

HB0169S01 compared with HB0169S02

13 None

15 AMENDS:

16 **63G-2-302 , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws
of Utah 2024, Chapter 234**

17 ENACTS:

18 **53E-3-1201** , Utah Code Annotated 1953 , Utah Code Annotated 1953

22 ~~{53E-3-1202 , Utah Code Annotated 1953 , Utah Code Annotated 1953}~~

23 ~~{53E-3-1203 , Utah Code Annotated 1953 , Utah Code Annotated 1953}~~

24 ~~{53E-3-1204 , Utah Code Annotated 1953 , Utah Code Annotated 1953}~~

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

21 Section 1. Section 1 is enacted to read:

28 **Part 12. Ethics Requirements For State Board Members**

22 **53E-3-1201. Ethics requirements governing State Board of Education members.**

30 ~~{(1) }~~

~~{(a) }~~ **(1)** ~~{In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the }~~ **The**
state board shall ~~{make rules establishing }~~ **establish within the state board's bylaws and policies,**
a code of conduct and ethical ~~{rules }~~ **standards** for board members, incorporating standards and
procedures relevant to the state board's constitutional and statutory roles~~{: }~~ **including:**

34 ~~{(b) {The code of conduct and ethical rules shall include:} }~~

35 ~~{(i) {prohibitions on a board member:} }~~

36 ~~{(A) {engaging in activities that would impair the board member's independence of judgment:} }~~

38 ~~{(B) {improperly disclosing or using non-public information obtained by reason of the board member's
position; and} }~~

40 ~~{(C) {securing special privileges for the board member or others:} }~~

41 ~~{(ii) {requirements that a board member:} }~~

42 ~~{(A) {declare conflicts of interest and be recused from votes where a conflict exists:} }~~

43 ~~{(B) {adhere to high ethical standards in the board member's interactions with students, educators, and
the public:} }~~

45 ~~{(C) {protect student rights including privacy of student records; and} }~~

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- 46 ~~{(D) {use proper channels in responding to public education needs, complaints, or concerns;}}~~
- 48 ~~{(iii) (a) provisions for ethics training for state board members;~~
- 49 ~~{(iv) (b) {in accordance with Section 53E-3-1202,} a process for filing and reviewing ethics~~
complaints against state board members~~{, including:} ;~~
- 51 ~~{(A) (c) protections related to complaint privacy before and during the {establishment of an~~
independent} preliminary review {commission} period;
- 52 ~~{(B) {standards of evidence and due process protections for accused members; and}}~~
- 53 ~~{(C) (d) options for disciplinary action for violations; {and}}~~
- 31 (e) prohibitions related to filing complaints before a primary or general election; and
- 32 (f) declarations related to a conflict of interest;
- 33 (2) The records received or generated for review of an ethics violation under this section shall be private
records in accordance with Section 63G-2-302.
- 35 (3) The state board shall maintain a summary record of actions, which shall be classified as a public
record.
- 37 (4) The state board shall:
- 38 (a) report to the Education Interim Committee at or before the committee's October 2025 interim
meeting regarding:
- 54 ~~{(v) (i) {a requirement that board members be held to} the {same} code of conduct and ethical~~
standards ~~{required of educators.} established under Subsection (1);~~
- 41 (ii) the number and types of ethics complaints received;
- 42 (iii) the disposition of ethics complaints; and
- 43 (iv) any recommendations for statutory modifications to the ethics requirements; and
- 44 (b) provide any additional information requested by the committee for purposes of reviewing:
- 46 (i) the effectiveness of the ethics requirements established under this section; and
- 47 (ii) whether additional legislation is necessary.
- 48 (5) The Education Interim Committee shall:
- 49 (a) review the report submitted under Subsection (4);
- 56 ~~{(2) (b) {Beginning in 2026, on or before July 1} evaluate the effectiveness of {each specified year.}}~~
the ethics requirements established by state board ~~the ethics requirements established by state board~~
~~{shall seek input and recommendations for the code of conduct} ; and {ethical rules established~~
under this section from:}

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59 ~~{(a) {the legislative Rules and General Oversight Committee in even-numbered years; and}}~~

60 ~~{(b) {the House and Senate Ethics Committees in odd-numbered years.}}~~

52 (c) consider whether to recommend legislation to:

53 (i) modify the ethics requirements under this section; or

54 (ii) establish additional statutory requirements governing state board member conduct.

