



31 **53E-3-1309**, Utah Code Annotated 1953  
 32 **53E-3-1310**, Utah Code Annotated 1953  
 33 **53E-3-1311**, Utah Code Annotated 1953  
 34 **53E-3-1312**, Utah Code Annotated 1953  
 35 **53E-3-1313**, Utah Code Annotated 1953  
 36 **53E-3-1314**, Utah Code Annotated 1953  
 37 **53E-3-1315**, Utah Code Annotated 1953  
 38 **53E-3-1316**, Utah Code Annotated 1953  
 39 **53E-3-1317**, Utah Code Annotated 1953  
 40 **53E-3-1318**, Utah Code Annotated 1953  
 41 **53E-3-1319**, Utah Code Annotated 1953

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

44 Section 1. Section **53E-3-1301** is enacted to read:

45 **Part 13. State Board Member Ethics and Adjudication of Ethics Complaints**

46 **53E-3-1301 . General provisions -- Definitions.**

- 47 (1) The State Board of Education consists of individuals who serve part-time and must  
 48 necessarily earn their living in other jobs and professions.
- 49 (2) It is necessary to reconcile the functions of board members who have private interests  
 50 with the maintenance of high ethical standards and public confidence.
- 51 (3) In seeking to balance these interests, it is necessary to avoid controls that might be so  
 52 strict that they discourage capable and honorable persons from seeking election to the  
 53 board.
- 54 (4) It is recognized that public confidence in the board should be promoted and that  
 55 competent members should serve on the board even though most have private interests  
 56 of various types.
- 57 (5) It is also recognized that an elected board member is in a different position in doing  
 58 business with the state and its political subdivisions than a public servant whose chief  
 59 source of livelihood is derived from public funds.
- 60 (6) As used in this part:
- 61 (a) "Board" means the State Board of Education.
- 62 (b) "Board leadership" means the chair and vice chair of the State Board of Education.
- 63 (c) "Board member" means an individual who is elected to serve as a member of the  
 64 State Board of Education.

- 65 (d) "Commission" means the independent ethics commission established under Section  
66 53E-3-1303.
- 67 (e) "Complainant" means an individual who files an ethics complaint under this part.
- 68 (f) "Complaint" means an ethics complaint filed under Section 53E-3-1305.
- 69 (g) "Conflict of interest" means the same as that term is defined in Section 20A-11-1602.
- 70 (h) "Final decision or order" means a decision or order that determines the rights of the  
71 parties and concerns which appellate remedies have been exhausted or that the time  
72 for appeal has expired.
- 73 (i) "Person" includes an individual, a partnership, an association, an organization, a  
74 company, and a body politic and corporate, or a lobbyist, but does not include an  
75 individual or entity that provides the board member's primary source of income.
- 76 (j) "Respondent" means a board member against whom an ethics complaint is filed.

77 Section 2. Section **53E-3-1302** is enacted to read:

78 **53E-3-1302 . Code of official conduct.**

- 79 (1) Each board member shall comply with the requirements established in Subsection (2).
- 80 (2) Board members shall not engage in conduct that violates any of the following standards:
- 81 (a) a board member may not engage in any employment or other activity that would  
82 destroy or impair the board member's independence of judgment;
- 83 (b) a board member may not be paid by a person to lobby, consult, or to further the  
84 interests of any matter before the board, except that a person may pay a board  
85 member to lobby, as defined in Section 36-11-102, for the purpose of influencing  
86 federal legislative or federal executive action;
- 87 (c) a board member may not exercise any undue influence on any governmental entity,  
88 where "undue influence" means deceit or threat of violence;
- 89 (d) a board member may not engage in any activity that would be an abuse of official  
90 position or a violation of trust;
- 91 (e) a board member may not use any nonpublic information obtained by reason of the  
92 board member's official position to gain advantage over any business or professional  
93 competition for activities with the state and its political subdivisions;
- 94 (f) a board member may not engage in any business relationship or activity that would  
95 require the disclosure of confidential information obtained because of the board  
96 member's official position;
- 97 (g) a board member may not use the board member's official position to secure  
98 privileges for the board member or others;

- 99            (h) a board member shall disclose any conflict of interest on any matter before the board  
 100            as provided in Section 53E-3-1309;
- 101            (i) a board member may accept small gifts, awards, or contributions if these favors do  
 102            not influence the board member in the discharge of official duties;
- 103            (j) a board member may engage in business or professional activities with the state or it's  
 104            political subdivisions if the activities are entered into under the same conditions and  
 105            in the same manner applicable to any private citizen or company engaged in similar  
 106            activities; and
- 107            (k) a board member may enter into transactions with the state by contract by following  
 108            the procedures and requirements of Title 63G, Chapter 6a, Utah Procurement Code.
- 109    (3) A board member may not engage in conduct that:
- 110            (a) violates student privacy rights under the Family Educational Rights and Privacy Act,  
 111            20 U.S.C. Sec. 1232g, or Title 53E, Chapter 9, Student Privacy and Data Protection;
- 112            (b) constitutes discrimination, harassment, or retaliation against students, educators, or  
 113            members of the public;
- 114            (c) involves improper use of board resources for personal or political purposes; or
- 115            (d) undermines the board's constitutional and statutory responsibilities for general  
 116            supervision and control over public education.
- 117    (4) Nothing in this section shall be construed to limit a board member's freedom of speech  
 118            or ability to represent constituents' interests in board deliberations.
- 119    (5) A violation of this section may result in disciplinary action as provided in Section  
 120            53E-3-1313, but only the Legislature may remove an elected board member from office  
 121            through impeachment proceedings under Utah Constitution, Article VI, Section 19.
- 122            Section 3. Section **53E-3-1303** is enacted to read:
- 123            **53E-3-1303 . Independent ethics commission -- Membership -- Terms.**
- 124    (1) There is established an independent ethics commission to review ethics complaints  
 125            against board members.
- 126    (2) The commission consists of five persons, each of whom is registered to vote in this  
 127            state, appointed as follows:
- 128            (a) two members, who have served as judges of a court of record in this state, each of  
 129            whom the board leadership shall nominate and the board shall appoint by a majority  
 130            vote;
- 131            (b) two members, who have served as a member of the board no more recently than four  
 132            years before the date of appointment, each of whom the board leadership shall

