

EDUCATIONAL PROFESSIONAL PRACTICES AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Richard M. Siddoway

AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING THAT WHERE REASONABLE CAUSE EXISTS, THE PROFESSIONAL PRACTICES COMMISSION MAY INITIATE CRIMINAL BACKGROUND CHECKS ON PUBLIC EDUCATOR CERTIFICATE HOLDERS; AND ASSIGNING RESPONSIBILITY FOR NOTIFICATION AND THE PAYMENT OF PROCEDURES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53A-7-110, as last amended by Chapters 79 and 106, Laws of Utah 1996

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

Section 1. Section **53A-7-110** is amended to read:

53A-7-110. Powers and duties.

(1) The commission:

(a) shall make recommendations to the State Board of Education and professional organizations of educators:

(i) concerning standards of professional performance, competence, and ethical conduct for persons holding certificates issued by the board; and

(ii) for the improvement of the education profession;

(b) shall adopt rules to carry out the purposes of this chapter;

(c) shall establish procedures for receiving and acting upon charges and recommendations regarding immoral, unprofessional, or incompetent conduct, unfitness for duty, or other violations of standards of ethical conduct, performance, and professional competence;

(d) shall establish the manner in which hearings are conducted and reported, and recommendations are submitted to the State Board of Education for its action;

(e) may:

(i) warn or reprimand a certificate holder;

(ii) recommend that the State Board of Education revoke or suspend a certificate, or restrict or prohibit recertification;

(iii) enter into a written agreement requiring a current or former educator who has been the subject of a commission action to demonstrate to the satisfaction of the commission that the individual is rehabilitated and will conform to standards of professional performance, competence, and ethical conduct; or

(iv) take other appropriate action; [and]

(f) may administer oaths, issue subpoenas, and make investigations relating to any matter before the commission[-]; and

(g) where reasonable cause exists, may initiate a criminal background check on a certificate holder:

(i) the certificate holder shall receive written notice if a fingerprint check is requested as a part of the background check;

(ii) fingerprints of the individual shall be taken, and the Law Enforcement and Technical Services Division of the Department of Public Safety shall release the individual's full record, as shown on state, regional, and national records, to the commission; and

(iii) the commission shall pay the cost of the background check except as provided under Section 53A-6-103, and the moneys collected shall be credited to the Law Enforcement and Technical Services Division to offset its expenses.

(2) (a) In fulfilling its duty under Subsection (1) (c), the commission shall investigate any allegation of sexual abuse of a student or a minor by an educator whether or not the educator has surrendered his certificate without a hearing.

(b) The investigation shall be independent of and separate from any criminal investigation.

(c) The commission may receive any evidence related to the allegation of sexual abuse, including sealed or expunged records released to the board under Section 77-18-15.

(3) In making recommendations under Subsection (1)(e)(ii), the commission shall use a preponderance of evidence standard in its hearings as the basis for recommending revocation or suspension of a certificate or restriction or prohibition of recertification.

