

R277-217 received final approval by the Utah State Board of Education on February 4, 2021. R277-217 will be published in the March 1, 2021 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of April 7, 2021.

## **R277. Education, Administration.**

### **R277-217. Educator Standards and LEA Reporting.**

#### **R277-217-1. 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;
  - (c) Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the certification of educators; and
  - (d) Title 53E, Chapter 6, Educator Licensing and Professional Practices Act, which provides all laws related to educator licensing and professional practices.
- (2) The purpose of this rule is to:
  - (a) establish statewide ethical standards for educators;
  - (b) establish reporting requirements for educators and LEAs; and
  - (c) recognize that educators are professionals and share common professional standards, expectations, and role model responsibilities.

#### **R277-217-2. Prohibited Conduct by an Educator.**

- An educator may not:
- (1) be convicted of a felony;
  - (2) be convicted of a misdemeanor offense that:
    - (a) adversely affects the educator's ability to perform an assigned duty and carry out the educator's responsibilities; or
    - (b) adversely affects the well being of students;
  - (3) be convicted of, or engage in conduct of a sexual nature described in Subsection 53E-6-603(2);
  - (4) participate in sexual, physical, or emotional harassment towards any colleague or public school-age student;

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(5) engage in:

(a) a single egregious instance or pattern of inappropriate contact in any communication, including written, verbal, or electronic, with a minor, student, colleague, or member of the community; or

(b) a single egregious instance or pattern of boundary violations with a student;

(6) solicit, encourage, or consummate an inappropriate relationship, whether written, verbal, or physical, with a student or minor;

(7) accept an inappropriate gift from, or give an inappropriate gift to, a student;

(8) be convicted of or commit a criminal offense involving a child, including physical abuse, cruelty, or exploitation of child;

(9) use corporal punishment, excessive physical force, or inappropriate physical restraint, except as provided in Section 53G-8-302;

(10) provide alcohol or unauthorized drugs to a student or allow a student under the educator's supervision or control to consume or obtain alcohol or unauthorized drugs;

(11) attend school or a school-related activity in an assigned employment-related capacity while possessing, using, or under the influence of alcohol or an illegal drug;

(12) attend school or a school-related activity in an assigned employment-related capacity after intentionally exceeding the prescribed dosage of a prescription medication that may impair the educator;

(13) possess or distribute an illegal drug or be convicted of any crime related to an illegal drug, including a prescription drug not specifically prescribed to the educator;

(14) be convicted of an alcohol-related offense;

(15) use or attempt to use an LEA computer or information system to access information that may be detrimental to young people or inconsistent with the educator's role model responsibility;

(16) knowingly possess, while at school or any school-related activity, any pornographic or indecent material in any form;

(17) use school equipment to intentionally view, create, distribute, or store pornographic or indecent material in any form;

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(18) knowingly use, view, create, distribute, or store pornographic or indecent material involving children;

(19) expose students to material the educator knows or should have known to be inappropriate given the age and maturity of the students. (20) violate state laws regarding the possession of a firearm while on school property or at a school-sponsored activity;

(21) knowingly allow a student to violate an LEA policy or law concerning possession or access to a weapon;

(22) interfere with or discourage a student's or colleague's legitimate exercise of constitutional, legal, or civil rights, acting consistent with the law and an LEA's policy;

(23) exclude a student from participating in any program, deny or grant any benefit to a student, or encourage a student to develop a prejudice on the basis of:

- (a) race;
- (b) color;
- (c) creed;
- (d) sex;
- (e) national origin;
- (f) marital status;
- (g) political or religious belief;
- (h) physical or mental condition;
- (i) family, social, or cultural background;
- (j) sexual orientation; or
- (k) gender identification;

(24) knowingly or intentionally permit unauthorized collection, sharing, or use of student data;

(25) knowingly violate student confidentiality unless revealing confidential information to an authorized person serves the best interest of the student and serves a lawful purpose;

(26) violate:

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- (i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;
- (ii) Title 53E, Chapter 9, Student Privacy and Data Protection;
- (iii) Rule R277-107, Educational Services Outside of an Educator's Regular Employment; or
- (iv) Section R277-120-5, Classroom Materials Developed by Utah Educators~~[-];~~ or  
(27) cheat or engage in academic dishonesty, whether on behalf of a student, or in the educator's own educational pursuits.