- 133 nominate and the board shall appoint by a majority vote; and  
134 (c) one member, who has served as a school district superintendent or charter school  
135 director no more recently than two years before the date of appointment, whom the  
136 board leadership shall nominate and the board shall appoint by a majority vote.
- 137 (3) A member of the commission may not, during the member's term of office on the  
138 commission, act or serve as:
- 139 (a) an officeholder as defined in Section 20A-11-101;  
140 (b) an agency head as defined in Section 67-16-3;  
141 (c) a lobbyist as defined in Section 36-11-102; or  
142 (d) a principal as defined in Section 36-11-102.
- 143 (4)(a) Except as provided in Subsection (4)(b), each member of the commission shall  
144 serve a four-year term.
- 145 (b) When appointing the initial members upon formation of the commission, one  
146 member nominated under Subsection (2)(a) and one member nominated under  
147 Subsection (2)(b) shall be appointed to a two-year term so that approximately half of  
148 the commission is appointed every two years.
- 149 (c)(i) When a vacancy occurs in the commission's membership for any reason, a  
150 replacement member shall be appointed for the unexpired term of the vacating  
151 member using the procedures and requirements of Subsection (2).
- 152 (ii) For the purposes of this section, an appointment for an unexpired term of a  
153 vacating member is not considered a full term.
- 154 (d) A member may not be appointed to serve for more than two full terms, whether those  
155 terms are two or four years.
- 156 (e) A member of the commission may resign from the commission by giving one  
157 month's written notice of the resignation to the board chair and board leadership.
- 158 (f) The board chair shall remove a member from the commission if the member:
- 159 (i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;  
160 (ii) enters a plea of no contest or a plea in abeyance to a crime involving moral  
161 turpitude; or
- 162 (iii) fails to meet the qualifications of office as provided in this section.
- 163 (g) If a commission member is accused of wrongdoing in a complaint, or if a  
164 commission member is found, under Section 53E-3-1304, to have a conflict of  
165 interest in relation to a complaint, a temporary commission member shall be  
166 appointed to serve in that member's place for the purposes of reviewing that

167 complaint using the procedures and requirements of Subsection (2).

168 (5)(a) A member of the commission may not receive compensation or benefits for the  
 169 member's service, but may receive per diem and expenses incurred in the  
 170 performance of the member's official duties as allowed in:

171 (i) Section 63A-3-106;

172 (ii) Section 63A-3-107; and

173 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and  
 174 63A-3-107.

175 (b) A member may decline to receive per diem and expenses for the member's service.

176 (6)(a) The commission members shall convene a meeting. ~~It~~ → [annually each]  
 176a biennially in ~~the~~ January and

177 elect, by a majority vote, a commission chair from among the commission members.

178 (b) A person may not serve as chair for more than two consecutive ~~years~~ → [years]  
 178a terms ~~in~~ .

179 Section 4. Section **53E-3-1304** is enacted to read:

180 **53E-3-1304 . Motion to disqualify commission member for conflict of interest.**

181 (1) A complainant may file a motion to disqualify one or more members of the commission  
 182 from participating in proceedings relating to an ethics complaint if the individual files  
 183 the motion within 20 days after the later of:

184 (a) the day on which the individual files the ethics complaint; or

185 (b) the day on which the individual knew or should have known of the grounds upon  
 186 which the motion is based.

187 (2) A respondent may file a motion to disqualify one or more members of the commission  
 188 from participating in proceedings relating to an ethics complaint if the respondent files  
 189 the motion within 20 days after the later of:

190 (a) the day on which the respondent receives delivery of the ethics complaint; or

191 (b) the day on which the respondent knew or should have known of the grounds upon  
 192 which the motion is based.

193 (3) A motion filed under this section shall include:

194 (a) a statement that the members to whom the motion relates have a conflict of interest  
 195 that, under the circumstances, would lead a reasonable person to question the  
 196 impartiality of the members;

197 (b) a detailed description of the grounds supporting the statement described in  
 198 Subsection (3)(a); and

- 199 (c) a statement that the motion is filed in good faith, supported by an affidavit or  
200 declaration under penalty of Title 78B, Chapter 18a, Uniform Unsworn Declarations  
201 Act, stating that the motion and all accompanying statements and documents are true  
202 and correct to the best of the complainant's or respondent's knowledge.
- 203 (4) A party may not file more than one motion to disqualify, unless the second or  
204 subsequent motion:
- 205 (a) is based on grounds of which the party was not aware, and could not have been  
206 aware, at the time of the earlier motion; and
- 207 (b) is accompanied by a statement, included in the affidavit or declaration described in  
208 Subsection (3)(c), explaining how and when the party first became aware of the  
209 grounds described in Subsection (4)(a).
- 210 (5) The commission shall dismiss a motion filed under this section, with prejudice, if the  
211 motion:
- 212 (a) is not timely filed; or
- 213 (b) does not comply with the requirements of this section.
- 214 (6) A member of the commission may:
- 215 (a) on the member's own motion, disqualify the member from participating in  
216 proceedings relating to an ethics complaint if the member believes that the member  
217 has a conflict of interest that, under the circumstances, would lead a reasonable  
218 person to question the impartiality of the member; or
- 219 (b) ask the commission to disqualify another member of the commission if the member  
220 believes that the member has a conflict of interest that, under the circumstances,  
221 would lead a reasonable person to question the impartiality of the member.
- 222 (7)(a) When a party files a motion under this section, or when a commission member  
223 makes a request under Subsection (6)(b), the commission member for whom  
224 disqualification is sought may make the initial determination regarding whether the  
225 commission member has a conflict of interest.
- 226 (b) If a commission member described in Subsection (7)(a) determines that the  
227 commission member has a conflict of interest, the commission member shall  
228 disqualify the commission member from participating in the matter.
- 229 (c) If a commission member described in Subsection (7)(a) determines that the  
230 commission member does not have a conflict of interest, or declines to make the  
231 determination, the remainder of the commission shall, by majority vote, determine  
232 whether the commission member has a conflict of interest.

233 (d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the  
234 issue of a conflict of interest.

235 (8) In making a determination under Subsection (7)(c), the commission may:

236 (a) gather additional evidence;

237 (b) hear testimony; or

238 (c) request that the commission member who is the subject of the motion or request file  
239 an affidavit or declaration responding to questions posed by the commission.

240 Section 5. Section **53E-3-1305** is enacted to read:

241 **53E-3-1305 . Filing ethics complaints -- Form -- Time limitations.**

242 (1)(a) The following individuals, who shall be referred to as complainants, may file a  
243 complaint against a board member if the complaint meets the requirements of this  
244 section:

245 (i) two or more members of the board, provided that the complaint contains evidence  
246 or sworn testimony that:

247 (A) sets forth facts and circumstances supporting the alleged violation; and

248 (B) is evidence or sworn testimony of the type that would generally be admissible  
249 under the Utah Rules of Evidence; or

250 (ii) two or more registered voters currently residing within Utah, if, for each alleged  
251 violation pled in the complaint, at least one of those registered voters has personal  
252 knowledge of the facts and circumstances supporting the alleged violation.

253 (b) A complainant may file a complaint only against an individual who is serving as a  
254 board member on the date that the complaint is filed.

255 (2)(a) Complainants shall file a complaint with the chair of the commission.

256 (b) Except as provided in Subsection (2)(c), an individual may not file a complaint  
257 during the 60 calendar days immediately preceding:

258 (i) a regular primary election, if the accused board member is a candidate in the  
259 primary election; or

260 (ii) a regular general election in which the accused board member is a candidate,  
261 unless the accused board member is unopposed in the election.

