~~[(c) the district shall give notice]~~ at least 30 ~~[days prior to]~~ before the proposed date of
571 termination;

572 ~~[(d)]~~ (b) ensure that the notice ~~[shall state]~~:

573 (i) states the date of termination and the detailed reasons for termination;

574 ~~[(e)]~~ (ii) ~~[the notice shall advise]~~ advises the employee that:

575 (A) the employee has a right to a fair hearing; and ~~[that]~~

576 (B) the right to a hearing is waived if ~~[it is not requested]~~ the employee does not

577 request a hearing within 15 days after day on which the notice of termination was ~~[either]~~

578 personally delivered or mailed ~~[to the employee's most recent address shown on the district's~~
579 ~~personnel records]~~ in accordance with Subsection (3)(a); and

580 ~~[(f)]~~ (iii) ~~[the notice shall state]~~ states that:

581 (A) failure of the employee to request a hearing in accordance with procedures set forth
582 in the notice constitutes a waiver of ~~[that]~~ the right to a hearing; and ~~[that]~~

583 (B) if the employee waives the right to a hearing as described in this subsection (3)(b),
584 the ~~[district]~~ LEA may ~~[then]~~ proceed with termination without further notice.

585 ~~[(6)]~~ (4) (a) ~~[The]~~ An LEA may include in the LEA's procedure under which ~~[a]~~ the
586 LEA terminates an employee's contract ~~[is terminated during its]~~ during the contract term ~~[may~~
587 ~~include]~~ a provision under which the LEA suspends the active service of the employee ~~[is~~
588 ~~suspended]~~ pending a hearing if ~~[it appears]~~ an authorized representative of the LEA
589 determines that the continued employment of the individual may be harmful to students or to
590 the ~~[district]~~ LEA.

591 (b) (i) ~~[Suspension]~~ An LEA may suspend an employee pending a hearing ~~[may be]~~
 592 without pay if an authorized representative of the ~~[district]~~ LEA determines, after providing the
 593 employee with an opportunity for an informal conference to discuss the allegations, that it is
 594 more likely than not that the allegations against the employee are true.

595 ~~[(c)]~~ (ii) If ~~[termination is not subsequently ordered]~~ an LEA does not terminate an
 596 employee after suspending the employee without pay in accordance with Subsection (4)(b)(i),
 597 the LEA shall pay the employee ~~[shall receive]~~ back pay for the period of the suspension
 598 without pay.

599 ~~[(7)]~~ (5) ~~[The]~~ An LEA shall ensure that the LEA's procedure under which an LEA
 600 terminates an employee's contract ~~[is terminated during its]~~ during the contract term ~~[shall~~
 601 provide] provides for a written notice of suspension or final termination, including findings of
 602 fact upon which the LEA based the action ~~[is based]~~.

603 Section 15. Section **53G-11-514** is amended to read:

604 **53G-11-514. Nonrenewal or termination of a career employee's contract for**
 605 **unsatisfactory performance.**

606 (1) If ~~[a district intends to not renew a career employee's contract for unsatisfactory~~
 607 ~~performance or terminate a career employee's contract during the contract term for~~
 608 ~~unsatisfactory performance, the district shall]~~ a provisional or career employee demonstrates a
 609 lack of growth on any of the employee's goals in the employee's growth plan, the LEA may:

610 (a) provide and discuss with the ~~[career]~~ employee written documentation clearly
 611 identifying the ~~[deficiencies in performance]~~ lack of growth; and

612 ~~[(b) provide written notice that the career employee's contract is subject to nonrenewal~~
 613 ~~or termination if, upon a reevaluation of the career employee's performance, the career~~
 614 ~~employee's performance is determined to be unsatisfactory;]~~

615 ~~[(c)]~~ (b) develop and implement a plan of ~~[assistance]~~ support, in accordance with
 616 procedures and standards ~~[established by the local school board]~~ that the LEA governing board
 617 establishes under Section 53G-11-512, to allow the ~~[career]~~ employee an opportunity to
 618 improve ~~[performance]~~ growth;

619 ~~[(d) reevaluate the career employee's performance; and]~~

620 ~~[(e) if the career employee's performance remains unsatisfactory, give notice of intent~~
 621 ~~to not renew or terminate the career employee's contract in accordance with Subsection~~

622 53G-11-513(5):]

623 (2) (a) The period of time for implementing a plan of [assistance] support:

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

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

626 (iii) should be sufficient to successfully complete the plan of [assistance] support; and

627 (iv) (A) [~~shall begin~~] begins when the [career] employee receives the written notice
628 [~~provided under~~] described in Subsection [(1)(b)] (1)(a); and [~~end~~]

