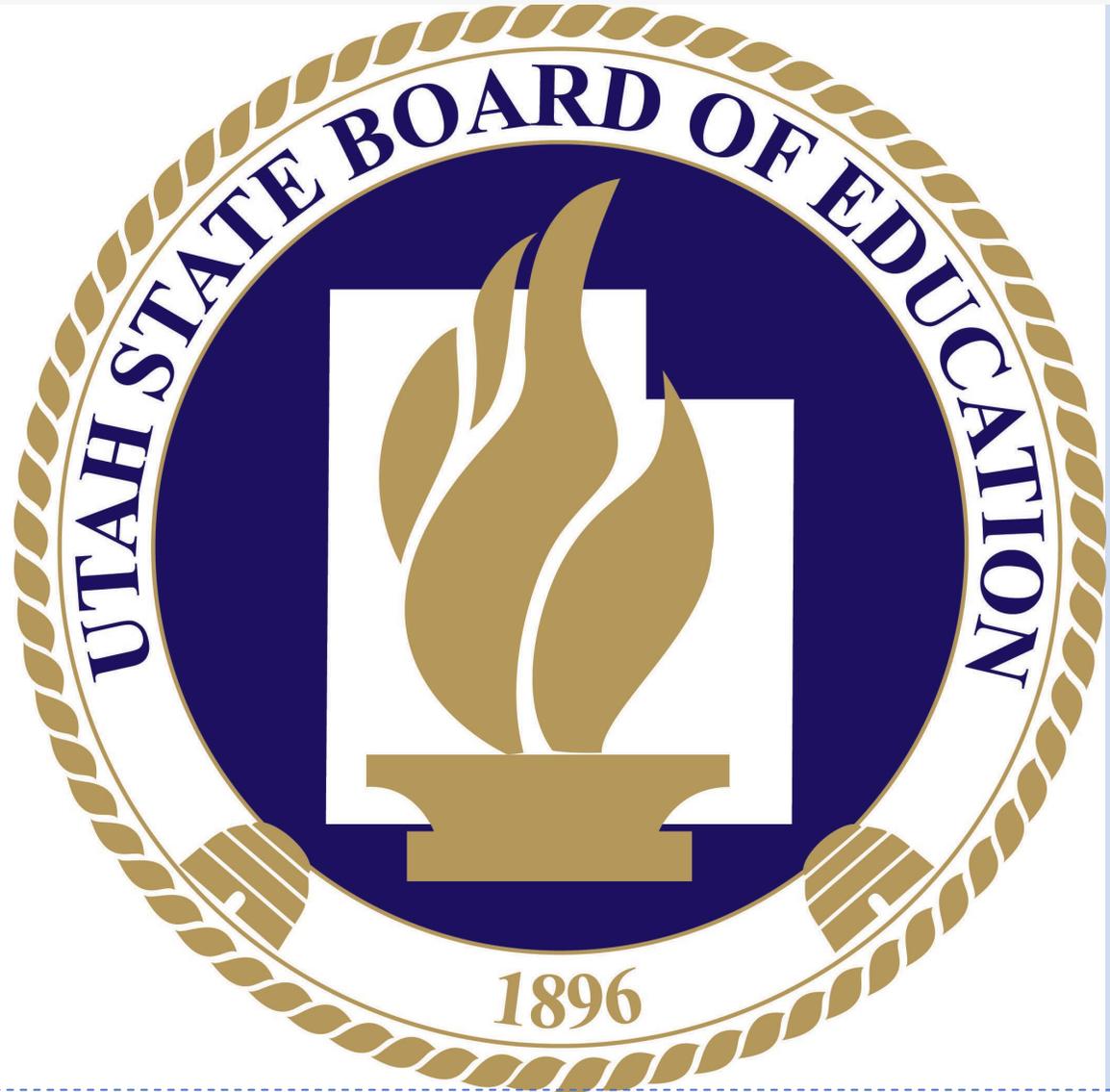


UPPAC Rule Changes

May 12, 2020

New Educator Standards



Key Problems to Address:

- Standards Were Confusing – Mandatory vs. Discretionary Discipline
- Too Many Areas of Misconduct
- Reporting Provisions in Too Many Places
- What Had to be Reported Unclear



Utah Admin. Code R277-217



PROHIBITED CONDUCT



REQUIRED CONDUCT





Utah Admin. Code R277-217

- Some Items that used to be violations of the standards have been removed from the standards altogether:
 - Supervision of Students
 - Cooperating with required student assessments
 - Attending assessment training
 - Swearing – But there are exceptions
 - Teaching the Core Standards
 - Using instructional time effectively
 - Following LEA policies
 - Promoting Personal opinions or political positions as part of instruction
 - Dress and Grooming Standards
 - Professional Learning Requirements
 - Honoring contracts with LEAs for professional services

- Existing Procedures for Reporting Arrests Remain the Same:
 - Educator reports to LEA (or UPPAC if unemployed) within 48 hours of arrest, citation, or charge for specified offenses. LEA reports to UPPAC within 48 hours.
 - Educators reports all convictions or pleas in abeyance within 48 hours. LEA reports to UPPAC within 48 hours.