262 (c) Notwithstanding Subsection (2)(b), an individual may file a complaint within the  
263 time frame provided in Subsection (2)(b) if:

264 (i) the complaint includes evidence that the subject of the complaint has been  
265 convicted of, pled guilty to, entered a plea of no contest to, or entered a plea in  
266 abeyance to a crime of moral turpitude; and

- 267           (ii) the crime of moral turpitude is one of the allegations contained in the complaint.
- 268   (3) The commission and the board are authorized to review an ethics complaint against a  
269   board member if the complaint alleges:
- 270       (a) a violation of the code of official conduct as provided in Section 53E-3-1302;  
271       (b) a conviction of, or a plea of guilty to, a crime involving moral turpitude; or  
272       (c) a plea of no contest or a plea in abeyance to a crime involving moral turpitude.
- 273   (4)(a) For an alleged violation under Subsection (3)(a), the complaint must be filed  
274   within two years of the date that the action or omission that forms the basis of the  
275   alleged violation occurred or within two years of the date that the action or omission  
276   would have been discovered by a reasonable person.
- 277       (b) For an alleged violation under Subsection (3)(b) or (c), the complaint shall be filed  
278       within two years of the date that the plea or conviction that forms the basis of the  
279       allegation was entered.
- 280   (5)(a) A complaint may not contain an allegation if that allegation and the general facts  
281   and circumstances supporting that allegation have been previously reviewed by the  
282   commission or the board unless:
- 283       (i) the allegation was previously reviewed by the commission and dismissed without  
284       being referred to the board for review;
- 285       (ii) the allegation is accompanied by material facts or circumstances supporting the  
286       allegation that were not raised or pled to the commission when the allegation was  
287       previously reviewed; and
- 288       (iii) the allegation and the general facts and circumstances supporting that allegation  
289       have only been reviewed by the commission on one previous occasion.
- 290       (b) If an allegation in the complaint does not comply with the requirements of  
291       Subsection (5)(a), the allegation shall be summarily dismissed with prejudice by the  
292       chair of the commission when reviewing the complaint under Section 53E-3-1305.
- 293   (6) The complainants shall ensure that each complaint filed under this section is in writing  
294   and contains the following information:
- 295       (a) the name and position of the board member alleged to be in violation, who shall be  
296       referred to as the respondent;
- 297       (b) the name, address, and telephone number of each individual who is filing the  
298       complaint;
- 299       (c) a description of each alleged violation, including for each alleged violation:  
300       (i) a reference to:

- 301           (A) the section of the code of conduct alleged to have been violated; or  
 302           (B) the criminal provision violated and the docket number of the case involving  
 303           the board member;
- 304           (ii) the name of the complainant or complainants who have personal knowledge of  
 305           the facts and circumstances supporting each allegation; and
- 306           (iii) the facts and circumstances supporting each allegation, which shall be provided  
 307           by:
- 308           (A) copies of official records or documentary evidence; or  
 309           (B) one or more affidavits;
- 310           (d) a list of the witnesses that the complainants wish to have called, including for each  
 311           witness:
- 312           (i) the name, address, and, if available, one or more telephone numbers of the witness;  
 313           (ii) a brief summary of the testimony to be provided by the witness; and  
 314           (iii) a specific description of any documents or evidence complainants desire the  
 315           witness to produce;
- 316           (e) a statement that each complainant:
- 317           (i) has reviewed the allegations contained in the complaint and the sworn statements  
 318           and documents attached to the complaint;
- 319           (ii) believes that the complaint is submitted in good faith and not for any improper  
 320           purpose such as for the purpose of harassing the respondent, causing unwarranted  
 321           harm to the respondent's reputation, or causing unnecessary expenditure of public  
 322           funds; and
- 323           (iii) believes the allegations contained in the complaint to be true and accurate; and
- 324           (f) the signature of each complainant.

325           Section 6. Section **53E-3-1306** is enacted to read:

326           **53E-3-1306 . Initial review of ethics complaint -- Commission staff duties --**

327           **Notice.**

- 328           (1) Within five business days after receipt of a complaint, the staff of the commission, in  
 329           consultation with the chair of the commission, shall examine the complaint to determine  
 330           if it is in compliance with Section 53E-3-1305.
- 331           (2)(a) If the chair determines that the complaint does not comply with Section  
 332           53E-3-1305, the chair shall:
- 333           (i) return the complaint to the first complainant named on the complaint with:  
 334           (A) a statement detailing the reason for the non-compliance; and

- 335           (B) a copy of the applicable provisions of this part; and  
 336           (ii) notify the board chair and board leadership that:  
 337           (A) a complaint was filed against a board member but was returned for  
 338           non-compliance; and  
 339           (B) the fact that a complaint was filed and returned shall be kept confidential.  
 340           (b) If a complaint is returned for non-compliance with the requirements of this part, the  
 341           complainants may file another complaint if the new complaint independently meets  
 342           the requirements of Section 53E-3-1305, including any requirements for timely filing.  
 343           (3) If the chair determines that the complaint complies with the requirements of Section  
 344           53E-3-1305, the chair shall:  
 345           (a) accept the complaint;  
 346           (b) notify the board chair and board leadership:  
 347           (i) that a complaint has been filed against a board member;  
 348           (ii) of the identity of the board member who is the subject of the complaint and the  
 349           identity of the person or persons filing the complaint;  
 350           (iii) of the nature of the allegations contained in the complaint; and  
 351           (iv) of the fact that a complaint was filed, the nature of the allegations raised in the  
 352           complaint, and the identity of the board member and that the complainants shall  
 353           be kept confidential until the commission publicly discloses the existence of the  
 354           complaint;  
 355           (c) notify each member of the commission that the complaint has been filed and  
 356           accepted and that the existence of and contents of the complaint and the identities of  
 357           the parties shall be kept confidential; and  
 358           (d) promptly forward the complaint to the board member who is the subject of the ethics  
 359           complaint via personal delivery or a delivery method that provides verification of  
 360           receipt, together with:  
 361           (i) notice that the existence of and contents of the complaint, and the identities of the  
 362           parties, are confidential and should not be publicly disclosed;  
 363           (ii) a copy of the applicable provisions of this part; and  
 364           (iii) notice of the board member's deadline for filing a response to the complaint.

