

HOUSE BILL NO. HB0112

Educational support personnel.

Sponsored by: Representative(s) McOmie, Davison, Jaggi,
Martin, Millin, White and Zwonitzer, Dn. and
Senator(s) Decaria, Hastert and Johnson

A BILL

for

1 AN ACT relating to school district educational support
2 personnel; providing definitions; establishing procedures
3 for the dismissal or suspension of educational support
4 personnel; imposing duties on school boards; and providing
5 for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 21-7-701 through 21-7-706 are created
10 to read:

11

12 ARTICLE 7

13 EDUCATIONAL SUPPORT PERSONNEL

14

15 **21-7-701. Definitions.**

16

1 (a) As used in this article:

2

3 (i) "Administrative leave" means a
4 nondisciplinary, temporary removal of an employee from his
5 duties for a period not to exceed five (5) work days for
6 administrative purposes;

7

8 (ii) "Dismissal" means the termination of
9 employment of a permanent employee;

10

11 (iii) "Educational support personnel" means
12 those employees of a Wyoming school district who are not
13 certified by the Wyoming professional teaching standards
14 board pursuant to W.S. 21-2-802;

15

16 (iv) "Permanent employee" means an educational
17 support person who has been continuously employed by the
18 Wyoming school district where he is currently employed for
19 more than one (1) year;

20

21 (v) "Probationary employee" means an educational
22 support person who has been employed by the Wyoming school
23 district where he is currently employed for one (1) year or
24 less;

1

2 (vi) "Suspension" means the removal of an
3 employee from his duties without termination of salary
4 pending the outcome of a hearing in accordance with W.S.
5 21-7-703(c). "Suspension" shall not include administrative
6 leave.

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8 **21-7-702. Applicability.**

9

10 This article does not in any way affect the legal rights or
11 status of any school district employees except educational
12 support personnel.

13

14 **21-7-703. Employment and dismissal of educational**
15 **support personnel; notice; hearing; independent hearing**
16 **officer; board review and decision; appeal.**

17

18 (a) Permanent educational support employees shall
19 continue their employment unless they are dismissed under
20 the procedures of this article or they resign their
21 employment.

22

23 (b) A local school board may suspend or dismiss any
24 permanent educational support employee for:

1

2 (i) Incompetence;

3

4 (ii) Neglect of duty;

5

6 (iii) Insubordination;

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8 (iv) Unsatisfactory performance; or

9

10 (v) Other good cause shown.

11

12 (c) Suspension or dismissal proceedings shall be
13 initiated by the superintendent or any member of the local
14 school board designated by the superintendent or by the
15 local school board pursuant to a majority vote of the board
16 by delivering written notice of the suspension or proposed
17 dismissal together with the written reasons for the
18 suspension or proposed dismissal to the employee.

19

20 (d) A permanent employee who receives notice of a
21 recommendation of dismissal or notice of suspension under
22 subsection (c) of this section may, upon submission of a
23 written request to the superintendent, request a hearing
24 before an independent hearing officer on the recommendation

1 and the reasons for the recommendation. The written
2 request shall be submitted not more than ten (10) days
3 after receipt of notice provided under subsection (c) of
4 this section.

5

6 (e) Not more than twenty (20) days after a request
7 for a hearing the superintendent and the employee shall
8 jointly select a hearing officer.

9

10 (f) Not more than ten (10) days after selection of a
11 hearing officer, the hearing officer shall set a date for a
12 hearing and provide notice to the employee and the
13 superintendent of the date, time and location of the
14 hearing. The hearing officer shall have authority to
15 conduct conferences with the parties as necessary to
16 address any matters which require resolution before the
17 date of the hearing and to establish an orderly procedure
18 for the hearing.

19

20 (g) The hearing officer shall, to the extent
21 possible, be impartial and experienced in education, labor
22 and employment and the conduct of hearings. The hearing
23 officer may but is not required to be an attorney admitted

1 to practice in Wyoming. The cost of the hearing officer
2 shall be paid by the local school district.

