

R277-316 received final approval by the Utah State Board of Education on December 5, 2019. R277-316 is published in the January 1, 2020 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of February 7, 2020.

**R277. Education, Administration.**

**R277-316. Professional Standards and Training for Non-licensed Employees and Volunteers.**

**R277-316-1. 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)(i) Subsection 53E-3-301(3), which instruct the Superintendent to perform duties assigned by the Board that include:

(ii) presenting to the Governor and the Legislature each December a report of the public school system for the preceding year that includes:

(A) investigation of all matters pertaining to the public schools; and

(B) statistical and financial information about the school system which the Superintendent considers pertinent;

(c) Subsections 53E-3-501(1)(a)(i) and (iii), which direct the Board to:

(i) establish rules and minimum standards for the public schools regarding the qualification and certification of educators and ancillary personnel who provide direct student services; and

(ii) the evaluation of instructional personnel; and

(d) Title 53E, Chapter 6, Part 4, Background and Employment Checks, which directs the Board to require educator license applicants to submit to background checks and provide ongoing monitoring of licensed educators.

(2) The purpose of this rule is to ensure that all students who are compelled by law to attend public schools, subject to release from school attendance consistent with Section 53G-6-204, are instructed and served by public school teachers and employees who have not violated laws that would endanger students in any way.

**R277-316-2. Definitions.**

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(1) "Association" means the same as that term is defined in Subsection 53G-7-1101(3).

(2) "Charter school governing board" means a board designated by a charter school to make decisions for the operation of the charter school.

(3) "Charter school board member" means a current member of a charter school governing board.

(4) "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the database maintained on all licensed Utah educators, which includes information such as:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history;

(e) professional development information;

(f) completion of employee background checks; and

(g) a record of disciplinary action taken against the educator.

(5) "Contract employee" means an employee of a staffing service who works at a public school under a contract between the staffing service and the public school.

(6) "DPS" means the Department of Public Safety.

(7) "LEA" or "local education agency" for purposes of this rule includes the Utah Schools for the Deaf and the Blind.

(8)(a) "Licensed educator" means an individual who holds a valid Utah educator license and has satisfied all requirements to be a licensed educator in the Utah public school system (examples are traditional public school teachers, charter school teachers, school administrators, Board employees, and school district specialists).

(b) A licensed educator may or may not be employed in a position that requires an educator license.

(c) A licensed educator includes an individual who:

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(i) is student teaching;

(ii) is in an alternative route to licensing program or position; or

(iii) holds an LEA-specific competency-based license.

(9) “Non-licensed public education employee” means an employee of a an LEA who:

(a) does not hold a current Utah educator license issued by the Board under Title 53E, Chapter 6, Educator Licensing and Professional Practices Act; or

(b) is a contract employee.

(10) “Public education employer” means the education entity that hires and employs an individual, including public school districts, the Utah State Office of Education, Regional Service Centers, and charter schools.

(11) “Volunteer” means a volunteer who may be given significant unsupervised access to children in connection with the volunteer’s assignment.

### **R277-316-3. Non-licensed Public Education Employee, Volunteer, and Charter School Board Member Background Check Policies.**

(1) An LEA shall adopt a policy for non-licensed public education employee, volunteer, and charter school board member background checks that includes at least the following components:

(a) a requirement that the individual submit to a background check and ongoing monitoring through registration with the systems described in Section 53G-11-404 as a condition of employment or appointment; and

(b) identification of the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA only receives notifications for individuals with whom the LEA maintains an authorizing relationship.

(2) An LEA policy shall describe the background check process necessary based on the individual’s duties.

### **R277-316-4. Non-licensed Public Education Employee, Volunteer, or Charter School**

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**Board Member Arrest Reporting Policy Required from LEAs.**

(1) An LEA shall have a policy requiring a non-licensed public employee, a volunteer, a charter school board member, or any other employee who drives a motor vehicle as an employment responsibility, to report offenses specified in Subsection (3).

(2) An LEA shall post the policy described in Subsection (1) on the LEA's website.

(3) An LEA's policy described in Subsection (1) shall include the following minimum components:

(a) reporting of the following:

(i) convictions, including pleas in abeyance and diversion agreements;

(ii) any matters involving arrests for alleged sex offenses;

(iii) any matters involving arrests for alleged drug-related offenses;

(iv) any matters involving arrests for alleged alcohol-related offenses; and

(v) any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

(b) a timeline for receiving reports from non-licensed public education employees;

(c) immediate suspension from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation;

(d) immediate suspension from transporting students or public education vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation;

(e) adequate due process for the accused employee consistent with Section 53G-11-405;

(f) a process to review arrest information and make employment or appointment decisions that protect both the safety of students and the confidentiality and due process rights of employees and charter school board members; and

(g) timelines and procedures for maintaining records of arrests and convictions of non-licensed public education employees and charter school board members.

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(4) An LEA shall ensure that the records described in R277-516-5(3)(g):

(a) include final administrative determinations and actions following investigation;

and

(b) are maintained:

(i) only as necessary to protect the safety of students; and

(ii) with strict requirements for the protection of confidential employment information.

#### **R277-316-5. Association Professional Standard Setting, Training, and Monitoring.**

(1) Beginning with the 2017-2018 school year, a public school may not be a member of, or pay dues to an association that adopts rules or policies that are inconsistent with this R277-516-6.

(2) An association shall establish policies or rules that require:

(a) coaches and individuals who oversee interscholastic activities or work with students as part of an interscholastic activity to meet a set of professional standards that are consistent with the Utah Educator Professional Standards described in Rule R277-217;  
and

(b) the association or public school to annually train each coach or other individual who oversees or works with students as part of an interscholastic activity of a public school on the following:

(i) child sexual abuse prevention as described in Section 53G-9-207;

(ii) the prevention of bullying, cyber-bullying, hazing, harassment, and retaliation as described in:

(A) Title 53G, Chapter 9, Part 6, Bullying and Hazing; and

(B) R277-613; and

(iii) the professional standards described in Subsection (2)(a).

(3) An association shall establish procedures and mechanisms to:

(a) monitor LEA compliance with the association's training requirements described in Subsection (2); and

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(b) track the employment history of individuals who receive a certification from the association.

**R277-316-6. Public Education Employer Responsibilities Upon Receipt of Arrest Information.**

(1) A public education employer that receives arrest information about a licensed public education employee shall review the arrest information and assess the employment status consistent with Section 53E-6-604, Rule R277-217, and the LEA's policy.

(2) A public education employer that receives arrest information about a non-licensed public education employee, volunteer, or charter school board member shall review the arrest information and assess the individual's employment or appointment status:

(a) considering the individual's assignment and duties; and

(b) consistent with a local board-approved policy for ethical behavior of non-licensed employees, volunteers, and charter school board members.

(3) A local board shall provide appropriate training to non-licensed public education employees, volunteers, and charter school board members about the provisions of the local board's policy for self-reporting and ethical behavior of non-licensed public education employees, volunteers, and charter school board members.

(4) A public education employer shall cooperate with the Superintendent in investigations of licensed educators.

**KEY: school employees, self reporting, background check**

**Date of Enactment or Last Substantive Amendments:**

**Notice of Continuation:**

**Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-301(3)(a); 53E-3-301(3)(d)(x); 53E-3-501(1)(a)(i); 53E-3-501(1)(a)(iii)**