- 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.
 - NO DISCRETION
 - NO EXCEPTIONS
- AN LEA may make a recommendation whether UPPAC should investigate.
- If no related criminal charges 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.



Reporting Misconduct/Arrests

NOTIFICATION OF ALLEGED EDUCATOR MISCONDUCT

[Utah Admin. Code R277-217](#)



Date:

UPPAC

Educator's Name:

CACTUS ID:

School:

LEA:

Educator's Assignment:

Offense Type:

Choose One



Brief explanation of alleged misconduct:

New Request

Please submit all relevant documentation or evidence with this form.

Check here if you request that UPPAC submit a subpoena for additional evidence.

LEA employment action, to date:

Was a law enforcement report filed?

Yes

No

Law enforcement agency:

Case #

Criminal charges filed, if any: _____

Court: _____ Case #: _____

Possible Witnesses: (Include name and contact information, if possible)

Note: The UPPAC investigator will discuss the matter with appropriate LEA personnel before contacting witnesses.

Does the LEA feel this matter warrants a UPPAC investigation? Would this matter be appropriate for an Expedited Hearing? Why or why not?



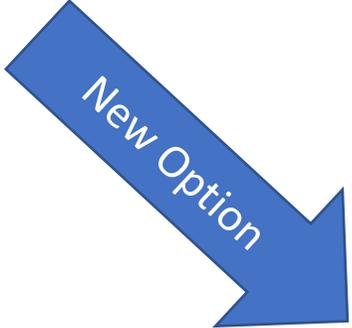
Form Submitted By:

Name: _____
Position: _____
Phone: _____
Email: _____

Return this Form to:
Ben Rasmussen
UPPAC Executive Secretary
ben.rasmussen@schools.utah.gov
250 E. 500 So.
P.O. Box 144200
Salt Lake City, UT 84114-4200
Fax: 801-538-7927