365           Section 7. Section **53E-3-1307** is enacted to read:

366           **53E-3-1307 . Response to ethics complaint -- Filing -- Form.**

- 367           (1) The board member that is the subject of the complaint may file a response to the  
 368           complaint no later than 30 days after the day on which the board member receives

- 369 delivery of the complaint.
- 370 (2) The respondent shall file the response with the commission and shall ensure that the  
371 response is in writing and contains the following information:
- 372 (a) the name, address, and telephone number of the respondent;
- 373 (b) for each alleged violation in the complaint:
- 374 (i) each affirmative defense asserted in response to the allegation, including a general  
375 description of each affirmative defense and the facts and circumstances supporting  
376 the defense to be provided by one or more affidavits, each of which shall comply  
377 with the following format:
- 378 (A) the name, address, and telephone number of the signer;
- 379 (B) a statement that the signer has personal knowledge of the facts and  
380 circumstances alleged in the affidavit;
- 381 (C) the facts and circumstances testified to by the signer;
- 382 (D) a statement that the affidavit is believed to be true and correct and that false  
383 statements are subject to penalties of perjury; and
- 384 (E) the signature of the signer; and
- 385 (ii) the facts and circumstances refuting the allegation, which shall be provided by:
- 386 (A) copies of official records or documentary evidence; or
- 387 (B) one or more affidavits;
- 388 (c) a list of the witnesses that the respondent wishes to have called, including for each  
389 witness:
- 390 (i) the name, address, and, if available, telephone number of the witness;
- 391 (ii) a brief summary of the testimony to be provided by the witness; and
- 392 (iii) a specific description of any documents or evidence the respondent desires the  
393 witness to produce;
- 394 (d) a statement that the respondent:
- 395 (i) has reviewed the allegations contained in the complaint and the sworn statements  
396 and documents attached to the response; and
- 397 (ii) believes the contents of the response to be true and accurate; and
- 398 (e) the signature of the respondent.
- 399 (3) Promptly after receiving the response, the commission shall provide copies of the  
400 response to:
- 401 (a) each member of the commission; and
- 402 (b) the first named complainant on the complaint.

403 Section 8. Section **53E-3-1308** is enacted to read:

404 **53E-3-1308 . Privacy of ethics complaints -- Contempt -- Dismissal.**

405 (1)(a) Except as provided in Subsection (1)(b), a person, including the complainants, the  
406 respondent, commission members, commission staff, the board chair, board  
407 leadership, or board staff, may not disclose the existence of a complaint, a response,  
408 or any information concerning any alleged violation that is the subject of a complaint.

409 (b) The restrictions in Subsection (1)(a) do not apply to:

410 (i) a complaint or response that is publicly released by the commission and referred  
411 to the board for review under the procedures and requirements of Section  
412 53E-3-1310, and the allegations contained in the publicly released complaint or  
413 response;

414 (ii) the respondent's voluntary disclosure of a finding by the commission that no  
415 allegations in a complaint were proved, after that finding is issued by the  
416 commission under the procedures and requirements of Section 53E-3-1310;

417 (iii) disclosing facts or allegations about potential criminal violations to law  
418 enforcement authorities;

419 (iv) a disclosure by a respondent that is made solely for the purpose of, and only to  
420 the extent necessary for, retaining counsel or conducting an interview, seeking  
421 evidence, or taking other action to prepare to defend against a complaint;

422 (v) a communication between a commission member and the commission's attorneys  
423 or staff; or

424 (vi) a disclosure to a person that is determined necessary, by a majority vote of the  
425 commission, to conduct the duties of the commission.

426 (2) When a person makes a disclosure under Subsection (1)(b)(iv) or (vi), the person  
427 making the disclosure shall inform the person to whom the disclosure is made of the  
428 nondisclosure requirements described in this section.

429 (3) A person who violates the provisions of Subsection (1)(a) is in contempt of the  
430 Legislature and proceedings may be initiated to enforce the finding of contempt using  
431 the procedures provided in Section 36-14-5.

432 (4) If the identity of the board member who is the subject of an ethics complaint or the  
433 identity of the filer of an ethics complaint is publicly disclosed during the period that the  
434 commission is reviewing the complaint, the complaint shall be summarily dismissed  
435 without prejudice.

436 Section 9. Section **53E-3-1309** is enacted to read:

437 **53E-3-1309 . Declaring conflicts of interest.**

- 438 (1) As used in this section, "conflict of interest disclosure" means the same as that term is  
439 defined in Section 20A-11-1602.
- 440 (2) A board member shall file a conflict of interest disclosure by complying with the  
441 requirements of Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures.
- 442 (3) Board staff shall ensure that a link to a board member's conflict of interest disclosure is  
443 available to the public on the board's website.
- 444 (4) If a board member has actual knowledge that the board member has a conflict of  
445 interest that is not stated on the board member's financial disclosure form filed under  
446 Subsection (2), that board member shall, before or during a vote on any matter before  
447 the board, orally declare to the board:
- 448 (a) that the board member may have a conflict of interest; and  
449 (b) what that conflict is.
- 450 (5) A verbal declaration of a conflict of interest under Subsection (4) shall be recorded in  
451 the minutes of the meeting.
- 452 (6) The requirements of this section do not prohibit a board member from voting on any  
453 matter before the board.

454 Section 10. Section **53E-3-1310** is enacted to read:

455 **53E-3-1310 . Commission review procedures -- Investigation -- Recommendation.**

- 456 (1) By no later than 10 calendar days after the day on which the complaint is accepted  
457 under Section 53E-3-1306, the commission chair shall:
- 458 (a) schedule a commission meeting on a date no later than 60 calendar days after the  
459 date on which the chair accepts the complaint;
- 460 (b) place the complaint on the agenda for consideration at that meeting;
- 461 (c) provide notice of the date, time, and location of the meeting to:
- 462 (i) the members of the commission;
- 463 (ii) the first complainant named in the complaint; and
- 464 (iii) the respondent; and
- 465 (d) provide a copy of the complaint to each member of the commission.
- 466 (2) The scope of the commission's review is limited to the alleged violations stated in the  
467 complaint.
- 468 (3)(a) Before holding the meeting for review of the complaint, the commission chair  
469 may schedule a separate meeting of the commission for the purposes of:
- 470 (i) hearing motions or arguments from the parties, including hearing motions or

- 471 arguments relating to dismissal of a complaint, admission of evidence, or  
472 procedures;
- 473 (ii) holding a vote of the commission, with or without the attendance of the parties,  
474 on procedural or commission business matters relating to a complaint; or
- 475 (iii) reviewing a complaint, with or without the attendance of the parties, to determine  
476 if the complaint should be dismissed in whole or in part, by means of a majority  
477 vote of the commission, because it pleads facts or circumstances against a board  
478 member that have already been reviewed by the commission or the board as  
479 provided in Section 53E-3-1305.
- 480 (b) Notwithstanding Subsection (1), the commission may, by a majority vote, change the  
481 date of the meeting for review of the complaint in order to accommodate:
- 482 (i) a meeting authorized under Subsection (3)(a); or  
483 (ii) necessary scheduling requirements.
- 484 (4)(a) The commission shall comply with the Utah Rules of Evidence except where the  
485 commission determines, by majority vote, that a rule is not compatible with the  
486 requirements of this part.
- 487 (b) The chair shall make rulings on admissibility of evidence, subject to being overruled  
488 by a majority vote of the commission.
- 489 (5)(a) All meetings and hearings authorized in this section are closed to the public.
- 490 (b) The following individuals may be present during the presentation of testimony and  
491 evidence to the commission:
- 492 (i) the complainants, except that no more than three complainants may be present at  
493 one time;
- 494 (ii) complainants' counsel, if applicable;
- 495 (iii) the respondent;
- 496 (iv) the respondent's counsel, if applicable;
- 497 (v) members of the commission;
- 498 (vi) staff to the commission;
- 499 (vii) a witness, while testifying before the commission; and  
500 (viii) necessary security personnel.
- 501 (c) The complainants, respondent, and their respective counsel may be excluded from a  
502 portion of the meeting when the commission discusses administrative, procedural,  
503 legal, or evidentiary issues by:
- 504 (i) the order of the chair, subject to override by a majority vote of the commission; or