3

4 (h) The hearing shall be conducted in accordance with
5 the Wyoming Administrative Procedure Act and the hearing
6 officer may accordingly receive or reject evidence and
7 testimony, administer oaths and if necessary, subpoena
8 witnesses. All school records pertaining to the employee
9 and the reasons for suspension or dismissal shall be made
10 available to the parties for the purposes of the hearing.

11

12 (j) The hearing officer shall review the evidence and
13 testimony, render written findings of fact and recommend
14 the employee be dismissed, suspended or retained. The
15 hearing officer may also recommend an action other than
16 dismissal or suspension if the hearing officer concludes
17 that a lesser action is more appropriate. The hearing
18 officer shall provide the written findings of fact and
19 recommendations to the local school board.

20

21 (k) The school board shall review the findings of
22 fact and recommendations submitted by the hearing officer
23 and within twenty (20) days after receipt, issue a written
24 order to accept or reject the recommendation of the hearing

1 officer. If the school board dismisses or suspends an
2 employee against the recommendation of the hearing officer,
3 the written order shall include the conclusion of the
4 school board together with reasons supported by the record.
5 A copy of the order shall be provided to the employee and
6 entered into the school district records pertaining to the
7 employee. Any action by the school board pursuant to this
8 subsection shall be approved by a majority of the board
9 members at an official meeting of the board.

10
11 (m) A board decision may be appealed to the district
12 court as provided in the Wyoming Administrative Procedure
13 Act. The cost of transcribing the record shall be borne
14 equally by the employee and the school district.

15
16 **21-7-704. Employment and notice of dismissal for**
17 **probationary employees.**

18
19 A school board may dismiss a probationary employee by
20 providing written notice of dismissal to the employee
21 together with reasons for the dismissal. A probationary
22 employee may be dismissed for any reason not specifically
23 prohibited by law and the school board is not limited to
24 the reasons set forth in W.S. 21-7-703(b). The notice of

1 dismissal shall not be disseminated to the public or to
2 prospective employers without the consent of the employee.
3 Nothing in this section shall prohibit the use of the
4 notice in any hearing or other legal proceeding. A
5 probationary employee is not entitled to a hearing as
6 provided in W.S. 21-7-703.

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8 **21-7-705. Performance evaluation of educational**
9 **support personnel.**

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11 As provided by W.S. 21-3-110(a)(xxx), the board of trustees
12 of each school district shall establish a performance
13 evaluation system for educational support employees and
14 require that each educational support employee be evaluated
15 in writing not less than once each year. Each employee
16 shall receive a copy of the evaluation.

17

18 **21-7-706. Inapplicability of provisions.**

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20 (a) Nothing in this article shall prohibit:

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22 (i) A school district from establishing policy
23 or otherwise providing rights or procedures in excess of
24 the minimum requirements established in this article

1 including designating an employee as a permanent employee
2 or providing for due process or hearing rights for
3 probationary employees;

4
5 (ii) The transfer of an employee within a school
6 system to a position of equal or greater salary;

7
8 (iii) The reduction of a salary of an employee
9 as part of a general salary reduction applicable to at
10 least fifty percent (50%) of the educational support
11 personnel employed by a school district;

12
13 (iv) Placing an employee on administrative leave
14 to allow school district administration an opportunity to
15 review an employment related matter, provided that being
16 placed on administrative leave shall not be considered to
17 be a disciplinary action and shall not be considered as
18 evidence or grounds for any employment discipline.

19
20 **Section 2.** W.S. 21-3-110(a) by creating a new
21 paragraph (xxx) is amended to read:

22
23 **21-3-110. Duties of boards of trustees.**

1 (a) The board of trustees in each school district
2 shall:

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4 (xxx) Establish a performance evaluation system
5 for educational support employees and require that each
6 educational support employee be evaluated as provided in
7 W.S. 21-7-705.

8

9 **Section 3.** This act is effective immediately upon
10 completion of all acts necessary for a bill to become law
11 as provided by Article 4, Section 8 of the Wyoming
12 Constitution.

13

14 (END)