New Process

New case

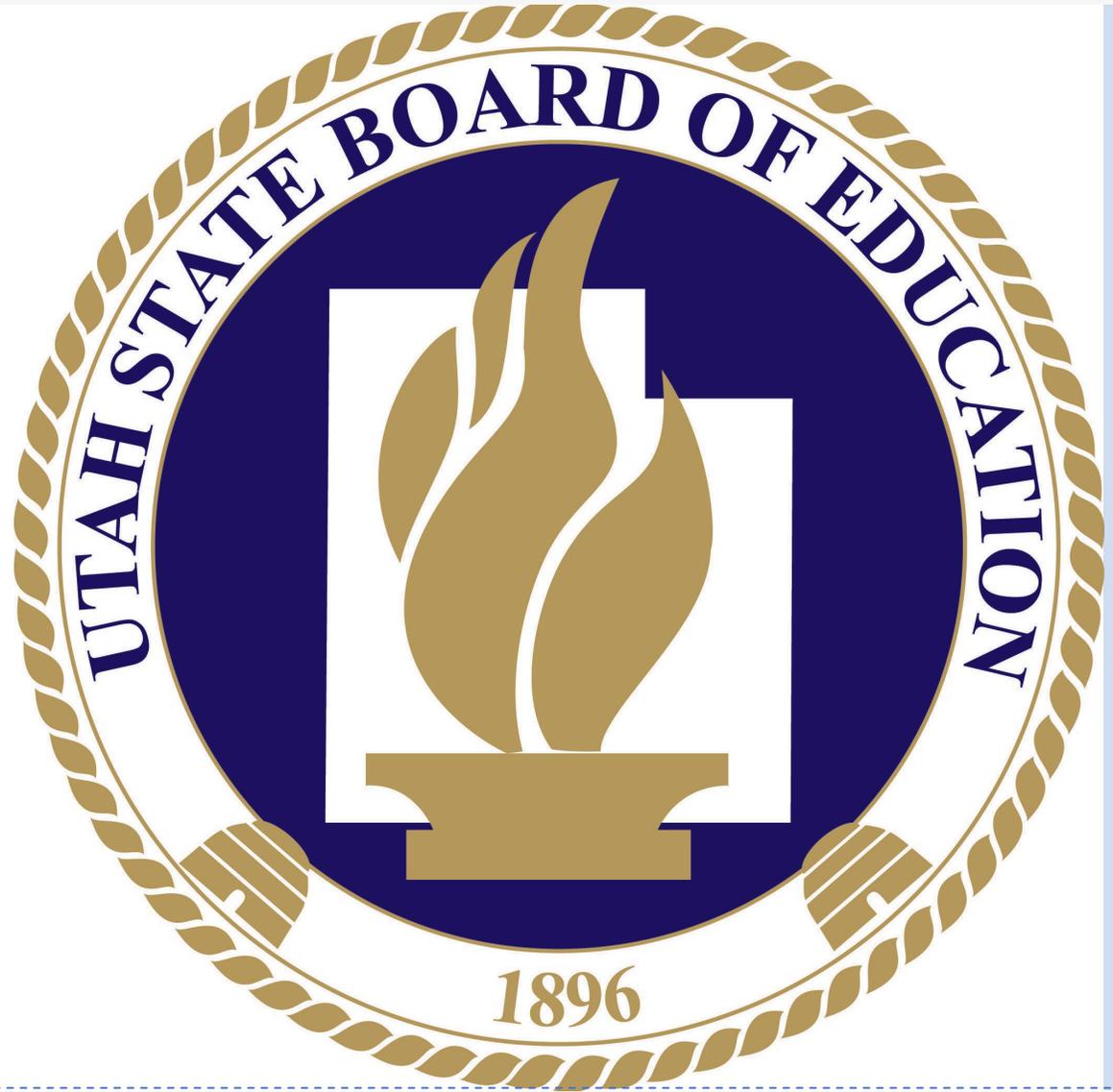


Expedited Hearing

Investigation



Case Opening Considerations

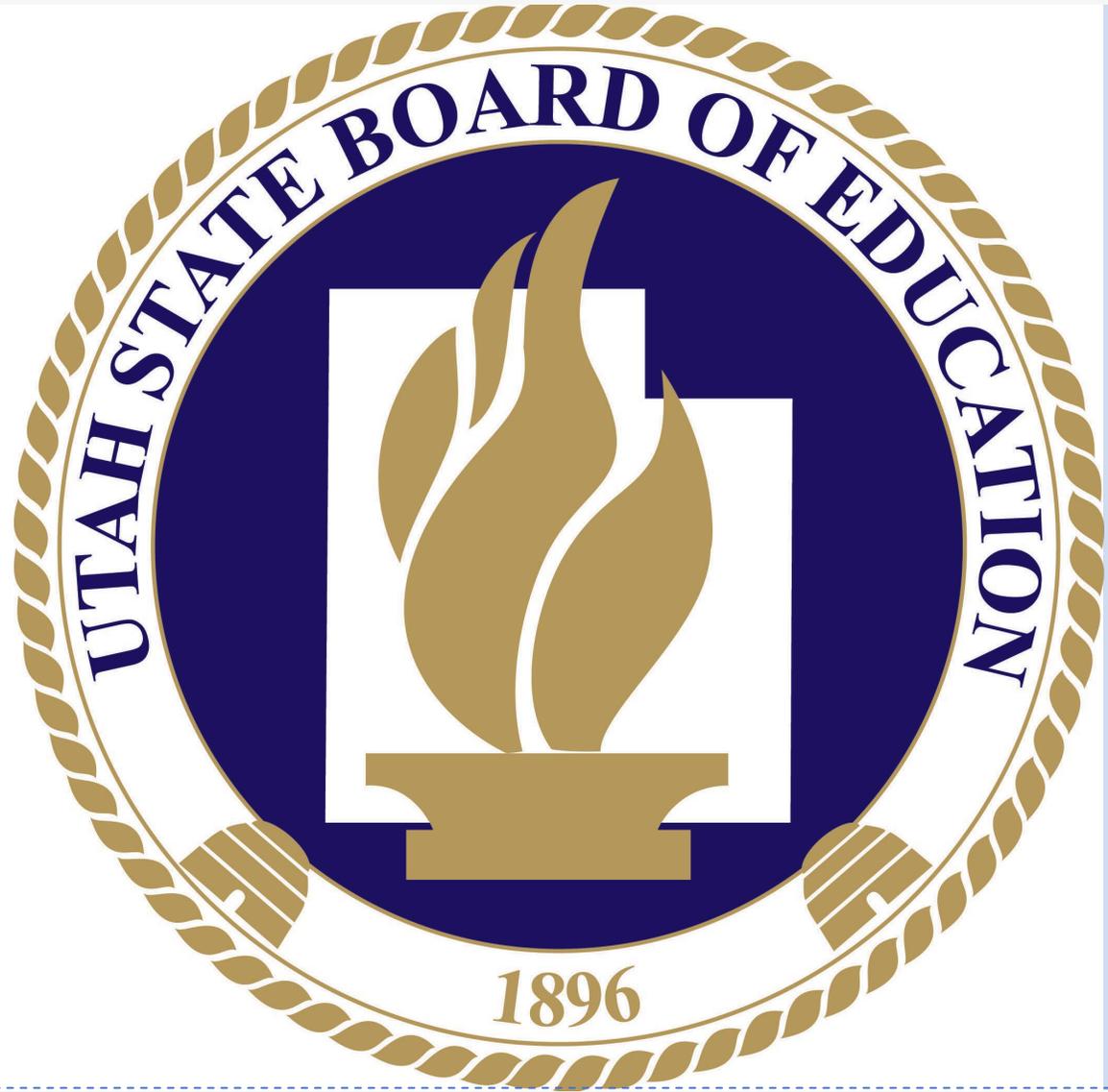


Utah Admin. Code R277-211

- (3)(1)(b) In considering whether to open a case regarding an allegation of educator misconduct, UPPAC shall consider the known facts and circumstances surrounding the allegation to determine whether opening a case is warranted.
- (c) UPPAC shall open a case most readily when the evidence shows that:
 - the alleged misconduct involves the physical or emotional safety and well-being of a student;
 - the alleged misconduct had a highly visible impact on the educator's school community;
 - the alleged misconduct has the potential to damage the integrity of the education profession;
 - the educator's LEA recommends the Board investigate the matter; or
 - the educator has received prior UPPAC discipline.



