

Representative Candice B. Pierucci proposes the following substitute bill:

PENALTIES FOR MISCONDUCT WITH STUDENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Deidre M. Henderson

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 and who:

• is enrolled in a regular K-12 education program 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:

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



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

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

28 **53E-6-603. Ineligibility for educator license.**

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

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

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

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

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

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

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

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

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

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

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

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

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

49 (i) is enrolled in a regular K-12 education program in an LEA;

50 ~~[(+)]~~ (ii) is not a minor; and

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

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

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

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

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

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

- 61 (a) employ the person in the public school; or
- 62 (b) allow the person to volunteer in the public school.

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

- 65 (i) the denial; and
- 66 (ii) the applicant's right to request a hearing before UPPAC.

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

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

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

74 **53E-6-604. State board disciplinary action against an educator.**

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

- 78 (i) is immoral, unprofessional, or incompetent; or
- 79 (ii) violates standards of ethical conduct, performance, or professional competence.

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

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

- 85 (a) was charged with a felony of a sexual nature;
- 86 (b) was convicted of a felony of a sexual nature;
- 87 (c) pled guilty to a felony of a sexual nature;

- 88 (d) entered a plea of no contest to a felony of a sexual nature;
- 89 (e) entered a plea in abeyance to a felony of a sexual nature;
- 90 (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual
- 91 Offenses, against a minor child;
- 92 (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
- 93 student who is a minor; or
- 94 (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
- 95 student who [is]:
- 96 (i) is enrolled in a regular K-12 education program in an LEA;
- 97 [(i)] (ii) is not a minor; and
- 98 [(i)] (iii) (A) is enrolled in [a school] an LEA where the educator is [or was]
- 99 employed[-]; or
- 100 (B) is a participant in an extracurricular program in which the educator is involved.
- 101 (3) Upon notice that an educator allegedly violated Section 53E-6-701, the state board
- 102 shall direct UPPAC to:
- 103 (a) investigate the alleged violation; and
- 104 (b) hold a hearing to allow the educator to respond to the allegation.
- 105 (4) Upon completion of an investigation or hearing described in this section, UPPAC
- 106 shall:
- 107 (a) provide findings to the state board; and
- 108 (b) make a recommendation for state board action.
- 109 (5) (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and
- 110 recommendation, the state board may:
- 111 (i) revoke the educator's license;
- 112 (ii) suspend the educator's license;
- 113 (iii) restrict or prohibit the educator from renewing the educator's license;
- 114 (iv) warn or reprimand the educator;
- 115 (v) enter into a written agreement with the educator that requires the educator to
- 116 comply with certain conditions;
- 117 (vi) direct UPPAC to further investigate or gather information; or
- 118 (vii) take other action the state board finds to be appropriate for and consistent with the

119 educator's behavior.

120 (b) Upon review of UPPAC's findings and recommendation, the state board shall
121 revoke the license of an educator who:

122 (i) was convicted of a felony of a sexual nature;

123 (ii) pled guilty to a felony of a sexual nature;

124 (iii) entered a plea of no contest to a felony of a sexual nature;

125 (iv) entered a plea in abeyance to a felony of a sexual nature;

126 (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual

127 Offenses, against a minor child;

128 (vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
129 student who is a minor;

130 (vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a

131 student enrolled in a regular K-12 education program in an LEA who is not a minor, and:

132 [~~(A) not a minor; and~~]

133 [~~(B) enrolled in a school where the educator is or was employed; or~~]

134 (A) is enrolled in an LEA where the educator is employed; or

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

136 (viii) admits to the state board or UPPAC that the applicant committed conduct that
137 amounts to:

138 (A) a felony of a sexual nature; or

139 (B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi),
140 or (vii).

141 (c) The state board may not reinstate a revoked license.

142 (d) Before the state board takes adverse action against an educator under this section,
143 the state board shall ensure that the educator had an opportunity for a UPPAC hearing.