

Part 4 Licensing and Background Checks

53A-6-401 Background checks.

In accordance with Section 53A-15-1504, the State Board of Education shall require a license applicant to submit to a criminal background check and ongoing monitoring as a condition for licensing.

Repealed and Re-enacted by Chapter 389, 2015 General Session

53A-6-402 Board-required licensing or employment recommendations -- Local public school-required licensing recommendations -- Notice requirements for affected parties -- Exemption from liability.

- (1)
 - (a) The board shall provide the appropriate administrator of a public or private school or of an agency outside the state that is responsible for licensing or certifying educational personnel with a recommendation or other information possessed by the board that has significance in evaluating the employment or license of:
 - (i) a current or prospective school employee;
 - (ii) an educator or education license holder; or
 - (iii) a license applicant.
 - (b) Information supplied under Subsection (1)(a) shall include:
 - (i) the complete record of a hearing; and
 - (ii) the investigative report for matters that:
 - (A) the educator has had an opportunity to contest; and
 - (B) did not proceed to a hearing.
- (2) At the request of the board, an administrator of a public school or school district shall, and an administrator of a private school may, provide the board with a recommendation or other information possessed by the school or school district that has significance in evaluating the:
 - (a) license of an educator or education license holder; or
 - (b) potential licensure of a license applicant.
- (3) If the board decides to deny licensure or to take action against an educator's license based upon information provided under this section, the board shall:
 - (a) give notice of the information to the educator or license applicant; and
 - (b) afford the educator or license applicant an opportunity to respond to the information.
- (4) A person who, in good faith, provides a recommendation or discloses or receives information under this section is exempt from civil and criminal liability relating to that recommendation, receipt, or disclosure.

Amended by Chapter 199, 2016 General Session

53A-6-403 Tie-in with the Criminal Investigations and Technical Services Division.

- (1) The board shall:
 - (a) designate employees to act, with board supervision, as an online terminal agency with the Department of Public Safety's Criminal Investigations and Technical Services Division under Section 53-10-108; and

- (b) provide relevant information concerning current or prospective employees or volunteers upon request to other school officials as provided in Section 53A-6-402.
- (2) The cost of the online service shall be borne by the entity making the inquiry.

Amended by Chapter 144, 2016 General Session

53A-6-404 Certification in other jurisdictions -- Impact on licensing in Utah.

- (1) An applicant for a license, renewal of a license, or reinstatement of a license shall provide the administrator of teacher licensing with an affidavit, stating under oath the current status of any certificate, license, or other authorization required for a professional position in education, which the applicant holds or has held in any other jurisdiction.
- (2) An applicant for a license who has held a teacher's license in any other jurisdiction or who graduated from an institution of higher education in another state shall also provide the administrator of teacher licensing with:
 - (a) a complete listing of the higher education institutions attended by the applicant, whether the applicant's enrollment or eligibility for completion of a program was terminated by the institution, and, if so, the reasons for termination;
 - (b) a complete list of prior school employers; and
 - (c) a release on a form provided by the administrator permitting the board to obtain records from other jurisdictions and from institutions of higher education attended by the applicant, including expunged or otherwise protected records, relating to any offense described substantially in the same language as in Section 53A-15-1506.
- (3) If the applicant's certificate, license, or authorization as an educator in any other jurisdiction is under investigation, has expired or been surrendered, suspended or revoked, or is currently not valid for any other reason, the board may not grant the requested license, renewal, or reinstatement until it has received confirmation from the administrator of professional certification in that jurisdiction that the applicant would be eligible for certification or licensure in that jurisdiction.
- (4) The board may not withhold a license for the sole reason that the applicant would be ineligible for certification, licensure, or authorization in the jurisdiction referred to in Subsection (3) because of failure to meet current requirements in that jurisdiction relating to education, time in service, or residence.

Amended by Chapter 144, 2016 General Session

53A-6-405 Ineligibility for educator license.

- (1) The board may refuse to issue a license to a license applicant if the board finds good cause for the refusal, including behavior of the applicant:
 - (a) found pursuant to a criminal, civil, or administrative matter after reasonable opportunity for the applicant to contest the allegation; and
 - (b) considered, as behavior of an educator, to be:
 - (i) immoral, unprofessional, or incompetent behavior; or
 - (ii) a violation of standards of ethical conduct, performance, or professional competence.
- (2) The board may not issue, renew, or reinstate an educator license if the license applicant or educator:
 - (a) was convicted of a felony of a sexual nature;
 - (b) pled guilty to a felony of a sexual nature;
 - (c) entered a plea of no contest to a felony of a sexual nature;

- (d) entered a plea in abeyance to a felony of a sexual nature;
 - (e) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
 - (f) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
 - (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:
 - (i) not a minor; and
 - (ii) enrolled in a school where the license applicant or educator is or was employed; or
 - (h) admits to the board or UPPAC that the license applicant or educator committed conduct that amounts to:
 - (i) a felony of a sexual nature; or
 - (ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or (g).
- (3) If an individual is ineligible for licensure under Subsection (1) or (2), a public school may not:
- (a) employ the person in the public school; or
 - (b) allow the person to volunteer in the public school.
- (4)
- (a) If the board denies licensure under this section, the board shall immediately notify the applicant of:
 - (i) the denial; and
 - (ii) the applicant's right to request a hearing before UPPAC.
 - (b) Upon receipt of a notice described in Subsection (4)(a), an applicant may, within 30 days after the day on which the applicant received the notice, request a hearing before UPPAC for the applicant to review and respond to all evidence upon which the board based the denial.
 - (c) If the board receives a request for a hearing described in Subsection (4)(b), the board shall direct UPPAC to hold a hearing.

Repealed and Re-enacted by Chapter 311, 2015 General Session