Expedited Hearings

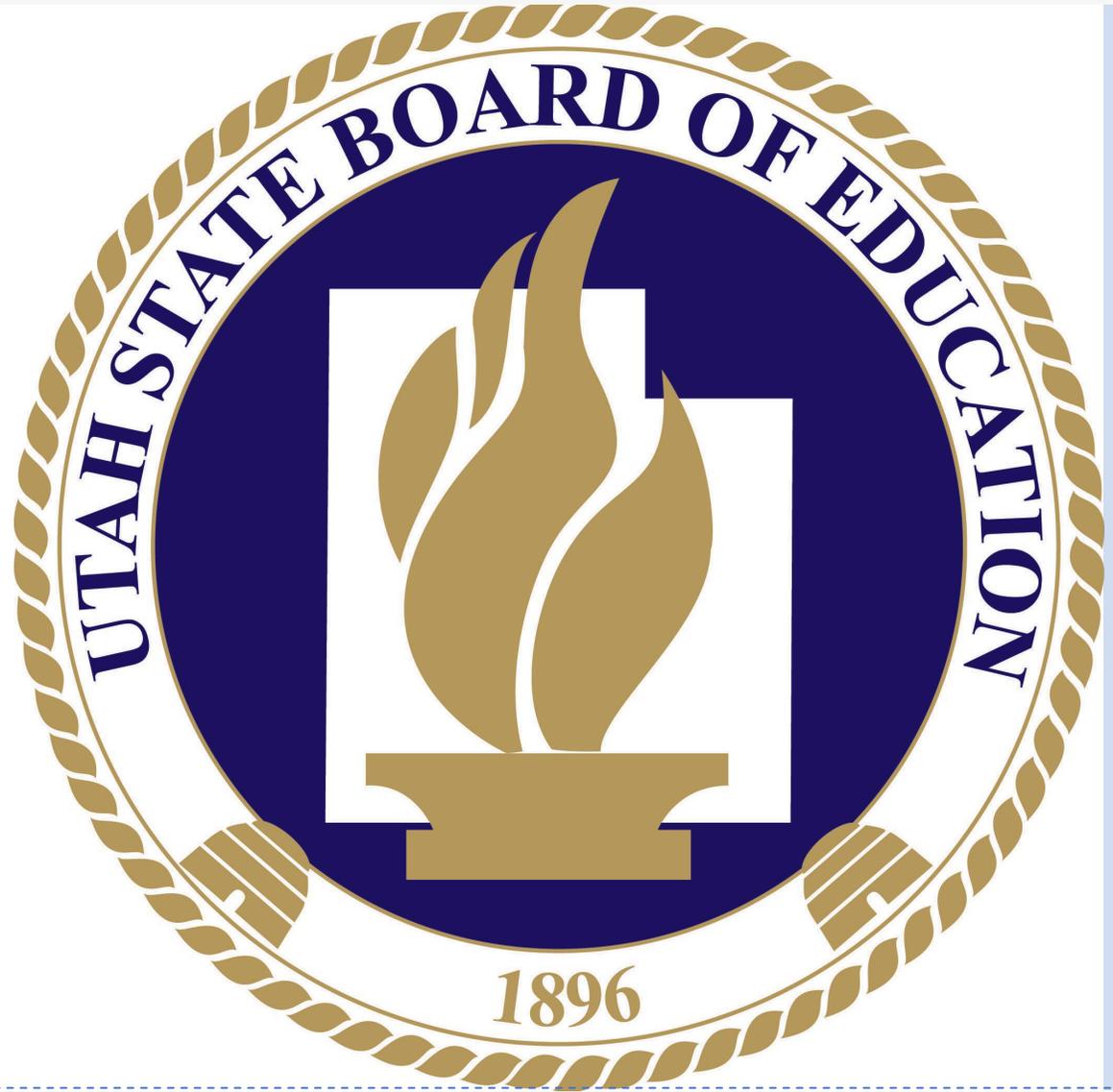


Expedited Hearings – R277-211-5



- Three member Panel with Hearing Officer (Staff Member)
- UPPAC will target less serious violations for this process
- Optional for Educator
- Short hearing involving Educator, Educator's attorney, UPPAC attorney, LEA representative, and panel
- Targeted for matters where the material allegations are not in dispute
- After the expedited hearing, the panel may recommend:
 - Closing the Case;
 - Closing the Case upon completion of recommended training or other educator requirements;
 - Issuing a Letter of Education or Letter of Warning;
 - Conducting a full investigation
- Testimony from an expedited hearing may be used in a future evidentiary hearing
- NO CACTUS FLAG unless the panel recommends a full investigation