- 505           (ii) a majority vote of the commission.
- 506           (d) When the commission deliberates at the conclusion of presentation of testimony and  
507           evidence, the commission shall ensure that those deliberations are closed to all  
508           persons except for the members of the commission and commission staff.
- 509       (6) If a majority of the commission determines that a continuance is necessary to obtain  
510           further evidence and testimony, to accommodate administrative needs, or to  
511           accommodate the attendance of commission members, witnesses, or a party, the  
512           commission shall:
- 513           (a) adjourn and continue the meeting at a future date and time after notice to the parties;  
514           and
- 515           (b) establish that future date and time by majority vote.
- 516       (7)(a) Except as provided in Subsection (7)(b), an individual may not use a camera or  
517           other recording device in any meeting authorized by this section.
- 518           (b) The commission shall keep an audio or video recording of all portions of each  
519           meeting authorized by this section.
- 520       (8) In addition to the recording required in Subsection (7), the chair shall ensure that a  
521           record of the meeting is made, which shall include:
- 522           (a) official minutes taken during the meeting, if any;
- 523           (b) copies of all documents or other items admitted into evidence by the commission;
- 524           (c) copies of any documents or written orders or rulings issued by the chair or the  
525           commission; and
- 526           (d) any other information that a majority of the commission or the chair directs.
- 527       (9) Except for the recommendation prepared by the commission under Subsection (13), any  
528           recording, testimony, evidence, or other record of a meeting authorized by this section is  
529           a private record under Section 63G-2-302 and may not be disclosed.
- 530       (10) The commission shall conduct meetings and hearings in the following order:
- 531           (a) introduction and instructions for procedure and process, at the discretion of the chair;
- 532           (b) complainants' opening argument, to be presented by a complainant or complainants'  
533           counsel;
- 534           (c) complainants' presentation of evidence and witnesses in support of allegations in the  
535           complaint;
- 536           (d) consideration of motions to dismiss the complaint or motions for a directed verdict,  
537           as applicable;
- 538           (e) respondent's opening argument, to be presented by the respondent or respondent's

- 539 counsel;
- 540 (f) respondent's presentation of evidence and witnesses refuting allegations in the
- 541 complaint;
- 542 (g) presentation of rebuttal evidence and witnesses by the complainants, at the discretion
- 543 of the chair;
- 544 (h) presentation of rebuttal evidence and witnesses by the respondent, at the discretion of
- 545 the chair;
- 546 (i) complainants' closing argument, to be presented by a complainant or complainants'
- 547 counsel;
- 548 (j) respondent's closing argument, to be presented by the respondent or respondent's
- 549 counsel;
- 550 (k) deliberations by the commission; and
- 551 (l) adoption of the commission's findings and recommendation.
- 552 (11) The commission or an ethics committee may, in extraordinary circumstances, vary the
- 553 order contained in Subsection (10) by majority vote and by providing notice to the
- 554 parties.
- 555 (12)(a) After each party has presented a closing argument, the commission shall, at the
- 556 direction of the chair, begin its private deliberations:
- 557 (i) immediately after conclusion of the closing arguments; or
- 558 (ii) at a future meeting of the commission, on a date and time determined by a
- 559 majority of the members of the commission.
- 560 (b) The chair of the commission shall conduct the deliberations.
- 561 (c) Upon a motion made by a commission member, the commission may exclude
- 562 commission staff from all or a portion of the deliberations by a majority vote of the
- 563 commission.
- 564 (d)(i) During deliberations, for each allegation reviewed by the commission, each
- 565 member shall determine and cast a vote stating whether the allegation is:
- 566 (A) proven by a preponderance of the evidence; or
- 567 (B) not proven.
- 568 (ii) A verbal roll call vote shall be taken on each allegation and each member's vote
- 569 shall be recorded.
- 570 (e)(i) A count is not considered to be proven unless four of the five members of the
- 571 commission vote that the count is proven.
- 572 (ii) A count that is not considered to be proven is dismissed.

- 573           (f)(i) Before the commission issues its recommendation under Subsection (13), the  
574           commission may, upon a majority vote, reconsider and hold a new vote on an  
575           allegation.
- 576           (ii) A motion to reconsider a vote may only be made by a member of the commission  
577           who voted that the allegation was not proved.
- 578   (13)(a) If the commission determines that no allegations in the complaint were proved,  
579   the commission shall:
- 580           (i) issue and enter into the record an order that the complaint is dismissed because no  
581           allegations in the complaint were found to have been proved;
- 582           (ii) classify all recordings, testimony, evidence, orders, findings, and other records  
583           directly relating to the meetings authorized by this section as private records under  
584           Section 63G-2-302;
- 585           (iii) provide notice of the determination, in a manner determined by a majority vote  
586           of the commission, to:
- 587                   (A) the respondent; and
- 588                   (B) the first complainant named on the complaint; and
- 589           (iv) provide notice to each person named in Subsection (13)(a)(iii) that a person who  
590           discloses the findings of the commission in violation of any provision of this part  
591           is in contempt and is subject to penalties for contempt.
- 592   (b) If the commission determines that one or more of the allegations in the complaint  
593   were proved, the commission shall:
- 594           (i) if one or more allegations were not found to have been proven, enter into the  
595           record an order dismissing those unproven allegations;
- 596           (ii) prepare a written recommendation to the board that:
- 597                   (A) lists the name of each complainant;
- 598                   (B) lists the name of the respondent;
- 599                   (C) states the date of the recommendation;
- 600                   (D) for each allegation found to be proven, the information described in  
601                   Subsection (13)(b)(iii);
- 602                   (E) contains any general statement that is adopted for inclusion in the  
603                   recommendation by a majority of the members of the commission;
- 604                   (F) contains a statement referring the allegations found to have been proved to the  
605                   board for review and appropriate disciplinary action;
- 606                   (G) states the name of each member of the commission; and

