

PUBLIC EDUCATION MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen M. Peterson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates additional corrective action options for the State Board of Education (state board) to utilize.

Highlighted Provisions:

This bill:

- ▶ creates a process for the state board to follow when addressing violations of the law;
- ▶ establishes additional corrective actions the state board may use; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-3-401, as last amended by Laws of Utah 2020, Chapters 253, 408

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

Section 1. Section **53E-3-401** is amended to read:

53E-3-401. Powers of the state board -- Adoption of rules -- Enforcement --

Attorney.



- 28 (1) As used in this section:
- 29 (a) "Education entity" means:
- 30 (i) an entity that receives a distribution of state funds through a grant program managed
- 31 by the state board under this public education code;
- 32 (ii) an entity that enters into a contract with the state board to provide an educational
- 33 good or service;
- 34 (iii) a school district;
- 35 (iv) a charter school; or
- 36 (v) a regional education service agency, as that term is defined in Section [53G-4-410](#).
- 37 (b) "Educational good or service" means a good or service that is required or regulated
- 38 under:
- 39 (i) this public education code; or
- 40 (ii) a rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
- 41 Rulemaking Act, and authorized under this public education code.
- 42 (2) (a) The state board has general control and supervision of the state's public
- 43 education system.
- 44 (b) "General control and supervision" as used in Utah Constitution, Article X, Section
- 45 3, means directed to the whole system.
- 46 (3) The state board may not govern, manage, or operate school districts, institutions,
- 47 and programs, unless granted that authority by statute.
- 48 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 49 the state board may make rules to execute the state board's duties and responsibilities under the
- 50 Utah Constitution and state law.
- 51 (b) The state board may delegate the state board's statutory duties and responsibilities
- 52 to state board employees.
- 53 (5) (a) The state board may sell any interest it holds in real property upon a finding by
- 54 the state board that the property interest is surplus.
- 55 (b) The state board may use the money it receives from a sale under Subsection (5)(a)
- 56 for capital improvements, equipment, or materials, but not for personnel or ongoing costs.
- 57 (c) If the property interest under Subsection (5)(a) was held for the benefit of an agency
- 58 or institution administered by the state board, the money may only be used for purposes related

59 to the agency or institution.

60 (d) The state board shall advise the Legislature of any sale under Subsection (5)(a) and
61 related matters during the next following session of the Legislature.

62 (6) The state board shall develop policies and procedures related to federal educational
63 programs in accordance with Part 8, Implementing Federal or National Education Programs.

64 (7) On or before December 31, 2010, the state board shall review mandates or
65 requirements provided for in state board rule to determine whether certain mandates or
66 requirements could be waived to remove funding pressures on public schools on a temporary
67 basis.

68 (8) ~~(a)~~ Notwithstanding Subsection (13):

69 (a) If an education entity violates ~~[this public education code or]~~ rules authorized under
70 this public education code, the state board may, in accordance with the rules described in
71 Subsection (8)(c):

72 (i) require the education entity to enter into a corrective action agreement with the state
73 board;

74 (ii) temporarily or permanently withhold state funds from the education entity;

75 (iii) require the education entity to pay a penalty; or

76 (iv) require the education entity to reimburse specified state funds to the state board.

77 (b) Except for temporarily withheld funds, if the state board collects state funds under
78 Subsection (8)(a), the state board shall pay the funds into the Uniform School Fund.

79 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
80 state board shall make rules:

81 (i) that require notice and an opportunity to be heard for an education entity affected by
82 a state board action described in Subsection (8)(a); and

83 (ii) to administer this Subsection (8).

84 (d) (i) An individual may bring a violation of statute or state board rule to the attention
85 of the state board in accordance with a process described in rule adopted by the state board.

86 (ii) If the state board identifies a violation of statute or state board rule as a result of the
87 process described in Subsection (8)(d)(i), the state board may take action in accordance with
88 this section.

89 (e) The state board shall report criminal conduct of an education entity to the district

90 attorney of the county where the education entity is located.

