

Representative Kraig Powell proposes the following substitute bill:

PUBLIC EDUCATION EMPLOYMENT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends and enacts provisions related to employment and licensing in the public education system.

Highlighted Provisions:

This bill:

- ▶ repeals provisions requiring a public school to provide or obtain certain information about a public school employee;

- ▶ enacts provisions requiring a school district, charter school, or the Utah Schools for the Deaf and the Blind to solicit information about certain employee applicants and certain volunteers;

- ▶ gives rulemaking authority; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **53A-6-402**, as last amended by Laws of Utah 2015, Chapter 311

27 ENACTS:

28 **53A-15-1511**, Utah Code Annotated 1953



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

31 Section 1. Section **53A-6-402** is amended to read:

32 **53A-6-402. Board-required licensing or employment recommendations -- Local**
33 **public school-required licensing recommendations -- Notice requirements for affected**
34 **parties -- Exemption from liability.**

35 (1) (a) The board shall provide the appropriate administrator of a public or private
36 school or of an agency outside the state that is responsible for licensing or certifying
37 educational personnel with a recommendation or other information possessed by the board that
38 has significance in evaluating the employment or license of:

- 39 (i) a current or prospective school employee;
- 40 (ii) an educator or education license holder; or
- 41 (iii) a license applicant.

42 (b) Information supplied under Subsection (1)(a) shall include:

- 43 (i) the complete record of a hearing; and
- 44 (ii) the investigative report for matters that:
 - 45 (A) the educator has had an opportunity to contest; and
 - 46 (B) did not proceed to a hearing.

47 (2) At the request of the board, an administrator of a public school or school district
48 shall, and an administrator of a private school may, provide the board with a recommendation
49 or other information possessed by the school or school district that has significance in
50 evaluating the [~~employment or licensure of~~]:

51 (a) [~~a current or prospective school employee~~] license of an educator or education
52 license holder; or

53 (b) [~~an educator or education license holder; or (c)~~] potential licensure of a license
54 applicant.

55 (3) [~~If a decision is made~~] If the board decides to deny licensure[~~, to not hire a~~
56 ~~prospective employee;~~] an educator's

57 license based upon information provided under this section, [the affected individual shall
58 receive notice of the information and be given an opportunity to respond to the information.]
59 the board shall:

- 60 (a) give notice of the information to the educator or license applicant; and
- 61 (b) afford the educator or license applicant an opportunity to respond to the
- 62 information.

63 ~~[(4) A local school board, a charter school governing board, or the Utah Schools for the~~
64 ~~Deaf and the Blind shall obtain references and a discipline record from prior employers of an~~
65 ~~individual before hiring the individual to work:]~~

- 66 ~~[(a) as an educator; or]~~
- 67 ~~[(b) in a public school, if the individual would have significant unsupervised access to~~
- 68 ~~students:]~~

69 ~~[(5)]~~ (4) A person who, in good faith, provides a recommendation or discloses or
70 receives information under this section is exempt from civil and criminal liability relating to
71 that recommendation, receipt, or disclosure.

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

73 Section 2. Section **53A-15-1511** is enacted to read:

74 **53A-15-1511. Misconduct disclosure requirements for LEA applicants and**
75 **volunteers -- Rulemaking.**

76 (1) As used in this section:

77 (a) "LEA applicant" means an applicant for a position at an LEA:

- 78 (i) that requires a license issued by the State Board of Education under Title 53A,
- 79 Chapter 6, Educator Licensing and Professional Practices Act; or

80 (ii) as a non-licensed employee or contract employee.

81 (b) "Misconduct" means misconduct as defined in State Board of Education rule made
82 under Subsection (5)(b).

83 (c) "Misconduct disclosure release" means a release form that contains all of the
84 information in the misconduct disclosure release template created under State Board of
85 Education rule as described in Subsection (5)(a).

86 (d) "Potential volunteer" means an individual who:

- 87 (i) has volunteered for but not yet fulfilled an unsupervised volunteer assignment; and

88 (ii) during the last three years, has worked in a qualifying position.

89 (e) "Qualifying position" means paid employment that requires the employee to
90 directly care for, supervise, control, or have custody of an individual who is younger than 18
91 years old.

92 (f) "Unsupervised volunteer assignment" means a volunteer assignment at an LEA that
93 allows the volunteer significant unsupervised access to a student.

94 (2) (a) Before hiring an LEA applicant or giving an unsupervised volunteer assignment
95 to a potential volunteer, an LEA shall:

96 (i) require the LEA applicant or potential volunteer to sign a misconduct disclosure
97 release;

98 (ii) for an LEA applicant, request that the LEA applicant's most recent employer
99 disclose misconduct by the LEA applicant, and include with the request a copy of the liability
100 release described in Subsection (5)(a)(iii);

101 (iii) for a potential volunteer, request that the potential volunteer's qualifying position
102 employer disclose misconduct by the potential volunteer, and include with the request a copy of
103 the liability release described in Subsection (5)(a)(iii); and

104 (iv) document a request described in Subsection (2)(a)(ii) or (iii).

105 (b) An LEA may not hire an LEA applicant who does not sign a misconduct disclosure
106 release.

107 (c) In addition to information collected under Subsection (2)(a), an LEA may request
108 other information from an LEA applicant.

109 (d) An LEA may not give an unsupervised volunteer assignment to a potential
110 volunteer who does not sign a misconduct disclosure release.

111 (3) (a) Pending a response from an LEA applicant's most recent employer, an LEA may
112 hire an LEA applicant who signs the misconduct disclosure release.

113 (b) Pending a response from a potential volunteer's qualifying position employer, an
114 LEA may give an unsupervised volunteer assignment to a potential volunteer who signs the
115 misconduct disclosure release.

116 (c) An LEA shall use the LEA's best efforts to request information under Subsection
117 (2)(a) but is not required to procure a response from an LEA applicant's most recent employer
118 or a potential volunteer's qualifying position employer.

119 (4) (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall
120 respond to the request within 20 business days after the day on which the LEA received the
121 request.

122 (b) If an LEA or other employer, in good faith, discloses information in response to a
123 request described in Subsection (2)(a)(ii) or (iii), the LEA or other employer is immune from
124 civil and criminal liability for the disclosure.

125 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
126 State Board of Education shall make rules to:

127 (a) create a misconduct disclosure release template that includes:

128 (i) a disclosure by the LEA applicant or potential volunteer that:

129 (A) states if an employer imposed sanctions or took disciplinary action because of the
130 LEA applicant or potential volunteer's misconduct; and

131 (B) states whether the LEA applicant or potential volunteer is currently under
132 investigation for misconduct;

133 (ii) an authorization for the LEA applicant's most recent employer or potential
134 volunteer's qualifying position employer to disclose:

135 (A) misconduct of the LEA applicant or potential volunteer; and

136 (B) if the employer would hire the LEA applicant or potential volunteer again; and

137 (iii) a release from liability for an employer that discloses misconduct information
138 about the LEA applicant or potential volunteer;

139 (b) define misconduct as physical or sexual abuse of:

140 (i) an individual who is younger than 18 years old; or

141 (ii) a student who is at least 18 years old and is in grade 12 or a lower grade; and

142 (c) describe how an LEA will determine, if an LEA receives information regarding
143 potential misconduct, if the information establishes a preponderance of evidence that the LEA
144 applicant or potential volunteer committed the misconduct.