- 607           (H) is signed by each commission member;
- 608           (iii) prepare a written recommendation to the board for each allegation described in
- 609           Subsection (13)(b)(ii)(D) that:
- 610           (A) provides a reference to the code of conduct provision or criminal provision
- 611           allegedly violated;
- 612           (B) states the number and names of commission members voting that the
- 613           allegation was proved and the number and names of commission members
- 614           voting that the allegation was not proved;
- 615           (C) at the option of those members voting that the allegation was proved, includes
- 616           a statement by one or all of those members stating the reasons for voting that
- 617           the allegation was proved, provided that the statement does not cite specific
- 618           evidence, specific testimony, or specific witnesses; and
- 619           (D) at the option of those members voting that the allegation was not proved,
- 620           includes a statement by one or all of those members stating the reasons for
- 621           voting that the allegation was not proved, provided that the statement does not
- 622           cite specific evidence, specific testimony, or specific witnesses;
- 623           (iv) direct staff to publicly release the recommendation, the complaint, and the
- 624           response, subject to the redaction of any allegations that were dismissed by the
- 625           commission; and
- 626           (v) classify all other recordings, testimony, evidence, orders, findings, and other
- 627           records directly relating to the meetings authorized by this section as private
- 628           records under Section 63G-2-302.
- 629           (14) The commission shall ensure that a copy of the recommendation is made publicly
- 630           available and promptly provided to:
- 631           (a) the respondent, together with notice that the respondent may amend the respondent's
- 632           witness list;
- 633           (b) the first complainant named on the complaint, together with notice that the
- 634           complainants may amend their witness list; and
- 635           (c) the board chair and board leadership.
- 636           (15) The commission shall ensure that, within five business days of the date of issuance of
- 637           the recommendation:
- 638           (a) the complaint and the response are redacted to remove references to those allegations
- 639           found not to have been proven by the commission, if one or more allegations were
- 640           found not to have been proven; and

- 641 (b) the following documents are made publicly available and are provided to the board  
642 chair and board leadership:
- 643 (i) a cover letter referring the allegations contained in the edited complaint to the  
644 board for the board's review;
- 645 (ii) a copy of the edited complaint;
- 646 (iii) a copy of the edited response; and
- 647 (iv) a copy of the recommendation.
- 648 (16) The complainant and respondent may file with the board, within 10 days of the date of  
649 issuance of the commission's recommendation, an amended list of witnesses and  
650 evidence that they wish to have subpoenaed by the board.
- 651 Section 11. Section **53E-3-1311** is enacted to read:
- 652 **53E-3-1311 . Subpoena powers -- Contempt.**
- 653 (1) For all proceedings authorized by this part, the commission may issue a subpoena to:
- 654 (a) require the attendance of a witness;
- 655 (b) direct the production of evidence; or
- 656 (c) require both the attendance of a witness and the production of evidence.
- 657 (2) The commission shall issue a subpoena under this section:
- 658 (a) at the direction of the commission chair, if the chair determines that the testimony or  
659 evidence is relevant to the review of a complaint; or
- 660 (b) upon a vote of a majority of the commission members.
- 661 (3)(a) The chair shall ensure that each witness listed in the complaint and response is  
662 subpoenaed for appearance at the hearing unless:
- 663 (i) the witness is unable to be properly identified or located; or
- 664 (ii) service is otherwise determined to be impracticable.
- 665 (b) The chair shall determine the scheduling and order of witnesses and presentation of  
666 evidence.
- 667 (c) The commission may, by majority vote:
- 668 (i) override the chair's decision not to subpoena a witness under Subsection (3)(a);
- 669 (ii) modify the chair's determination on the scheduling and order of witnesses under  
670 Subsection (3)(b);
- 671 (iii) decline to hear or call a witness that has been requested by the complainant or  
672 respondent;
- 673 (iv) decline to review or consider evidence submitted in relation to an ethics  
674 complaint; or

- 675           (v) request and subpoena witnesses or evidence.
- 676   (4)(a) Each witness shall testify under oath.
- 677           (b) The chair or the chair's designee shall administer the oath to each witness.
- 678   (5) After the oath has been administered to the witness, the chair shall direct testimony as  
679 follows:
- 680           (a) allow the party that has called the witness, or that party's counsel, to question the  
681 witness;
- 682           (b) allow the opposing party, or that party's counsel, to cross-examine the witness;
- 683           (c) allow additional questioning by a party or a party's counsel as appropriate;
- 684           (d) give commission members the opportunity to question the witness; and
- 685           (e) as appropriate, allow further examination of the witness by the commission, or the  
686 parties or their counsel.
- 687   (6)(a) If the witness, a party, or a party's counsel objects to a question, the chair shall:
- 688           (i) direct the witness to answer; or
- 689           (ii) rule that the witness is not required to answer the question.
- 690           (b) If the witness declines to answer a question after the chair or a majority of the  
691 commission determines that the witness is required to answer the question, the  
692 witness may be held in contempt as provided in Subsection (8).
- 693   (7)(a) The chair or a majority of the members of the commission may direct a witness to  
694 furnish any relevant evidence for consideration if the witness has brought the  
695 material voluntarily or has been required to bring it by subpoena.
- 696           (b) If the witness declines to provide evidence in response to a subpoena, the witness  
697 may be held in contempt as provided in Subsection (8).
- 698   (8)(a) The following actions constitute contempt in relation to actions and proceedings  
699 under this part:
- 700           (i) disobedience to a direction of the commission chair;
- 701           (ii) failure to answer a question during a hearing when directed to do so by:
- 702                   (A) the commission chair, unless the direction is overridden by the commission; or
- 703                   (B) a majority of the commission;
- 704           (iii) failure to comply with a subpoena or other order issued under authority of this  
705 part;
- 706           (iv) violation of privacy provisions established by Section 53E-3-1308;
- 707           (v) violation of the communication provisions established by Section 53E-3-1312; or
- 708           (vi) any other ground that is specified in statute or recognized as common law.

- 709 (b) Because the purpose of the privilege granted by the Fifth Amendment to the United  
710 States Constitution is not to incriminate oneself is to prevent prosecution for criminal  
711 action, it is improper for a witness to invoke this privilege if the witness cannot be  
712 prosecuted for the crime to which the witness's testimony relates.
- 713 (c) The commission chair, subject to override by a majority vote of the commission, or  
714 members of the commission by means of a majority vote may authorize an  
715 enforcement action against a person in contempt.
- 716 (d) In initiating and pursuing an action against an individual for contempt, the plaintiff  
717 shall comply with the procedures and requirements of Section 36-14-5.

718 Section 12. Section **53E-3-1312** is enacted to read:

719 **53E-3-1312 . Communications of commission members.**

- 720 (1) As used in this section, "third party" means a person who is not a member of the  
721 commission or staff to the commission.
- 722 (2) While a complaint is under review by the commission, a member of the commission  
723 may not initiate or consider any communications concerning the complaint with a third  
724 party unless:
- 725 (a) the communication is expressly permitted under the procedures established by this  
726 part; or
- 727 (b) the communication is made by the third party, in writing, simultaneously to:
- 728 (i) all members of the commission; and
- 729 (ii) a staff member of the commission.
- 730 (3) While the commission is reviewing a complaint under this part, a commission member  
731 may communicate outside of the meetings, hearing, or deliberations with another  
732 member of, or staff to, the commission, only if the member's communication does not  
733 materially compromise the member's responsibility to independently review and make  
734 decisions in relation to the complaint.

