

PENALTIES FOR MISCONDUCT WITH STUDENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

▶ in addition to existing penalties, creates penalties for an educator or license applicant who engages in sexually explicit conduct with a student who is not a minor and who:

- was enrolled at a school where a license applicant or educator is or was 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:

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

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

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



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

29 **53E-6-603. Ineligibility for educator license.**

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

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

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

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

36 (ii) a violation of standards of ethical conduct, performance, or professional
37 competence.

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

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

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

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

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

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

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

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

50 (i) is enrolled in an LEA;

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

52 ~~[(ii)]~~ (iii) (A) is or was enrolled in [a school] an LEA where the license applicant or
53 educator is or was employed; or

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

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

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

58 (ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or

59 (g).

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

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

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

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

66 (i) the denial; and

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

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

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

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

75 **53E-6-604. State board disciplinary action against an educator.**

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

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

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

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

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

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

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

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

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

90 (e) entered a plea in abeyance to a felony of a sexual nature;
91 (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual
92 Offenses, against a minor child;
93 (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
94 student who is a minor; or
95 (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
96 student who ~~is~~:
97 (i) is enrolled in an LEA;
98 ~~(i)~~ (ii) is not a minor; and
99 ~~(ii)~~ (iii) (A) is or was enrolled in ~~a school~~ an LEA where the educator is or was
100 employed~~[-]; or~~
101 (B) is a participant in an extracurricular program in which the educator is involved.
102 (3) Upon notice that an educator allegedly violated Section 53E-6-701, the state board
103 shall direct UPPAC to:
104 (a) investigate the alleged violation; and
105 (b) hold a hearing to allow the educator to respond to the allegation.
106 (4) Upon completion of an investigation or hearing described in this section, UPPAC
107 shall:
108 (a) provide findings to the state board; and
109 (b) make a recommendation for state board action.
110 (5) (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and
111 recommendation, the state board may:
112 (i) revoke the educator's license;
113 (ii) suspend the educator's license;
114 (iii) restrict or prohibit the educator from renewing the educator's license;
115 (iv) warn or reprimand the educator;
116 (v) enter into a written agreement with the educator that requires the educator to
117 comply with certain conditions;
118 (vi) direct UPPAC to further investigate or gather information; or
119 (vii) take other action the state board finds to be appropriate for and consistent with the
120 educator's behavior.

121 (b) Upon review of UPPAC's findings and recommendation, the state board shall
122 revoke the license of an educator who:
123 (i) was convicted of a felony of a sexual nature;
124 (ii) pled guilty to a felony of a sexual nature;
125 (iii) entered a plea of no contest to a felony of a sexual nature;
126 (iv) entered a plea in abeyance to a felony of a sexual nature;
127 (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual
128 Offenses, against a minor child;
129 (vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
130 student who is a minor;
131 (vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
132 student enrolled in an LEA who is not a minor, and:
133 [~~(A) not a minor, and]~~
134 [~~(B) enrolled in a school where the educator is or was employed; or]~~
135 (A) is or was enrolled in an LEA where the educator is or was employed; or
136 (B) is a participant in an extracurricular program in which the educator is involved; or
137 (viii) admits to the state board or UPPAC that the applicant committed conduct that
138 amounts to:
139 (A) a felony of a sexual nature; or
140 (B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi),
141 or (vii).
142 (c) The state board may not reinstate a revoked license.
143 (d) Before the state board takes adverse action against an educator under this section,
144 the state board shall ensure that the educator had an opportunity for a UPPAC hearing.