61 Section 2. Section 2 is enacted to read:

62 **53E-3-1202. Complaints against state board members - Filing.**

63 (1) Two or more registered voters residing in Utah or two or more members of the State Board of Education may file an ethics complaint against a board member for conduct they believe violates the code of conduct and ethical rules established under Section 53E-3-1201.

67 (2) The individuals described in Subsection (1) shall file the complaint in writing with the independent review commission established under Section 53E-3-1203 and shall contain:

69 (a) the name and position of the board member alleged to be in violation;

70 (b) the name, address, and telephone number of each individual filing the complaint;

71 (c) a description of each alleged violation, including references to the specific provisions of statute, rule, or the code of conduct alleged to be violated;

73 (d) evidence or sworn testimony supporting the allegations;

74 (e) a list of witnesses; and

75 (f) a statement that those filing believe the complaint is made in good faith and that the allegations are true and accurate to the best of their knowledge.

77 (3) The independent review commission shall keep complaints confidential until the commission submits findings, factual reports, or recommendations on the complaint to the state board.

80 Section 3. Section 3 is enacted to read:

81 **53E-3-1203. Review of ethics complaints by an independent review commission.**

82 (1) The state board shall appoint an independent review commission to review ethics complaints against board members.

84 (2) The independent review commission shall consist of the following five members, each of whom is registered to vote in this state:

86 (a) two members, who have served as judges of a court of record in this state, each of whom the board leadership shall appoint and the state board shall approve by a majority vote;

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- (b) two members, who have served as a member of the state board within the last four years before the date of appointment, each of whom the board leadership shall appoint and the state board shall approve by a majority vote; and
- 92 (c) one member, who has served as a superintendent or charter school director no more recently than two years from the date of appointment, whom the board leadership shall appoint and the state board shall approve by a majority vote.
- 95 (3) A member of the commission may not, during the member's term of office on the commission, act or serve as:
- 97 (a) an officeholder as defined in Section 20A-11-101;
- 98 (b) an agency head as defined in Section 67-16-3;
- 99 (c) a lobbyist as defined in Section 36-11-102; or
- 100 (d) a principal as defined in Section 36-11-102.
- 101 (4) The independent review commission shall:
- 102 (a) review ethics complaints filed against board members to determine if the complaint states allegations which if true would constitute a violation of:
- 104 (i) statute;
- 105 (ii) administrative rule; or
- 106 (iii) the code of conduct and ethical rules described in Section 53E-3-1201;
- 107 (b) dismiss complaints that fail to state a violation or are largely frivolous in nature;
- 108 (c) for complaints stating a viable claim, conduct an investigation to determine if evidence exists to support the allegations, affording the accused board member due process including an opportunity to respond to the allegations;
- 111 (d) submit a factual report on each complaint, together with a recommendation for action or dismissal, to the state board; and
- 113 (e) maintain the rules of procedure for handling complaints, incorporating standards of evidence, due process, and confidentiality provisions.
- 115 Section 4. Section 4 is enacted to read:
- 116 **53E-3-1204. Action by the State Board of Education on independent review commission recommendations.**
- 118 (1) Upon receipt of a factual report and recommendation from the independent review commission, the state board shall place the matter on the agenda for action at the earliest possible meeting.

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- 121 (2) The state board shall provide the accused member an opportunity to respond in person or in writing
122 before taking action.
- 123 (3) Based on the report and recommendation and any response from the accused member, the state
124 board may:
- 125 (a) dismiss the complaint if the state board determines the allegations are unproven or insubstantial;
126 (b) issue a written reprimand if the state board determines the member committed a violation of statute,
127 rule, or the code of conduct; or
- 128 (c) remove the member from any board leadership positions or subcommittee assignments.
- 129 (4) The state board shall maintain a record of any actions taken, which shall be classified as a public
130 record.