735 Section 13. Section **53E-3-1313** is enacted to read:

736 **53E-3-1313 . Board review and action on commission recommendation.**

- 737 (1) Within five calendar days of the date that the board chair receives the commission's  
738 recommendation as provided under Section 53E-3-1310, the board chair and board  
739 leadership shall:
- 740 (a) schedule a board meeting to review the complaint on a date no later than 30 days  
741 after the day on which the board receives the recommendation; and
- 742 (b) place the ethics complaint on the agenda for consideration at that meeting.

- 743 (2) The scope of the board's review is limited to the alleged violations found to have been  
744 proven by the commission, as pled in the edited complaint and the edited response  
745 provided by the commission.
- 746 (3)(a) Before holding the meeting for review of the complaint as scheduled in  
747 Subsection (1), the board chair may schedule a separate meeting of the board to:
- 748 (i) hear motions or arguments from the parties, including hearing motions or  
749 arguments relating to dismissal of a complaint, admission of evidence, or  
750 procedures; or
- 751 (ii) hold a vote of the board, with or without the attendance of the parties, on  
752 procedural or board business matters relating to a complaint.
- 753 (b) Notwithstanding Subsection (1), the board may, by a majority vote, change the date  
754 of the meeting scheduled in Subsection (1) in order to accommodate:
- 755 (i) a meeting authorized under Subsection (3)(a); or  
756 (ii) necessary scheduling requirements.
- 757 (4)(a) The board shall comply with the Utah Rules of Evidence, except where the board  
758 determines, by majority vote, that a rule is not compatible with the requirements of  
759 this part.
- 760 (b) The board chair shall make rulings on admissibility of evidence, subject to being  
761 overruled by a majority vote of the board.
- 762 (5)(a) A meeting or hearing held under this section:
- 763 (i) is subject to the requirements of Title 52, Chapter 4, Open and Public Meetings  
764 Act; and
- 765 (ii) may be closed by a majority vote of the board, held in the public portion of the  
766 meeting, for:
- 767 (A) any purpose permitted under Section 52-4-205;  
768 (B) the purpose of discussing legal, evidentiary, or procedural matters with the  
769 board or staff; or  
770 (C) deliberations, as provided in Subsection (9).
- 771 (b) Only board members, board staff, and necessary security personnel may attend a  
772 closed meeting.
- 773 (6)(a) Except as provided in Subsection (6)(b), an individual may not use a camera or  
774 other recording device in any meeting authorized by this section.
- 775 (b) The board shall keep an audio or video recording of all portions of each meeting  
776 authorized by this section.

- 777 (7) In addition to the recording required in Subsection (6), the board chair shall ensure that  
778 a record of each meeting is made, which shall include:
- 779 (a) official minutes taken during the meeting, if any;
  - 780 (b) copies of all documents or other items admitted into evidence;
  - 781 (c) copies of any documents, written orders, or written rulings issued by the board chair  
782 or the board; and
  - 783 (d) any other information that a majority of the board or the board chair directs.
- 784 (8)(a) Except as provided in Subsection (8)(b), all recordings, testimony, evidence, and  
785 other records of meetings and hearings authorized by this section are public records.
- 786 (b) All recordings, minutes, and other records produced during a closed meeting  
787 authorized under this section are classified as private records under Section  
788 63G-2-302.
- 789 (9)(a) After each party has presented a closing argument, the board shall deliberate in a  
790 closed meeting:
- 791 (i) immediately after conclusion of the closing arguments; or
  - 792 (ii) at a future meeting of the board, on a date and time determined by a majority of  
793 the members of the board.
  - 794 (b) The board chair shall conduct the deliberations.
  - 795 (c) During the deliberations, board members may:
- 796 (i) discuss evidence and testimony;
  - 797 (ii) discuss and debate whether an allegation was proven or not proven;
  - 798 (iii) discuss and debate what actions should be taken or not taken against the  
799 respondent in relation to each allegation;
  - 800 (iv) discuss and debate any other matter related to the allegations in the complaint  
801 that is before the board; and
  - 802 (v) conduct, at the call of the chair or a majority of the members of the board, a  
803 non-binding straw poll on any matter related to the complaint.
  - 804 (d) Deliberations shall continue until they are concluded or continued to another date  
805 and time:
- 806 (i) at the direction of the chair, subject to override by a majority vote of the board; or
  - 807 (ii) upon a motion approved by a majority of the board members.
- 808 (10) After conclusion of the deliberations, the board shall meet in public and, for each  
809 allegation reviewed by the board, vote on whether the allegation is:
- 810 (a) proven by clear and convincing evidence; or

- 811 (b) not proven.
- 812 (11)(a) Votes shall be taken by verbal roll call and each member's vote shall be recorded.
- 813 (b) A count is not considered to be proven unless a majority of the board votes that the
- 814 count is proven.
- 815 (c) A count that is not voted as "proven" by a majority of the members of the board is
- 816 dismissed.
- 817 (12) The board, by a motion approved by a majority of the board, may reconsider and hold
- 818 a new vote provided that:
- 819 (a) a motion to reconsider a vote on whether an allegation was proven or not proven may
- 820 only be made by a member of the board who voted that the allegation was not
- 821 proven; and
- 822 (b) a motion to reconsider a vote recommending an action against the respondent may
- 823 only be made by a member of the board who voted against the recommendation.
- 824 (13) The board may close the meeting for the purposes of further deliberations:
- 825 (a) at the direction of the chair, subject to being overruled by the board; or
- 826 (b) upon a motion approved by a majority of the members of the board.
- 827 (14) For any count that has been voted as proven, the board shall, by a motion approved by
- 828 a majority of the members of the board, take one or more of the following actions:
- 829 (a) issue a public censure;
- 830 (b) issue a written reprimand;
- 831 (c) remove the board member from any board leadership positions;
- 832 (d) deny or limit any non-constitutional right, power, or privilege of the respondent that
- 833 the board has authority to grant or restrict, if the violation bears upon the exercise of
- 834 that right, power, or privilege;
- 835 (e) recommend to the Legislature that impeachment proceedings be initiated under Utah
- 836 Constitution, Article VI, Section 19, if the board finds by a two-thirds vote that:
- 837 (i) the violation constitutes high crimes, misdemeanors, or malfeasance in office; and
- 838 (ii) the seriousness of the violation warrants removal from office; or
- 839 (f) refer the matter to appropriate authorities, including:
- 840 (i) the attorney general, if there is evidence of criminal conduct;
- 841 (ii) law enforcement, if there is evidence of criminal conduct;
- 842 (iii) the lieutenant governor's office, if there are election law violations; or
- 843 (iv) other appropriate regulatory or oversight bodies.
- 844 (15) If the board votes in accordance with Subsection (14)(e) to recommend impeachment

