

## UPPAC NEWSLETTER

### EDUCATOR REPORTING REQUIREMENTS FOR CRIMINAL ARRESTS, CHARGES, AND CONVICTIONS

UPPAC regularly receives cases where teachers fail to notify their district or charter school of an arrest or criminal conviction in accordance with Utah's reporting requirements, found in Utah Administrative Rule R277-516-3. Many of these teachers tell UPPAC that they did not report their arrest or conviction because they did not know they had a reporting obligation.

The educator reporting requirements were updated in August 2016, and it is important that educators are aware of the current requirements. Depending on the type of crime involved, an educator is required to report a criminal offense either at the time of his or her arrest, or at the time of his or her conviction for the offense.

#### **Mandatory Reporting at Arrest, Citation, or Charge.**

An educator is required to report some criminal offenses at the time of arrest, citation, or charge.

These offenses include:

- (a) An alleged sex offense;
- (b) An alleged drug-related offense;
- (c) An alleged alcohol-related offense;
- (d) An alleged offense against the person (Assault, child abuse, etc.);
- (e) An alleged felony offense; and
- (f) Any crime of domestic violence.

Educators are required to report their arrest, citation or charge for the above-listed offenses to the educator's district superintendent or charter school director or designee within 48 hours or as soon as possible from the time of the educator's arrest, citation, or charge.

For example, an educator is pulled over for speeding and is consequently issued a citation for driving with an "Open Container" in her vehicle, a class C misdemeanor. In this case, although the educator was not arrested, she received a ticket for an alcohol related offense. The educator is required to report her citation to her district or charter school director within 48 hours of receiving the citation.

Another example: an educator is camping with friends when his friends begin smoking marijuana. The educator knows smoking marijuana is illegal and does not smoke with his friends. An officer arrives and issues a citation to each of the campers, including the educator, for possession of marijuana. The educator believes he is innocent of the charge and wants to take his case to trial. In this case, because the educator received a citation for a drug related offense, he must report the charge within 48 hours of receiving the citation, even if he is innocent and believes he will be exonerated.

#### **Mandatory Reporting at Conviction**

For any other criminal offense, an educator is not required to report the offense until he or she is convicted. All criminal convictions should be reported, except for class C misdemeanor or lower traffic violations. For reporting purposes, a conviction includes a guilty plea, a no contest plea, a plea in abeyance or a diversion agreement. An educator must report pleas in abeyance and diversion agreements like any other conviction- within 48 hours of entering into the agreement.

## DISTRICT AND CHARTER SCHOOL REPORTING REQUIREMENTS

School Districts and Charter Schools are required to notify UPPAC when an educator in their employ engages in unprofessional conduct. Utah Administrative Rule R277-516-7(1)-(2). It is important for all District and Charter schools to report educator misconduct, as failure to notify UPPAC may result in the Superintendent withholding, reducing, or terminating LEA funding.

By Rule, an LEA must notify UPPAC if it receives a report that an educator physically or sexually abused a student. Notably, reporting sexual and physical abuse to law enforcement and/or DCFS is required by both educators and LEAs, but only LEAs are required to report the abuse to UPPAC.

An LEA must notify UPPAC within 48 hours of receiving a self-report of an arrest, charge, or conviction from an educator.

An LEA must also notify UPPAC if an educator is determined, pursuant to administrative or judicial action, or internal LEA investigation, or to have had disciplinary action taken, or engaged in unprofessional conduct or incompetence that (a) results in suspension for more than one week or termination; (b) requires mandatory licensing discipline under R277-515; (c) otherwise warrants UPPAC review; or (d) otherwise engages in immoral behavior.

An LEA who is uncertain whether an educator's conduct warrants UPPAC review is encouraged to contact UPPAC and ask if the case is one that merits UPPAC review. The UPPAC staff are happy to answer any questions an LEA may have regarding its reporting requirements. It is better to be safe than sorry!

## UPPAC EDUCATOR DISCIPLINE

A summary of Utah State Board Decisions from August-December 2016

### Revocation

Case No. 13-1162

An educator received a license suspension in 2014 for an inappropriate relationship with a 9<sup>th</sup> grade student. At the time, both the student and the educator stated the relationship was not physical in nature. In 2015, the student told police that the relationship was sexual. The educator plead guilty to Forcible Sexual Abuse, a Second degree felony. The educator did not respond to a UPPAC Complaint, and the USBE approved a permanent revocation of his educator's license pursuant to a Default Order.

