

Representative Kraig Powell proposes the following substitute bill:

PUBLIC EDUCATION EMPLOYMENT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: Kevin T. Van Tassell

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; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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



26 ENACTS:

27 **53A-15-1511**, Utah Code Annotated 1953



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

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

31 **53A-6-402. Board-required licensing or employment recommendations -- Local**
32 **public school-required licensing recommendations -- Notice requirements for affected**
33 **parties -- Exemption from liability.**

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

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

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

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

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

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

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

54 (3) [~~If a decision is made~~] If the board decides to deny licensure[~~, to not hire a~~
55 ~~prospective employee,~~] or to take action against [~~a current employee or educator~~] an educator's
56 license based upon information provided under this section, [~~the affected individual shall~~

57 ~~receive notice of the information and be given an opportunity to respond to the information.]~~
 58 the board shall:

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

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

65 ~~[(a) as an educator; or]~~

66 ~~[(b) in a public school, if the individual would have significant unsupervised access to~~
 67 ~~students:]~~

68 ~~[(5)]~~ (4) A person who, in good faith, provides a recommendation or discloses or
 69 receives information under this section is exempt from civil and criminal liability relating to
 70 that recommendation, receipt, or disclosure.

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

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

73 **53A-15-1511. Reference check requirements for LEA applicants and volunteers.**

74 (1) As used in this section:

75 (a) "Child" means an individual who is younger than 18 years old.

76 (b) "LEA applicant" means an applicant for employment by an LEA.

77 (c) "Physical abuse" means the same as that term is defined in Section [78A-6-105](#).

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

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

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

81 (e) "Qualifying position" means paid employment that requires the employee to
 82 directly care for, supervise, control, or have custody of a child.

83 (f) "Sexual abuse" means the same as that term is defined in Section [78A-6-105](#).

84 (g) "Student" means an individual who:

85 (i) is enrolled in an LEA in any grade from preschool through grade 12; or

86 (ii) receives special education services from an LEA under the Individuals with

87 Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

88 (h) "Unsupervised volunteer assignment" means a volunteer assignment at an LEA that
89 allows the volunteer significant unsupervised access to a student.

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

92 (i) require the LEA applicant or potential volunteer to sign a release authorizing the
93 LEA applicant or potential volunteer's previous qualifying position employers to disclose
94 information regarding any employment action taken or discipline imposed for the physical
95 abuse or sexual abuse of a child or student by the LEA applicant or potential volunteer;

96 (ii) for an LEA applicant, request that the LEA applicant's most recent qualifying
97 position employer disclose information regarding any employment action taken or discipline
98 imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant;

99 (iii) for a potential volunteer, request that the potential volunteer's most recent
100 qualifying position employer disclose information regarding any employment action taken or
101 discipline imposed for the physical abuse or sexual abuse of a child or student by the potential
102 volunteer; and

103 (iv) document the efforts taken to make a request described in Subsection (2)(a)(ii) or
104 (iii).

105 (b) An LEA may not hire an LEA applicant who does not sign a release described in
106 Subsection (2)(a)(i).

107 (c) An LEA may not give an unsupervised volunteer assignment to a potential
108 volunteer who does not sign a release described in Subsection (2)(a)(i).

109 (d) An LEA shall use the LEA's best efforts to request information under Subsection
110 (2)(a)(ii) or (iii) before:

111 (i) hiring an LEA applicant; or

112 (ii) giving an unsupervised volunteer assignment to a potential volunteer.

113 (e) In accordance with state and federal law, an LEA may request from an LEA
114 applicant or potential volunteer other information the LEA determines is relevant.

115 (3) (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall
116 use the LEA's best efforts to respond to the request within 20 business days after the day on
117 which the LEA received the request.

118 (b) If an LEA or other employer in good faith discloses information that is within the

119 scope of a request described in Subsection (2)(a)(ii) or (iii), the LEA or other employer is
120 immune from civil and criminal liability for the disclosure.