91 (9) The state board may audit the use of state funds by an education entity that receives
92 those state funds as a distribution from the state board.

93 (10) The state board may require, by rule made in accordance with Title 63G, Chapter
94 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor
95 for an educational good or service, the LEA shall require in the contract that the third party
96 contractor shall provide, upon request of the LEA, information necessary for the LEA to verify
97 that the educational good or service complies with:

98 (a) this public education code; and

99 (b) state board rule authorized under this public education code.

100 (11) (a) The state board may appoint an attorney to provide legal advice to the state
101 board and coordinate legal affairs for the state board and the state board's employees.

102 (b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the
103 Attorney General.

104 (c) An attorney described in Subsection (11)(a) may not:

105 (i) conduct litigation;

106 (ii) settle claims covered by the Risk Management Fund created in Section [63A-4-201](#);

107 or

108 (iii) issue formal legal opinions.

109 (12) The state board shall ensure that any training or certification that an employee of
110 the public education system is required to complete under this title or by rule complies with
111 Title 63G, Chapter 22, State Training and Certification Requirements.

112 (13) (a) The state board shall establish a process to receive complaints regarding an
113 education entity violating state statute, including reviewing the complaint to determine if the
114 complaint constitutes a potential violation of state statute.

115 (b) If a complaint is found to constitute a potential violation of state statute, the state
116 board shall:

117 (i) authorize an investigation; and

118 (ii) have the results and any corresponding evidence reviewed in a state board meeting.

119 (c) In reviewing the complaint of a potential violation and the corresponding evidence,
120 the state board shall:

- 121 (i) take no further action and close the matter if the state board determines the
122 complaint and evidence does not constitute a violation; or
- 123 (ii) if the state board determines the complaint and evidence constitutes a violation,
124 require the educational entity that is the subject of the complaint to:
- 125 (A) hold a review of the complaint at a public meeting of the educational entity's local
126 governing board by a certain date;
- 127 (B) at the meeting described in Subsection (13)(c)(ii)(A):
- 128 (I) review any findings from an internal investigation the educational entity conducts;
129 and
- 130 (II) determine a course of action, if any, to remedy the violation including any remedies
131 suggested by the state board; and
- 132 (C) require the educational entity to report the educational entity's findings or remedies
133 to a violation as described in Subsection (13)(c)(ii)(B) to the state board.
- 134 (d) After the report described in Subsection (13)(c)(ii)(C) is given, the state board shall
135 vote in a meeting of the state board to:
- 136 (i) take no further action and close the matter; or
- 137 (ii) take further corrective action, including:
- 138 (A) withholding funds;
- 139 (B) if applicable, opening a UPPAC investigation described in Section [53E-6-506](#);
- 140 (C) requiring additional reporting or monitoring;
- 141 (D) referring the complaint, evidence, and findings to the attorney general's office or
142 district attorney's office;
- 143 (E) requiring the educational entity to hire a third party provider to provide services the
144 state board determines necessary;
- 145 (F) requiring reimbursement for the educational entity in lieu of future allocations from
146 the state board;
- 147 (G) requiring a follow-up investigation;
- 148 (H) if the violation relates to finances, referring the violation and corresponding
149 evidence to the state auditor or the legislative auditor general; or
- 150 (I) requesting additional evidence of compliance.
- 151 (e) The state board shall set a required deadline for the educational entity to perform

152 the corrective actions the state board chooses.

153 (f) The state board shall require the superintendent to provide regular updates on the
154 superintendent's monitoring and corrective action activities to the state board's audit
155 committee.

156 (14) The state board shall ensure any complaint, investigation, and corrective action
157 described under Subsection (13) shall be done in accordance with:

158 (a) 53E, Chapter 9, Part 2, Student Privacy;

159 (b) 53E, Chapter 9, Part 3, Student Data Protection;

160 (c) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

161 (d) any other state or federal law protecting the privacy of an employee of an
162 educational entity.

163 Section 2. **Effective date.**

164 This bill takes effect on July 1, 2024.