Case No. 15-1297

An educator had a sexual relationship with a former student which allegedly began when the student was 16 years old. The student denied that the relationship began until she was 18 years old. The educator did not respond to the UPPAC action, and the USBE approved a permanent revocation of his educator's license pursuant to a Default Order.

Case No. 15-1265

An educator sexually harassed his female co-workers and touched the breasts and buttocks of several of them. He also accessed pornography on his school computer. The educator pled guilty to seven counts of Sexual Battery, a Class A misdemeanor, and two counts of Accessing Pornography on School Property, a Class A

misdemeanor. The educator did not respond to the UPPAC action, and the USBE approved a permanent revocation of his educator's license pursuant to a Default Order.

Case No. 15-1290

An educator engaged in sexual activity with a minor sometime in 1994. The case was reported by the victim in 2015. The educator pled guilty to Aggravated Sex Abuse, a Second Degree felony, and one count Aggravated Sex abuse, a third degree felony. The educator's license was permanently revoked.

Case No. 15-1307

An educator viewed and distributed several videos containing child pornography. The educator was charged with two counts of Sexual Exploitation of a Minor, both second-degree felonies. The educator's license was permanently revoked.

Case No. 16-1317

An educator engaged in extensive boundary violations with a 12-year old male student, including over 500 emails, many of which were sexually oriented. The educator asked the student questions about his masturbation practices, sexual orientation, and other topics. The educator eventually asked the student to send him a nude photograph, and told him they should have a sexual experience together. The educator pled guilty to two counts of Enticing a Minor, second degree felonies. The educator's license was permanently revoked pursuant to a Default Order.

Case No. 15-1289

An educator engaged in sexual activity with a student sometime in the 1990s when the student was 16 or 17 years old. The case was reported by the victim in 2015. The educator did not respond to the UPPAC action, and the USBE approved a permanent revocation of his educator's license pursuant to a Default Order.

## **Suspension**

Case No. 16-1331

An educator inappropriately picked up and carried a second grade special needs student who was not standing in line with the rest of his class. The educator sat the student down forcefully and yelled at his teacher to do a better job watching her students. The educator received a one-year suspension of her educator's license.

Case No. 15-1273

An educator sent an unprofessional email to a parent after a student hit him in the face with a dodge ball. The educator also hid in another teacher's room during a scheduled parent meeting. This educator received a one-year suspension of his educator's license, which was aggravated by prior discipline he received from UPPAC (letter of reprimand).

Case No. 15-1305

An educator went to school under the influence of alcohol. Her principal took her to a testing facility, where she tested positive for alcohol. The educator did not respond to the UPPAC action, and the USBE approved a suspension of her educator's license for a period of five years pursuant to a Default Order.

Case No. 16-1319

An educator approached a student who was talking in class. The educator yelled at the student to shut up and hit him on the top of the head with a closed fist. The educator later entered into a Plea in Abeyance to Assault, a class B misdemeanor. The educator received a one-year suspension of his educator's license.

Case No. 16-1327

An educator received a license suspension from UPPAC in 2014 for improper physical discipline involving a student. While on suspension, the educator took a job working as an administrator at a public school, in violation of his UPPAC stipulated agreement. The educator received an additional one-year suspension to his educator's license.

Case no. 14-1238

An educator engaged in extensive boundary violation with a female student including numerous phone calls and text messages, gift giving, and on at least one occasion, meeting with the student outside of school. The educator continued her relationship with the student even after being expressly told by a police officer and her employer to cease contact. The educator's license was suspended for a period of five years with conditions that must be met prior to applying for reinstatement.

Case No. 15-1309

An educator told a fourth grade special education student to stop pouring water on his chair. When the student did not stop, the educator attempted to take the water bottle away from the student. The educator eventually grabbed the water bottle and poured water on the student's head. The student reacted by punching the educator in the face. The educator then punched the student in the face, giving the student a bloody nose. The educator did not respond to the UPPAC Complaint, and the USBE approved a five-year suspension of her educator's license pursuant to a Default Order.