Definitions



Changes in Letters

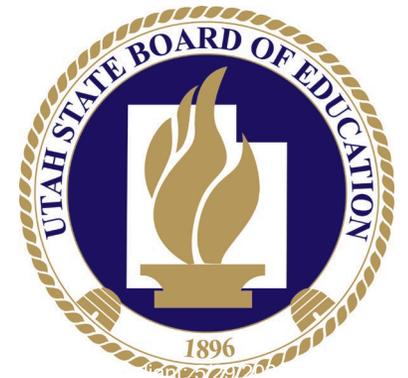
- Letter of Admonishment GONE
- Letter of Education – “A letter sent by the Board to an educator to instruct and caution the educator in an area of professional conduct when the evidence does not show a violation of the educator standards in Rule R277-217, but the evidence may show conduct that could lead to a violation of the standards in the future.”
- Letter of Warning – “ A letter sent by the Board to an educator: (a) for misconduct that was inappropriate or unethical; and (b) that does not warrant longer term or more serious discipline.”



~~Letter of~~ Reprimand

“Reprimand” is an action by the Board, which:

- (a) is imposed for misconduct that was longer term or more seriously unethical or inappropriate than conduct warranting a letter of warning, but not warranting invalidation of the educator’s license;
- (b) is accompanied by a flag on the educator’s CACTUS file, which the educator may request the Board remove from the educator’s CACTUS file **two years from the date the educator’s CACTUS file was flagged for investigation**, or after such other time period as prescribed by the Board; and
- (c) may include specific directives that the educator must complete prior to requesting the flag be removed from the educator’s CACTUS file.



What Distinguishes a Letter of Warning from a Reprimand?

- A Reprimand is presumed appropriate if an educator engages in conduct that would otherwise fall under a Letter of Warning classification, but is:
 - More Egregious or Repetitive; or
 - Something for which the Educator has received two or more written warnings from the LEA within the last ten years.

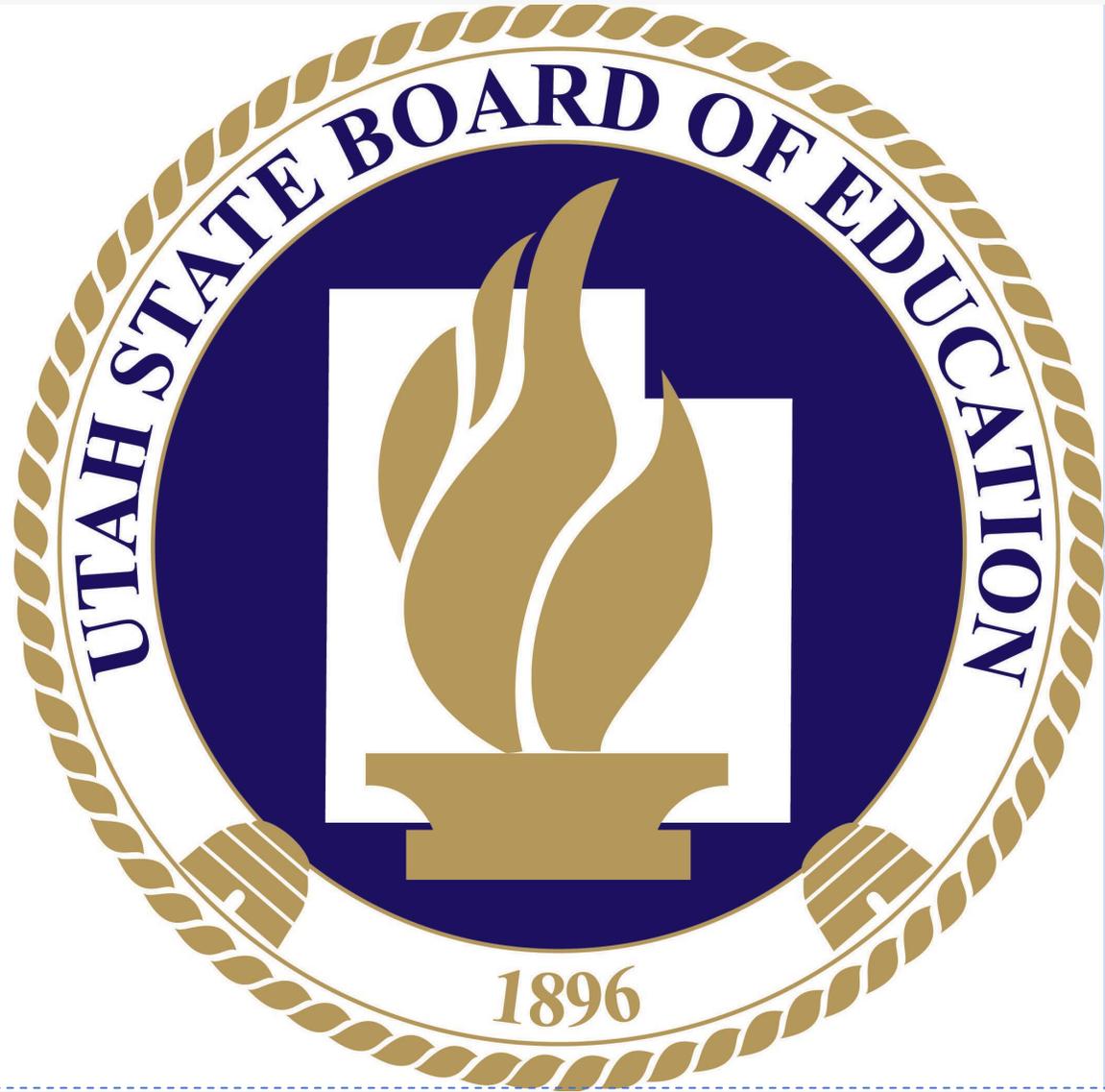


Other Key Definition Changes:

