

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
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42
 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; ~~§~~ → **and**
 172 ~~[(ii) Section 63A-3-107; and]~~
 173 ~~[(iii) (ii) ← ~~§~~~~ rules made by the Division of Finance according to Sections
 173a 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 ~~ñ~~ → **[annually each]**
 176a **biennially in** ← ~~ñ~~ 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 ~~ñ~~ → **[years]**
 178a **terms** ← ~~ñ~~ .
- 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) overrule 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.