

HB0175S02 compared with HB0175S01

~~text~~ shows text that was in HB0175S01 but was deleted in HB0175S02.

text shows text that was not in HB0175S01 but was inserted into HB0175S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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;~~text~~

~~text~~ gives rulemaking authority; and

- ▶ makes technical changes.

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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

ENACTS:

53A-15-1511, Utah Code Annotated 1953

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

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

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 [~~employment or licensure of~~]:

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

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

(3) [~~If a decision is made~~] If the board decides to deny licensure[~~, to not hire a prospective employee;~~] or to take action against [~~a current employee or educator~~] an educator's license based upon information provided under this section, [~~the affected individual shall receive notice of the information and be given an opportunity to respond to the information.~~] 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 local school board, a charter school governing board, or the Utah Schools for the Deaf and the Blind shall obtain references and a discipline record from prior employers of an individual before hiring the individual to work:~~]

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

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

[~~(5)~~] (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.

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

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

53A-15-1511. ~~{ Misconduct disclosure }~~ **Reference check** requirements for LEA applicants and volunteers ~~{ == Rulemaking }~~.

(1) As used in this section:

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

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

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

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

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

~~(c) "Misconduct disclosure release" means a release form that contains all of the information in the misconduct disclosure release template created under State Board of Education rule as described in Subsection (5)(a);~~ employment by an LEA.

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

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

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

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

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

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

(g) "Student" means an individual who ~~is younger than 18 years old.~~

~~(f):~~

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

(ii) receives special education services from an LEA under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

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

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

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

(ii) for an LEA applicant, request that the LEA applicant's most recent qualifying position employer disclose ~~misconduct~~ information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant, ~~and include with the request a copy of the liability release described in Subsection (5)(a)(iii);~~

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(iii) for a potential volunteer, request that the potential volunteer's most recent qualifying position employer disclose ~~{misconduct}~~information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the potential volunteer~~}, and include with the request a copy of the liability release described in Subsection (5)(a)(iii)}~~; and

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

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

~~—— (c) In addition to information collected under}~~release described in Subsection (2)(a)~~},~~an LEA may request other information from an LEA applicant}~~(i).~~

~~{d}~~c An LEA may not give an unsupervised volunteer assignment to a potential volunteer who does not sign a ~~{misconduct disclosure release~~.

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

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

~~—— (c) release described in Subsection (2)(a)(i).~~

(d) An LEA shall use the LEA's best efforts to request information under Subsection (2)(a) but is not required to procure a response}~~(ii) or (iii) before:~~

(i) hiring an LEA applicant; or

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

(e) In accordance with state and federal law, an LEA may request from an LEA ~~{applicant's most recent employer}~~applicant or ~~{a}~~ potential ~~{volunteer's qualifying position employer}~~volunteer other information the LEA determines is relevant.

~~{4}~~3 (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall use the LEA's best efforts to respond to the request within 20 business days after the day on which the LEA received the request.

(b) If an LEA or other employer~~{,}~~ in good faith~~{,}~~ discloses information ~~{in response to}~~that is within the scope of a request described in Subsection (2)(a)(ii) or (iii), the LEA or

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other employer is immune from civil and criminal liability for the disclosure.

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

~~— (a) create a misconduct disclosure release template that includes:~~

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

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

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

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

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

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

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

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

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

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

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

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