- Boundary violation no longer specifies “educator-initiated frontal hugging” as a violation. “Uninvited or inappropriate touching” remains an issue.
- “Conflict of Interest” means a business, family, monetary, or relationship concern that may cause a reasonable educator to be unduly influenced or that creates the appearance of undue influence.
- “Grooming” – REMOVED FROM DEFINITIONS
- “School-Related Activity” means a class, event, activity, or program:
(a) occurring at the school before, during, or after school hours; or
(b) that a student attends at a remote location as a representative of the school or with the school’s authorization.



Credit for Time Served

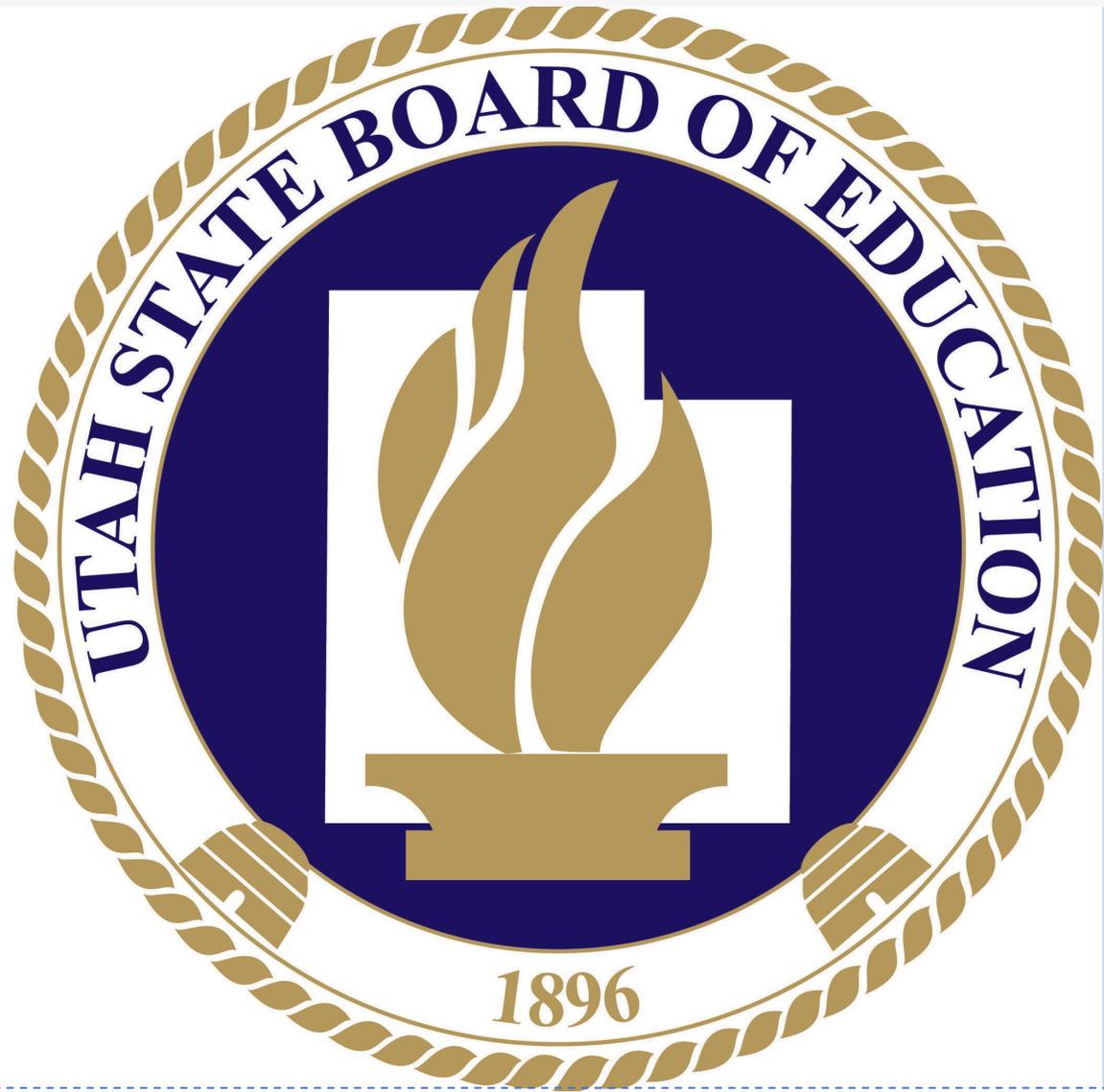


Options for UPPAC R277-215

- Circumstances Warranting Consideration of Deviation from Presumptions
 - the educator's misconduct resulted in a disproportionate period of missed classroom time;
 - UPPAC's investigation took longer than six months
 - No pending criminal charges
 - Circumstances Beyond the Educator's Control
 - UPPAC may consider matching the presumption period to a plea in abeyance period
 - If the plea results from charges stemming from the educator's alleged misconduct.

