

R277. Education, Administration.

R277-322. LEA Codes of Conduct.

R277-322-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 63G-7-301, which requires the Board to create a model policy that:

(i) regulates behavior of a school staff member toward a student; and

(ii) includes a prohibition against any sexual conduct between a staff member and a student and against the staff member and student sharing any sexually explicit or lewd communication, image, or photograph.

(2) The purpose of this rule is to have each LEA and school adopt a code of conduct, not less stringent than the model code of conduct in Section R277-322-4 that applies to all staff within the LEA or school.

(3)(a) All provisions of this rule apply to all licensed educators.

(b) Nothing in this rule shall limit the Board's authority under Rules R277-210 through R277-217 to investigate or discipline licensed educators for violations of educator standards.

R277-322-2. Definitions.

(1) "Boundary violation" means the same as that term is defined in Rule R277-210.

(2) "Promptly" means as soon as reasonably practicable under the circumstances.

(3) "Retaliation" means intimidation, threats, coercion, harassment, adverse employment actions, or other speech or conduct that would discourage a reasonable person from reporting or participating in an investigation.

(4) "Staff" or "Staff member" means an employee, contractor or volunteer with unsupervised access to students.

(5) "Sexual conduct" means:

(a) any interaction between a staff member and a student that is sexual in nature, including;

(b) "sexual abuse" as defined in Section 76-5-404.1;

(c) "sexual battery" as defined in Section 76-9-702.1; or

(d) sharing any sexually explicit or lewd communication, image, or photograph.

(6) "Staff" or "staff member" means an employee, contractor, or volunteer with significant unsupervised access to students.

(7) "Substantiated" means that an allegation has been proven through an investigation or hearing process by a preponderance of competent evidence.

R277-322-3. Required Model Code of Conduct.

(1) The Board creates a model code of conduct.

(2) A school staff member:

(a) may not engage in sexual conduct with a student or minor while on school property or while acting within the scope of employment;

(b) while on school property or while acting within the scope of employment, may not commit boundary violations and shall maintain professional boundaries, as defined in Rule R277-210, with a student or minor when the staff member knows or reasonably should know that the individual is a student or minor;

(c) shall comply with Section 63G-7-301 which require:

(i) participating in training on the code of conduct to the staff; and

(ii) the staff member to sign a statement acknowledging that the staff member has read and understands the code of conduct;

(d) shall comply with all federal, state, and local laws;

(e) shall treat students with respect;

(f) shall promptly report any known or reasonably suspected violation of the Code of Conduct to the appropriate school or LEA administrator in accordance with applicable reporting policies and procedures; and

(g) shall report suspected child abuse or neglect to law enforcement or the Division of Child and Family Services in accordance with Sections 53E-6-701 and 80-2-602;

(h) may not use alcohol or illegal drugs while on duty or participating in a school-sponsored activity;

(i) shall avoid the use of prescription drugs while on duty or participating in a school-sponsored activity, in a manner that impairs judgment or professional performance;

(j) shall not engage in sexual conduct and shall act professionally while on school property or during contracted time;

(k) a staff member may not plan, organize, promote, encourage, or participate in an unauthorized activity during the school day that disrupts instructional time or encourages or results in student nonattendance from scheduled classroom instruction;

(l) subject to constitutional rights against self-incrimination, a staff member shall fully cooperate with criminal or civil law enforcement, and an LEA, school, UPPAC, or Board investigation involving a student or staff member by:

(i) responding truthfully and promptly to lawful inquiries;

(ii) providing relevant information within the staff member's knowledge or possession; and

(iii) complying with lawful subpoenas, warrants, or other compulsory processes;

(l) shall not, while on school property, while acting within the scope of employment, or under circumstances in which a reasonable person would perceive the conduct as school-sponsored, invite, suggest, or encourage a student to reconsider or change the student's sexual orientation or gender identity;

(m) shall annually attend abuse prevention training as required in Section 53G-9-207;

(n) shall comply with the requirements of Section 76-5-404.1 regarding sexual abuse; and

(o) shall comply with the requirements of Section 76-9-702.1 regarding sexual battery.

(3)(a) A staff member may not knowingly make a false report alleging a violation of the LEA's or school's code of conduct.

(b) A staff member who retaliates against an individual for reporting alleged misconduct under this Code of Conduct may be subject to disciplinary action by the LEA or school, up to and including termination of employment; referral to UPPAC if the individual is licensed by the Board; and other remedies or penalties available under the law.

(4) A staff member who knowingly makes a false, malicious, or frivolous report may be subject to disciplinary action by the LEA or school, up to and including termination of employment; referral to UPPAC if the individual is licensed by the Board; and other remedies or penalties available under the law.

(5) Nothing in this section shall be construed to discourage or penalize good-faith reports.

(6) A staff member at an LEA or school that retaliates or facilitates retaliation against a staff member for reporting an alleged violation of this code of conduct or Rule R277-210 or R277-217 may be subject to disciplinary action by the LEA or school, up to and including termination of employment; corrective action or other sanctions in law and rule; or UPPAC action, if a licensed educator.

R277-322-4. LEA and School Responsibilities.

(1) Each LEA and school shall adopt a code of conduct, which may not be less stringent than the model code of conduct established in Section R277-322-3.

(2) The code of conduct adopted by an LEA or school under Subsection (1) shall include language regarding contractors and volunteers.

(3) An LEA shall establish a hotline as described in Section R277-123-7 for students, parents, and personnel to report violations of Board rule and LEA policy, including the code of conduct, and in its training promote awareness of the required hotline.

(4) An LEA, and each school, shall prominently post its code of conduct on its website.

(5) An LEA and each public school shall provide code of conduct training to its staff and require each staff member to sign a statement acknowledging that the staff member has read and understands the code of conduct.

(6) An LEA shall submit an annual assurance to the Board consistent with this rule verifying that the LEA and each school has complied with:

- (a) required code of conduct training;
- (b) obtained staff member acknowledgments;
- (c) posted its Code of Conduct as required; and
- (d) promoted Section R277-123-7 as required.

(7) An LEA shall annually submit to the Superintendent aggregate data on substantiated code of conduct complaints, categories of violations, and outcomes.

(8) An LEA, or school, may not construe this section to prevent the LEA, or school, from making reports to law enforcement, UPPAC, or the Department of Health and Human Services as otherwise required by law.

(9)(a) An LEA, or school, may not enter into any agreement that prevents or restricts the LEA, or school, from providing the notice required by this section.

(b) An LEA, or school, may not enter into an agreement, or request a staff member to enter into an agreement, which restricts or prohibits a staff member from communicating or reporting any complaint or concern regarding the direct or indirect safety and welfare of a student or any inappropriate conduct by the LEA, or school, to law enforcement, a local board, the Board, or UPPAC.

(10) An LEA and school shall prohibit retaliation against an individual who, in good faith, reports a suspected violation of an LEA or school code of conduct, policy, Board rule, or the law.

(11) An LEA, or school, shall update the website posting within 90 days of adopting or revising its code of conduct.

(12)(a) Failure of an LEA, or school, to comply with this rule constitutes noncompliance subject to corrective action or sanctions.

(b)(i) Repeated failure to abide by Section 63G-7-301 or this Rule, may subject the LEA, school or administrators to corrective action or other sanctions.

R277-322-5. Superintendent Responsibilities.

(1) The Superintendent shall classify a report submitted under Subsection (9) as private in accordance with Subsections 63G-2-302(2)(a) and (d).

(2) The Superintendent shall prepare a report of all data collected under this rule and shall provide the report to the Board annually.

KEY: codes of conduct, appropriate behavior, staff conduct

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 63G-7-301