Case No. 16-1322

An educator engaged in a physical altercation with his minor son at home, causing the child to suffer a broken collar bone and skull fracture. The educator entered into a Plea in Abeyance to Child Abuse, a Class A misdemeanor. The educator received a two-year suspension of his educator's license.

Case No. 15-1301

An educator plead guilty to Communications Fraud, a Second Degree Felony, for receiving money from community charitable donations based on fraudulent claims. The educator received a five-year suspension of her educator's license.

Case No. 15-1302

An educator sent nude photos to another adult from her personal phone during school hours and while on school property. The educator received a one-year suspension of her educator's license.

## **Letter of Reprimand**

Case No. 16-1326

An educator hit a student on the neck during music class, leaving a red mark on his skin. The educator received a letter of reprimand that will remain on her educator's license for two years.

Case No. 15-1296

An educator made several racial slurs and offensive statements to a student, including "open your eyes," and "I can't understand you because of your thick Asian accent." The educator received a Letter of Reprimand that will remain on his educator's license for two years.

Case No. 15-1286

An educator received a DUI in 2012 and 2014. She failed to report either DUI to her LEA. The educator received a letter of reprimand to remain on her educator's license for a period of two years.

## **Letter of Warning**

Case No. 16-1313

An educator noticed two students in her PE class were breaking the pencils she had given them to track their mile times. The educator approached the students, grabbed their shoulders, and tapped them on their heads with her hand twice. The student did not report any pain front the contact. The educator received a letter of warning.

Case No. 16-EH10

An educator plead guilty to Attempted Possession of a Controlled Substance, a class A misdemeanor, in 2014. The educator ordered a large amount of prescribed pain killers online. She did not report the arrest to her school because she was not aware of the UPPAC reporting requirements. The educator reported the incident when she tried to renew her license. The educator received a letter of warning.

Case No. 16-1328

An educator grabbed a non-compliant student by the wrist and directed her to her seat. The educator later told the same student to get up from her chair and the student refused. The educator then tried to remove the student from her chair by grabbing her by her wrist. The educator received a letter of warning.

Case No. 16-EH13

An educator was charged with public intoxication following a verbal altercation with a man on a street. Six days later, the educator was charged with DUI for driving under the influence of prescribed pain killers and anti-anxiety medication. The educator completed substance abuse counseling and attended AA meeting. The educator received a letter of warning.

Case No. 16-EH14

An educator pled guilty to Impaired Driving in 2015. The educator completed substance abuse treatment. The educator received a letter of warning.

Case No. 16EH15

An educator pled guilty to Impaired Driving in 2015. The educator completed substance abuse treatment. The educator received a letter of warning.

Case No. 16-1318

An educator permitted staff to use his school credit card without prior authorization, rented a car to go to an out-of-state conference at district expense, received mileage for the same conference, and borrowed school property for personal use. The educator received a letter of warning.

Case No. 16-1332

An educator threatened his principal's personal property and allegedly made physical threats to the principal. It was not clear whether the educator was serious in his threats or just venting. The educator received a letter of warning.

Case No. 16-EH18

An educator pled guilty to Impaired Driving in 2015. The educator completed substance abuse treatment. The educator received a letter of warning.

Case No. 16-EH19

An educator pled no contest to Animal in a Prohibited Area and False Information to Law Enforcement after providing false information to a DNR officer. The educator received a letter of warning.

### **Letter of Admonishment**

Case No. 16-EH11

An educator was arrested for DUI in November 2015. The educator pled guilty to DUI in May 2016. The educator received a letter of admonishment.

Case No. 16-EH12

An educator was charged for possession of marijuana and paraphernalia. The educator entered into a plea in abeyance for 12 months. The educator received a letter of admonishment.

16-EH16

An educator received a citation for an open container when she sat in her car having lunch and drinking a beer while snowmobiling with friends. The educator received a letter of admonishment.

16-EH17

An educator received a citation for an open container when she sat in her car having lunch and drinking a beer while snowmobiling with friends. The educator received a letter of admonishment.

### **Pre-Licensure Flag**

Case No. 16-1344

A pre-licensure individual accessed pornographic material on his school computer. USBE ordered that a flag be maintained on his CACTUS file.