- 845 proceedings, the board shall:
- 846 (a) prepare a formal written recommendation to the speaker of the House of  
847 Representatives and the president of the Senate that includes:
- 848 (i) the name of the board member;  
849 (ii) a detailed statement of the proven violations;  
850 (iii) the factual basis supporting the violations;  
851 (iv) the board's findings regarding why the violations constitute grounds for  
852 impeachment;  
853 (v) copies of all relevant public records from the proceedings; and  
854 (vi) the vote count and names of board members voting for and against the  
855 recommendation;
- 856 (b) make the recommendation publicly available; and  
857 (c) provide a copy to the respondent.
- 858 (16) A recommendation for impeachment under Subsection (15) does not preclude the  
859 board from also taking other disciplinary actions authorized under Subsection (14).
- 860 (17) Nothing in this section authorizes the board to remove an elected board member from  
861 office, such authority being reserved exclusively to the Legislature through  
862 impeachment proceedings as provided in Utah Constitution, Article VI, Sections 17  
863 through 21.
- 864 (18) The board shall make a copy of the finding and the order shall be made publicly  
865 available.
- 866 (19) The board shall provide a written copy of the finding and order to:
- 867 (a) the respondent;  
868 (b) the first complainant named on the complaint; and  
869 (c) the board chair and board leadership.
- 870 (20) The board shall maintain a record of any actions taken, which shall be classified as a  
871 public record.
- 872 Section 14. Section **53E-3-1314** is enacted to read:
- 873 **53E-3-1314 . Attorney fees and costs.**
- 874 (1) A person filing a complaint under this part:
- 875 (a) may, but is not required to, retain legal representation during the complaint review  
876 process; and  
877 (b) is responsible for payment of complainants' attorney fees and costs incurred.
- 878 (2)(a) A board member against whom a complaint is filed under this part:

879 (i) may, but is not required to, retain legal representation during the complaint review  
 880 process; and

881 (ii) is responsible for that board member's own attorney fees and costs involved,  
 882 except as provided in Subsection (2)(b).

883 (b) The board shall pay the reasonable attorney fees and costs incurred by a board  
 884 member against whom a complaint is filed under this part if:

885 (i) the commission declines to recommend that any allegation in the complaint be  
 886 reviewed by the board; or

887 (ii) the board determines that none of the allegations in the complaint that were  
 888 recommended for review by the commission have been proved.

889 (3)(a) An attorney participating in a hearing before the commission or the board shall  
 890 comply with:

891 (i) the Rules of Professional Conduct established by the Utah Supreme Court;

892 (ii) the procedures and requirements of this part; and

893 (iii) the directions of the chairs, commission, and board.

894 (b) Violations of Subsection (3)(a) may constitute:

895 (i) contempt, subject to enforcement as provided in Section 53E-3-1311; or

896 (ii) a violation of the Rules of Professional Conduct subject to enforcement by the  
 897 Utah State Bar.

898 Section 15. Section **53E-3-1315** is enacted to read:

899 **53E-3-1315 . Ethics training course.**

900 (1) The board, in consultation with the attorney general's office, shall develop and maintain  
 901 an ethics training course for board members.

902 (2) The ethics training course shall include training materials and exercises that are  
 903 available on the internet to board members and to the public.

904 (3) The ethics training course shall be designed to assist board members in understanding  
 905 and complying with current ethical requirements under state law, board rules, and  
 906 federal law.

907 (4) The ethics training course shall include provisions for verifying when a board member  
 908 has successfully completed key training exercises.

909 (5) A board member shall successfully complete the key training exercises of the ethics  
 910 training course once each year.

911 Section 16. Section **53E-3-1316** is enacted to read:

912 **53E-3-1316 . Communications with the judiciary.**

- 913 (1) As used in this section, "final decision or order" means a decision or order that  
914 determines the rights of the parties and concerns which appellate remedies have been  
915 exhausted or that the time for appeal has expired.
- 916 (2)(a) A board member may not communicate, either verbally or in writing, with a judge  
917 in reference to a particular judicial case or proceeding until a final decision or order  
918 has been made on the matter.
- 919 (b) Inquiries to the judiciary that are merely technical or logistical in nature should be  
920 made with the Administrative Office of the Courts or a clerk of the court.
- 921 (c) The restrictions in this section shall not apply to a communication that a board  
922 member makes with the judiciary in the normal course of the board member's private  
923 employment, provided that the board member does not use his or her status as a  
924 board member in an attempt to unduly influence the judiciary.

925 Section 17. Section **53E-3-1317** is enacted to read:

926 **53E-3-1317 . Jurisdiction and dismissal.**

- 927 (1) The commission and the board have jurisdiction only over an individual who is  
928 currently serving on the board.
- 929 (2) The commission and the board shall dismiss an ethics complaint if the respondent board  
930 member resigns from the board.

931 Section 18. Section **53E-3-1318** is enacted to read:

932 **53E-3-1318 . Impeachment proceedings -- Cooperation with Legislature.**

- 933 (1) If the board recommends impeachment proceedings under Section 53E-3-1313, the  
934 board shall:
- 935 (a) designate legal counsel to communicate with the Legislature regarding the  
936 recommendation;
- 937 (b) make available all public records from the ethics proceedings;
- 938 (c) authorize commission members and board members to testify before the Legislature  
939 if requested; and
- 940 (d) provide any additional information or assistance reasonably requested by the  
941 Legislature.
- 942 (2) If the House of Representatives votes to impeach a board member, or the Senate  
943 conducts an impeachment trial, all confidentiality provisions in this part are suspended  
944 to the extent necessary to provide the Legislature with access to relevant information,  
945 provided that:
- 946 (a) the Legislature shall maintain appropriate confidentiality for materials classified as

- 947           private records under Section 63G-2-302; and  
948           (b) the respondent's due process rights are protected.  
949    (3) During any impeachment proceedings, the board may suspend the board member from:  
950           (a) board leadership positions;  
951           (b) committee assignments; and  
952           (c) other discretionary appointments or assignments, but may not prevent the board  
953           member from attending meetings, participating in debate, or casting votes unless  
954           ordered by a court of competent jurisdiction.  
955    (4) If a board member is impeached by the House of Representatives but not yet tried by the  
956           Senate, the board may request that the Senate expedite proceedings.  
957    (5) This section does not limit the Legislature's constitutional authority to establish it's own  
958           procedures for impeachment proceedings.

959           Section 19. Section **53E-3-1319** is enacted to read:

960           **53E-3-1319 . Constitutional limitations on removal.**

- 961    (1) This part does not authorize the board or the commission to remove an elected board  
962           member from office.  
963    (2) Removal of an elected board member may only occur through:  
964           (a) impeachment by the Legislature as provided in Utah Constitution, Article VI, Section  
965           19; or  
966           (b) operation of law based on criminal conviction or other disqualifying events as  
967           provided by statute or the Utah Constitution.  
968    (3) The disciplinary actions authorized in this part are limited to those within the board's  
969           authority and do not include removal from elected office.  
970    (4) If uncertainty exists about whether a proposed disciplinary action would constitute  
971           removal from office or otherwise exceed the board's constitutional authority, the board  
972           shall:  
973           (a) seek an advisory opinion from the attorney general; or  
974           (b) seek declaratory judgment from a court of competent jurisdiction before taking such  
975           action.

976           Section 20. **Effective Date.**

977           This bill takes effect on May 6, 2026.