

**PENALTIES FOR MISCONDUCT WITH STUDENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Candice B. Pierucci**

Senate Sponsor: Deidre M. Henderson

6	Cosponsors:	Eric K. Hutchings	Susan Pulsipher
7	Cheryl K. Acton	Dan N. Johnson	Angela Romero
8	Brady Brammer	Marsha Judkins	
9	Kim F. Coleman	Karianne Lisonbee	
10	Sandra Hollins	Lee B. Perry	

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**LONG TITLE**

**General Description:**

This bill amends penalties for an educator who engages in misconduct with students.

**Highlighted Provisions:**

This bill:

► imposes penalties for an educator or license applicant who engages in sexually explicit conduct with a student who:

- is not a minor;
- is not enrolled in an adult education program; and
- is enrolled at a school where a license applicant or educator is employed or is a participant in an extracurricular activity in which the educator is involved.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

29 **53E-6-603**, as last amended by Laws of Utah 2019, Chapter 186

30 **53E-6-604**, as last amended by Laws of Utah 2019, Chapter 186

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

33 Section 1. Section **53E-6-603** is amended to read:

34 **53E-6-603. Ineligibility for educator license.**

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

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

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

40 (i) immoral, unprofessional, or incompetent behavior; or

41 (ii) a violation of standards of ethical conduct, performance, or professional  
42 competence.

43 (2) The state board may not issue, renew, or reinstate an educator license if the license  
44 applicant or educator:

45 (a) was convicted of a felony of a sexual nature;

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

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

48 (d) entered a plea in abeyance to a felony of a sexual nature;

49 (e) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual  
50 Offenses, against a minor child;

51 (f) engaged in sexually explicit conduct, as defined in Section **76-5b-103**, with a  
52 student who is a minor;

53 (g) engaged in sexually explicit conduct, as defined in Section **76-5b-103**, with a  
54 student who ~~is~~:

55 (i) is not enrolled in an adult education program in an LEA;

56 ~~[(i)]~~ (ii) is not a minor; and

57            [(it)] (iii) (A) is enrolled in [a school] an LEA where the license applicant or educator  
58 is [~~or was~~] employed; or

59            (B) is a participant in an extracurricular program in which the educator is involved; or

60            (h) admits to the state board or UPPAC that the license applicant or educator  
61 committed conduct that amounts to:

62            (i) a felony of a sexual nature; or

63            (ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or  
64 (g).

65            (3) If an individual is ineligible for licensure under Subsection (1) or (2), a public  
66 school may not:

67            (a) employ the person in the public school; or

68            (b) allow the person to volunteer in the public school.

69            (4) (a) If the state board denies licensure under this section, the state board shall  
70 immediately notify the applicant of:

71            (i) the denial; and

72            (ii) the applicant's right to request a hearing before UPPAC.

73            (b) Upon receipt of a notice described in Subsection (4)(a), an applicant may, within 30  
74 days after the day on which the applicant received the notice, request a hearing before UPPAC  
75 for the applicant to review and respond to all evidence upon which the state board based the  
76 denial.

77            (c) If the state board receives a request for a hearing described in Subsection (4)(b), the  
78 state board shall direct UPPAC to hold a hearing.

79            Section 2. Section **53E-6-604** is amended to read:

80            **53E-6-604. State board disciplinary action against an educator.**

81            (1) (a) The state board shall direct UPPAC to investigate an allegation, administrative  
82 decision, or judicial decision that evidences an educator is unfit for duty because the educator  
83 exhibited behavior that:

84            (i) is immoral, unprofessional, or incompetent; or

85 (ii) violates standards of ethical conduct, performance, or professional competence.

86 (b) If the state board determines an allegation or decision described in Subsection  
87 (1)(a) does not evidence an educator's unfitness for duty, the state board may dismiss the  
88 allegation or decision without an investigation or hearing.

89 (2) The state board shall direct UPPAC to investigate and allow an educator to respond  
90 in a UPPAC hearing if the state board receives an allegation that the educator:

91 (a) was charged with a felony of a sexual nature;

92 (b) was convicted of a felony of a sexual nature;

93 (c) pled guilty to a felony of a sexual nature;

94 (d) entered a plea of no contest to a felony of a sexual nature;

95 (e) entered a plea in abeyance to a felony of a sexual nature;

96 (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual  
97 Offenses, against a minor child;

98 (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a  
99 student who is a minor; or

100 (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a  
101 student who ~~is~~:

102 (i) is not enrolled in an adult education program in an LEA;

103 ~~(i)~~ (ii) is not a minor; and

104 ~~(i)~~ (iii) (A) is enrolled in ~~a school~~ an LEA where the educator is ~~or was~~  
105 employed[-]; or

106 (B) is a participant in an extracurricular program in which the educator is involved.

107 (3) Upon notice that an educator allegedly violated Section 53E-6-701, the state board  
108 shall direct UPPAC to:

109 (a) investigate the alleged violation; and

110 (b) hold a hearing to allow the educator to respond to the allegation.

111 (4) Upon completion of an investigation or hearing described in this section, UPPAC  
112 shall:

- 113 (a) provide findings to the state board; and
- 114 (b) make a recommendation for state board action.
- 115 (5) (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and
- 116 recommendation, the state board may:
  - 117 (i) revoke the educator's license;
  - 118 (ii) suspend the educator's license;
  - 119 (iii) restrict or prohibit the educator from renewing the educator's license;
  - 120 (iv) warn or reprimand the educator;
  - 121 (v) enter into a written agreement with the educator that requires the educator to
  - 122 comply with certain conditions;
  - 123 (vi) direct UPPAC to further investigate or gather information; or
  - 124 (vii) take other action the state board finds to be appropriate for and consistent with the
  - 125 educator's behavior.
- 126 (b) Upon review of UPPAC's findings and recommendation, the state board shall
- 127 revoke the license of an educator who:
  - 128 (i) was convicted of a felony of a sexual nature;
  - 129 (ii) pled guilty to a felony of a sexual nature;
  - 130 (iii) entered a plea of no contest to a felony of a sexual nature;
  - 131 (iv) entered a plea in abeyance to a felony of a sexual nature;
  - 132 (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual
  - 133 Offenses, against a minor child;
  - 134 (vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
  - 135 student who is a minor;
  - 136 (vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
  - 137 student who:
    - 138 (A) is not enrolled in an adult education program in an LEA;
    - 139 (B) is not a minor; and[:]
    - 140 [~~(A) not a minor; and~~]

141           ~~[(B) enrolled in a school where the educator is or was employed; or]~~  
142           (C) is enrolled in an LEA where the educator is employed or is a participant in an  
143 extracurricular program in which the educator is involved; or  
144           (viii) admits to the state board or UPPAC that the applicant committed conduct that  
145 amounts to:  
146           (A) a felony of a sexual nature; or  
147           (B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi),  
148 or (vii).  
149           (c) The state board may not reinstate a revoked license.  
150           (d) Before the state board takes adverse action against an educator under this section,  
151 the state board shall ensure that the educator had an opportunity for a UPPAC hearing.