### **R277-217-3. Required Conduct for an Educator.**

An educator shall:

- (1) comply with all federal, state, and local laws;
- (2) maintain a professional educator/student relationship, including by:
  - (a) treating a student with dignity and respect by promoting the health, safety and well being of students; and
  - (b) maintaining appropriate verbal, emotional and social boundaries;
- (3) take prompt and appropriate action to prevent harassment or discriminatory conduct toward a student or school employee that the educator knew or should have known may result in a hostile, intimidating, abusive, offensive, or oppressive environment;
- (4) take prompt and appropriate action to protect a student from any known condition detrimental to the student's physical health, mental health, safety, or learning;
- (5) 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 62A-4a-~~409~~403;
- (6) cooperate in providing all relevant information and evidence to the proper authority in the course of an investigation by a law enforcement agency or by the Division of Child and Family Services regarding potential criminal activity, except that an educator may decline to give evidence against himself or herself in an investigation if the evidence may tend to incriminate the educator as that term is defined by the Fifth Amendment of the U.S. Constitution;

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(7) take appropriate steps to notify a student's parents and refer a student to appropriate prevention services if a student threatens suicide or self harm as required by Subsections 53E-9-203(7) and 53G-9-604(2);

(8) provide truthful, accurate, and complete information in:

(a) licensing, transfer, and employment applications or other documentation;

(b) evaluations of the educator, other educators, or students;

(c) proceedings related to educator licensure, employment, or related benefits;

(d) student IEP plans and related special education documentation;

(9) be forthcoming with truthful, accurate, and complete information to an appropriate authority regarding known educator misconduct that could adversely impact performance of a professional responsibility, by another educator;

(10) notify the Superintendent at the time of application for licensure of:

(a) current investigations involving professional misconduct in another jurisdiction;

(b) prior licensing disciplinary action in another jurisdiction; and

(c) past criminal convictions;

(11) report an arrest, citation, charge or conviction to the educator's LEA in accordance with Section R277-217-4;

(12) conduct financial business with integrity by honestly accounting for all funds committed to the educator's charge, as school responsibilities require, consistent with LEA policy;

(13) follow an LEA's fiscal policy for collecting money in connection with a school activity, accounting for all money collected, and not commingling LEA or school funds with personal funds as described in R277-113; and

(14) demonstrate honesty and integrity by strictly adhering to all state and LEA instructions and protocols in managing and administering a standardized test to a student consistent with Section 53E-4-312 and Rule R277-404.

#### **R277-217-4. Educator Reporting of Arrests, Citations, Charges, and Convictions.**

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(1) An educator who is arrested, cited or charged with the following alleged offenses shall report the arrest, citation, or charge within 48 hours or as soon as possible to the licensed educator's district superintendent, charter school director, or the LEA's designee, or to the Executive Secretary if not employed:

- (a) any matters involving an alleged sex offense;
- (b) any matters involving an alleged drug-related offense;
- (c) any matters involving an alleged alcohol-related offense;
- (d) any matters involving an alleged offense against the person under Title 76,

Chapter 5, Offenses Against the Person;

(e) any matters involving an alleged felony offense under Title 76, Chapter 6, Offenses Against Property;

(f) any matters involving an alleged crime of domestic violence under Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and

(g) any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed in Subsections (1)(a) through (f).

(2) An educator shall report any conviction or plea in abeyance for a felony or misdemeanor offense to the educator's LEA, or the Executive Secretary if not employed, within 48 hours, or as soon as possible thereafter.

(3) An LEA superintendent, director, or designee shall report conviction, arrest, or offense information received from an educator to the Superintendent within 48 hours of receipt of information from an educator.

(4) The Superintendent shall provide a form on the Board's website for reports required under this section.

(5) An educator shall report for work following an arrest and provide notice to the licensed educator's employer unless directed not to report for work by the employer, consistent with LEA policy.

**R277-217-5. LEA Reporting of Misconduct to UPPAC.**

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(1) An LEA shall notify UPPAC if an educator is determined pursuant to a judicial or administrative proceeding, or internal LEA investigation, to have violated the educator standards described in Sections R277-217-2 or R277-217-3.

(2) The Executive Secretary shall provide a form for an LEA to make a notification required under Subsection (1).

(3) Upon submitting a notification under Subsection (1), an LEA may make a recommendation to the Executive Secretary concerning whether an investigation by UPPAC would be appropriate under the circumstances, taking into account any employment action taken by the LEA.

(4) If no related criminal charge is filed, an LEA is not responsible to notify UPPAC of an allegation if the LEA's internal investigation establishes that the allegation is unsupported.

**KEY: Educator standards, professional practices, reporting**

**Date of Enactment or Last Substantive Amendment: February 7, 2020**

**Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-3-501; Title 53E, Chapter 6, Educator Licensing and Professional Practices Act.**