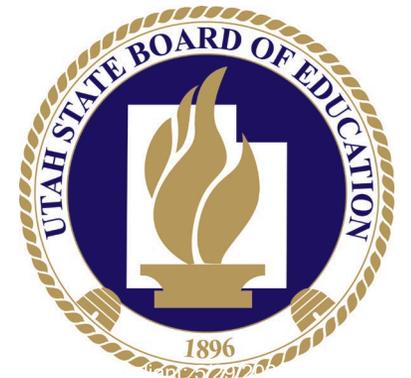


Aggravating/
Mitigating
Circumstances

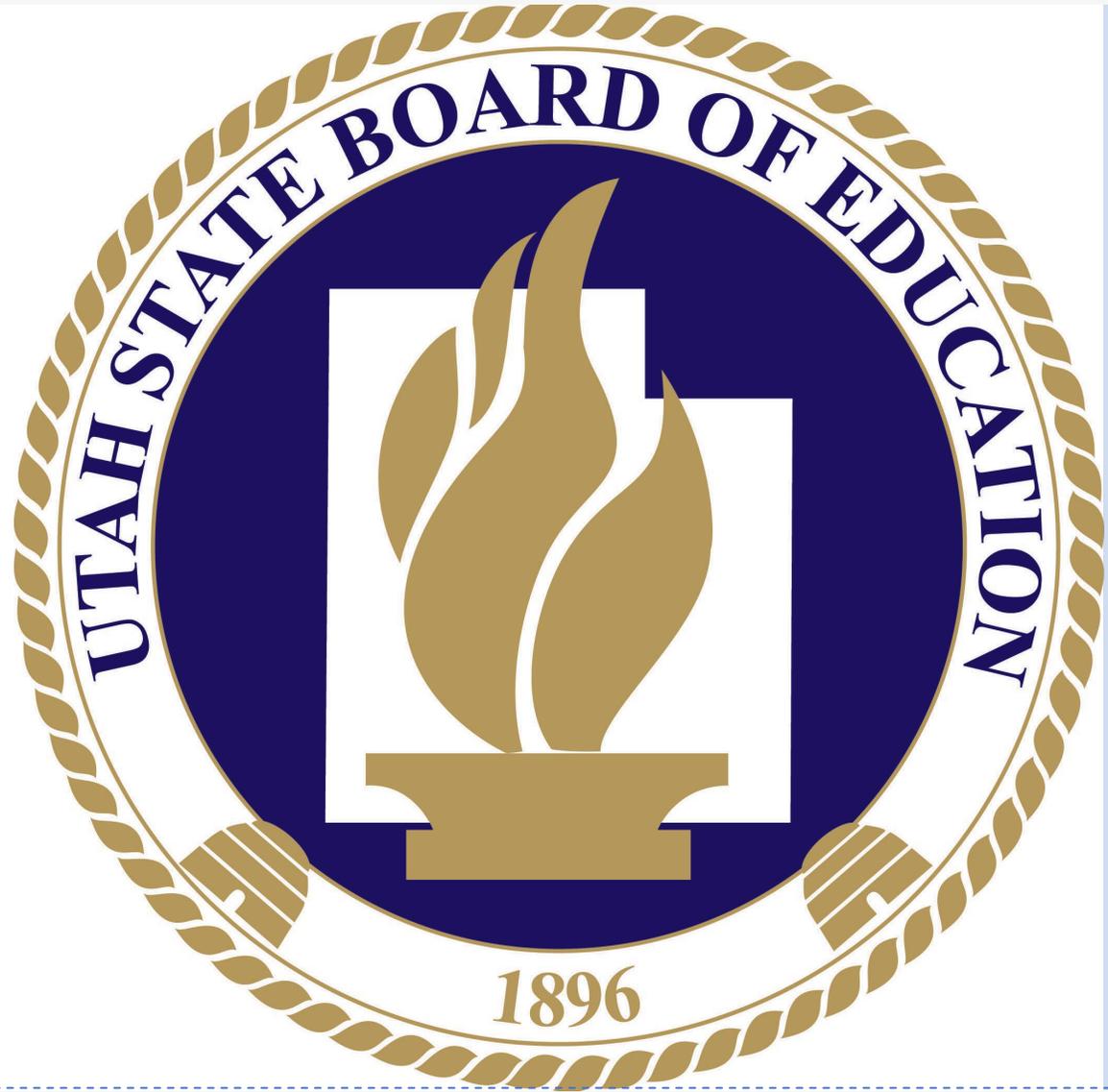


Changes

- Aggravating – An educator’s attitude “exhibits indifference, flippancy, disregard, or defiance towards the allegations or the consequences.” (~~Educator does not reflect responsibility.~~)
- Mitigating – An educator has “voluntarily sought treatment, counseling or training specific to the misconduct.”
- Mitigating – An educator has “made a timely, good faith effort to make restitution or rectify the consequences of the educator’s misconduct.
- Mitigating – An educator “received a plea in abeyance from the court for criminal charges stemming from the alleged misconduct.”