55 Section 2. Section 63G-2-302 is amended to read:

56 **63G-2-302. Private records.**

- 57 (1) The following records are private:
- 58 (a) records concerning an individual's eligibility for unemployment insurance benefits, social services,
59 welfare benefits, or the determination of benefit levels;
- 60 (b) records containing data on individuals describing medical history, diagnosis, condition, treatment,
61 evaluation, or similar medical data;
- 62 (c) records of publicly funded libraries that when examined alone or with other records identify a
63 patron;
- 64 (d) records received by or generated by or for:
- 65 (i) the Independent Legislative Ethics Commission, except for:
- 66 (A) the commission's summary data report that is required under legislative rule; and
67 (B) any other document that is classified as public under legislative rule; or
- 68 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record
69 is classified as public under legislative rule;
- 70 (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission,
71 except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch
72 Ethics Complaints;
- 73 (f) records received or generated for a Senate confirmation committee concerning character,
74 professional competence, or physical or mental health of an individual:
- 75 (i) if, prior to the meeting, the chair of the committee determines release of the records:
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- 78 (A) reasonably could be expected to interfere with the investigation undertaken by the committee; or
80 (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and
82 (ii) after the meeting, if the meeting was closed to the public;
- 83 (g) employment records concerning a current or former employee of, or applicant for employment with,
a governmental entity that would disclose that individual's home address, home telephone number,
social security number, insurance coverage, marital status, or payroll deductions;
- 87 (h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as
private according to the requirements of that section;
- 89 (i) that part of a record indicating a person's social security number or federal employer identification
number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302,
61-1-4, or 61-2f-203;
- 92 (j) that part of a voter registration record identifying a voter's:
- 93 (i) driver license or identification card number;
- 94 (ii) social security number, or last four digits of the social security number;
- 95 (iii) email address;
- 96 (iv) date of birth; or
- 97 (v) phone number;
- 98 (k) a voter registration record that is classified as a private record by the lieutenant governor or a county
clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);
- 101 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 102 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification
submitted in support of the form;
- 104 (n) a record that:
- 105 (i) contains information about an individual;
- 106 (ii) is voluntarily provided by the individual; and
- 107 (iii) goes into an electronic database that:
- 108 (A) is designated by and administered under the authority of the Chief Information Officer; and
- 110 (B) acts as a repository of information about the individual that can be electronically retrieved and used
to facilitate the individual's online interaction with a state agency;
- 113 (o) information provided to the Commissioner of Insurance under:
- 114 (i) Subsection 31A-23a-115(3)(a);

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- 115 (ii) Subsection 31A-23a-302(4); or
116 (iii) Subsection 31A-26-210(4);
117 (p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal
Background Checks by Political Subdivisions Operating Water Systems;
119 (q) information provided by an offender that is:
120 (i) required by the registration requirements of Title 77, Chapter 41, Sex, Kidnap, and Child Abuse
Offender Registry; and
122 (ii) not required to be made available to the public under Subsection 77-41-110(4);
123 (r) a statement and any supporting documentation filed with the attorney general in accordance with
Section 34-45-107, if the federal law or action supporting the filing involves homeland security;
126 (s) electronic toll collection customer account information received or collected under Section 72-6-118
and customer information described in Section 17B-2a-815 received or collected by a public transit
district, including contact and payment information and customer travel data;
130 (t) an email address provided by a military or overseas voter under Section 20A-16-501;
131 (u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16,
Uniform Military and Overseas Voters Act;
133 (v) records received by or generated by or for the Political Subdivisions Ethics Review Commission
established in Section 63A-15-201, except for:
135 (i) the commission's summary data report that is required in Section 63A-15-202; and
136 (ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political
Subdivisions Ethics Review Commission;
138 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or
threat;
140 (x) a criminal background check or credit history report conducted in accordance with Section
63A-3-201;
142 (y) a record described in Subsection 53-5a-104(7);
143 (z) on a record maintained by a county for the purpose of administering property taxes, an individual's:
145 (i) email address;
146 (ii) phone number; or
147 (iii) personal financial information related to a person's payment method;
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- (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:
- 150 (i) Title 59, Chapter 2, Part 11, Exemptions;
- 151 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 152 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 153 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;
- 154 (bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);
- 156 (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); and
- 158 (dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004;
- 160 (ee) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109; [~~and~~]
- 163 (ff) a record including confidential information as that term is defined in Section 67-27-105[-] ; and
- 165 (gg) a record of an ethics violation as described in Section 53E-3-1201.
- 166 (2) The following records are private if properly classified by a governmental entity:
- 167 (a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);
- 172 (b) records describing an individual's finances, except that the following are public:
- 173 (i) records described in Subsection 63G-2-301(2);
- 174 (ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or
- 176 (iii) records that must be disclosed in accordance with another statute;
- 177 (c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;
- 179 (d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;
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- (e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;
- 185 (f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
- 189 (g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:
- 192 (i) depict the commission of an alleged crime;
- 193 (ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
- 195 (iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
- 197 (iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or
- 199 (v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.
- 201 (3)
- (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.
- 203 (b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:
- 206 (i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or
- 208 (ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.
- 210 (c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

213 Section 3. **Effective date.**

This bill takes effect on {~~July 1,~~ May 7, 2025.

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