629 (B) ends when the LEA makes the determination [~~is made~~] that the [career] employee
630 has successfully shown expected growth. [~~remediated the deficiency or notice of intent to not~~
631 ~~renew or terminate the career employee's contract is given in accordance with Subsection~~
632 53G-11-513(5):]

633 (b) In accordance with [~~local school~~] LEA governing board policy, the period of time
634 for implementing a plan of assistance may extend beyond 120 school days if:

635 (i) [~~a career~~] an employee is on leave from work during the time period the plan of
636 [assistance] support is scheduled to be implemented; and

637 (ii) (A) the leave was approved and scheduled before the LEA provided written notice
638 [~~was provided~~] under Subsection [(1)(b)] (1)(a); or

639 (B) the leave is specifically approved by the [~~local school~~] LEA governing board. [(3)]

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

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

647 [(i) ~~provide written documentation of the career employee's deficiencies in~~
648 ~~performance; and]~~

649 [(ii) ~~give notice of intent to not renew or terminate the career employee's contract in~~
650 ~~accordance with Subsection 53G-11-513(5):]~~

651 Section 16. Section **53G-11-515** is amended to read:

652 **53G-11-515. Hearings before LEA governing board or hearing officers -- Rights**

653 **of the board and the employee -- Subpoenas -- Appeals.**

654 (1) (a) ~~[Hearings are held under this part before the school]~~ An LEA governing board
 655 or ~~[before]~~ hearing officers ~~[selected by the school]~~ whom the LEA governing board appoints
 656 ~~[to conduct the hearings and make recommendations concerning findings]~~ shall hold hearings
 657 under this part.

658 (b) The ~~[school]~~ LEA governing board shall establish procedures to appoint hearing
 659 officers to conduct hearings and make recommendations concerning findings.

660 (c) The ~~[school]~~ LEA governing board may delegate the ~~[school]~~ LEA governing
 661 board's authority to a hearing officer to make decisions relating to the employment of an
 662 employee that are binding upon both the employee and the ~~[school]~~ LEA governing board.

663 (2) At ~~[the hearings]~~ a hearing described in Subsection (1), an employee has the right:

- 664 (a) to counsel[;];
 665 (b) to produce witnesses[;];
 666 (c) to hear testimony against the employee[;];
 667 (d) to cross-examine witnesses[;]; and
 668 (e) to examine documentary evidence.

669 (3) ~~[Subpoenas may be issued and oaths administered as provided under]~~ An
 670 authorized person may issue subpoenas and administer oath in accordance with Section
 671 53E-6-606.

672 (4) ~~[A]~~ The LEA governing board shall ensure that all hearings ~~[shall be]~~ are recorded
 673 at the ~~[school]~~ LEA governing board's expense.

674 (5) (a) Any interested party:

675 (i) may appeal any final action or order of the ~~[school]~~ LEA governing board ~~[may be~~
 676 appealed] to the Court of Appeals for review[;]; and

677 ~~[(b)]~~ (ii) ~~[A]~~ shall file a notice of appeal ~~[shall be filed]~~ in accordance with the Utah
 678 Rules of Appellate Procedure, Rule 4.

679 ~~[(c)]~~ (b) A review by the Court of Appeals:

680 (i) is limited to the record of the ~~[school]~~ LEA governing board; and

681 (ii) ~~[shall be]~~ is for the purpose of determining whether the ~~[school]~~ LEA governing
 682 board exceeded:

683 (A) the ~~[school]~~ board's discretion[;]; or

684 ~~(B)~~ the ~~[school board exceeded the school]~~ board's authority.

685 Section 17. Section **53G-11-516** is amended to read:

686 **53G-11-516. Necessary staff reduction not precluded -- Last-hired, first-fired**
687 **layoffs prohibited.**

688 (1) Nothing in this part prevents staff reduction if necessary to reduce the number of
689 employees because of ~~[the following]~~:

690 (a) declining student enrollments in the ~~[district]~~ LEA;

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

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

693 (d) school consolidation.

694 (2) ~~[A school district]~~ An LEA may not ~~[utilize]~~ use a last-hired, first-fired layoff
695 policy when terminating ~~[school district]~~ LEA employees.

696 (3) ~~[A school district]~~ An LEA may consider the following factors when terminating [~~a~~
697 ~~school district]~~ an LEA employee:

698 (a) the results of an employee's ~~[performance evaluation]~~ conduct; and

699 (b) a school's personnel needs.

700 Section 18. **Repealer.**

701 This bill repeals:

702 Section **53G-11-504.1, Waiver of employee evaluation requirement.**

703 Section **53G-11-517, Restriction on transfer of employee with unsatisfactory**
704 **performance.**

705 Section **53G-11-518, State board to make rules on performance compensation.**

706 Section 19. **Effective date.**

707 This bill takes effect on July 1, 2023.