Changes to Reinstatement

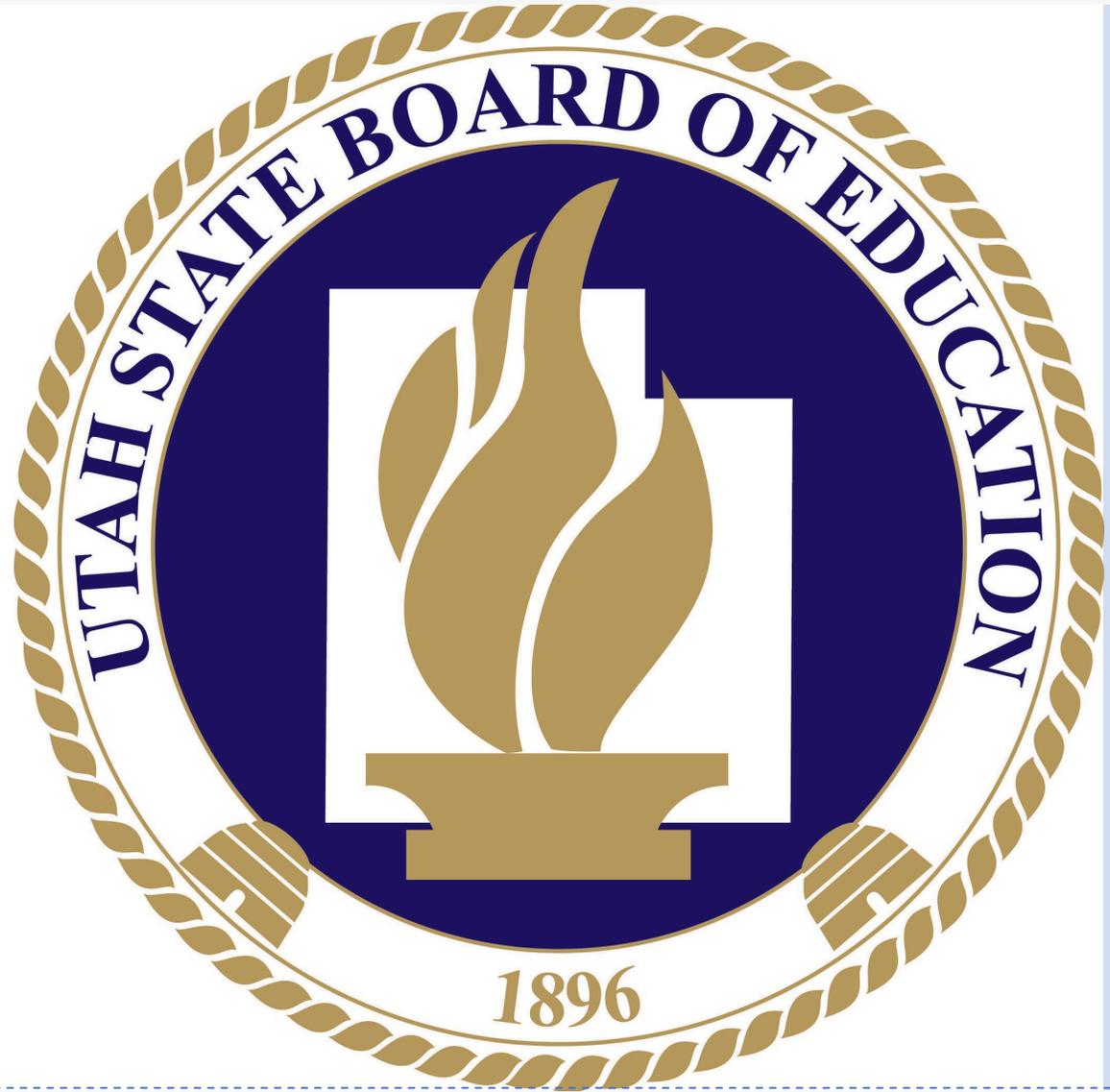


From R277-213...

- An educator may file a request for reinstatement at any time one year prior to the expiration of the suspension period if the educator has completed the requirements identified in the educator's consent to discipline.
 - UPPAC can hold a hearing before the time has lapsed so that an educator doesn't have to wait longer than the reinstatement period to come back.
- The Board eliminated the default requirement that an individual who is denied reinstatement must wait 24 months before requesting another hearing.
 - A recommendation to deny reinstatement should include a recommended wait period.



It doesn't stop
there...



Other Recommendations

- Request funding for educator ethics training for educators 
- Provide training to the state board on the standards for reviewing UPPAC's recommendations 
- Eliminate the Superintendent review process 





QUESTIONS, CONCERNS, SARCASTIC REMARKS, CHEAP SHOTS,
JOKES?