

Representative Daniel McCay proposes the following substitute bill:

EDUCATION ABUSE POLICY

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: Aaron Osmond

LONG TITLE

General Description:

This bill modifies provisions related to school personnel employment and licensing procedures and student abuse reporting.

Highlighted Provisions:

This bill:

- ▶ modifies requirements for providing and obtaining employment and disciplinary history of school personnel;
- ▶ modifies requirements and procedures for educator licensing;
- ▶ gives rulemaking authority to the State Board of Education;
- ▶ modifies provisions related to mandatory reporting of student abuse; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

§→ This bill provides a coordination clause. ←§

Utah Code Sections Affected:

AMENDS:

53A-6-402, as repealed and reenacted by Laws of Utah 1999, Chapter 108



26 53A-6-502, as last amended by Laws of Utah 2003, Chapter 315

27 53A-6-604, as enacted by Laws of Utah 1999, Chapter 108

28 77-37-4, as last amended by Laws of Utah 2014, Chapter 90

29 REPEALS AND REENACTS:

30 53A-6-306, as last amended by Laws of Utah 2010, Chapter 283

31 53A-6-307, as enacted by Laws of Utah 1999, Chapter 108

32 53A-6-405, as enacted by Laws of Utah 1999, Chapter 108

33 53A-6-501, as last amended by Laws of Utah 2011, Chapter 320

33a **§→ Utah Code Sections Affected by Coordination Clause:**

33b **53A-6-306, as last amended by Laws of Utah 2010, Chapter 283 ←§**



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

36 Section 1. Section 53A-6-306 is repealed and reenacted to read:

37 **53A-6-306. UPPAC duties and procedures.**

38 (1) The board may direct UPPAC to review a complaint about an educator and
39 recommend that the board:

40 (a) dismiss the complaint; or

41 (b) investigate the complaint in accordance with this section.

42 (2) (a) The board may direct UPPAC to:

43 (i) in accordance with this section, investigate a complaint's allegation or decision; or

44 (ii) hold a hearing.

45 (b) UPPAC may initiate a hearing as part of an investigation.

46 (c) Upon completion of an investigation or hearing, UPPAC shall:

47 (i) provide findings to the board; and

48 (ii) make a recommendation for board action.

49 (d) UPPAC may not make a recommendation described in Subsection (2)(c)(ii) to
50 adversely affect an educator's license unless UPPAC gives the educator an opportunity for a
51 hearing.

52 (3) (a) The board may:

53 (i) select an independent investigator to conduct a UPPAC investigation with UPPAC
54 oversight; or

55 (ii) authorize UPPAC to select and oversee an independent investigator to conduct an
56 investigation.

119 (c) a license applicant.

120 (3) If a decision is made to deny licensure, to not hire a prospective employee, or to
121 take action against a current employee or educator based upon information provided under this
122 section, the affected individual shall receive notice of the information and be given an
123 opportunity to respond to the information.

124 ~~§→ [(4) A local school board, a charter school governing board, or the Utah Schools for the~~
125 ~~Deaf and the Blind shall obtain references and a discipline record from prior employers of a~~
126 ~~potential employee before hiring:~~

127 ~~—— (a) an educator; or~~

128 ~~—— (b) an individual who:~~

129 ~~—— (i) works in a public school as an employee; and~~

130 ~~—— (ii) has significant unsupervised access to students.]~~

130a **(4) A local school board, a charter school governing board, or the Utah Schools for the Deaf and**
130b **the Blind shall obtain references and a discipline record from prior employers of an individual**
130c **before hiring the individual to work:**

130d **(a) as an educator; or**

130e **(b) in a public school, if the individual would have significant unsupervised access to students.** ←§

131 ~~[(4)] (5)~~ A person who, in good faith, provides a recommendation or discloses or
132 receives information under this section is exempt from civil and criminal liability relating to
133 that recommendation, receipt, or disclosure.

134 ~~[(5)] (6)~~ For purposes of this section, "employee" includes a volunteer.

135 Section 4. Section **53A-6-405** is repealed and reenacted to read:

136 **53A-6-405. Ineligibility for educator license.**

137 **(1) The board may refuse to issue a license to a license applicant if the board finds**
138 **good cause for the refusal, including behavior of the applicant:**

139 **(a) found pursuant to a criminal, civil, or administrative matter after reasonable**
140 **opportunity for the applicant to contest the allegation; and**

141 **(b) considered, as behavior of an educator, to be:**

142 **(i) immoral, unprofessional, or incompetent behavior; or**

143 **(ii) a violation of standards of ethical conduct, performance, or professional**
144 **competence.**

145 **(2) The board may not issue, renew, or reinstate an educator license if the license**
146 **applicant or educator:**

147 **(a) was convicted of a felony of a sexual nature;**

148 **(b) pled guilty to a felony of a sexual nature;**

149 **(c) entered a plea of no contest to a felony of a sexual nature;**

398 Section 9. **Effective date.**

399 This bill takes effect on July 1, 2015.

399a **§→ Section 10. Coordinating H.B. 345 with H.B. 124 -- Substantive amendment.**

399b **If this H.B. 345 and H.B.124, Education Background Check Amendments, both pass**
399c **and become law, it is the intent of the Legislature that the Office of Legislative Research and**
399d **General Counsel, in preparing the Utah Code database for publication, amend Subsection**
399e **53A-6-306(3)(d) to read: "(d) If UPPAC finds that reasonable cause exists during an**
399f **investigation, UPPAC may recommend that the board initiate a background check on an**
399g **educator as described in Section 53A-15-1504."** ←§