

R277-216 received final approval by the Utah State Board of Education on February 4, 2021. R277-216 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.

R277-216. Surrender of License with UPPAC Investigation Pending.

R277-216-1. 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) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) 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.

(2) The purpose of this rule is to establish procedures for Board consideration of an educator request to surrender a license in the face of a UPPAC investigation.

(3) The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

R277-216-2. Petition to Surrender.

(1) An educator may surrender an educator license at any point prior to ~~the resolution of a~~ final Board action on the recommendation from a UPPAC investigation.

(2) An educator who requests to surrender an educator license under Subsection (1), shall submit a petition~~[or stipulated agreement]~~ to UPPAC for submission to the Board, which shall include:

(a) a brief statement of the procedural history of the investigation leading up to the voluntary surrender;

(b) a statement that the educator is entitled to due process in UPPAC's investigation and that the educator freely and voluntarily waives the educator's due process rights, including:

(i) a right to a hearing;

(ii) a right to confront and cross examine witnesses;

(iii) a right to present witnesses;

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- (iv) a right to an impartial decision based upon evidence presented at the hearing; and
- (v) a right to subpoena witnesses; and
- (c) a statement that the educator surrenders the educator's license freely and voluntarily and without coercion or duress;
- (d) a statement that the educator:
 - (i) is represented by counsel; or
 - (ii) understands the educator's right to be represented by counsel and knowingly and voluntarily waives the assistance of counsel in UPPAC's investigation;
- (e) a statement that the educator is fully aware of the implications of surrendering the educator's license with an investigation pending, including:
 - (i) that the educator may not work, consult, or volunteer in any K-12 public school in the state of Utah in any capacity;
 - (ii) that the educator is not eligible for a reinstatement hearing at any time;
 - (iii) that UPPAC files and case resolution are subject to public disclosure in accordance with state and federal law;
 - (iv) that notification of the educator's license surrender will be shared with all states through NASDTEC; and
 - (v) except as provided in Subsection (3), that notification of the educator's license surrender will be:
 - (A) classified and reported as a voluntary surrender (UPPAC investigation); and
 - (B) shared with LEAs throughout the state.
- (3) If an educator surrenders a license during an investigation of allegations described in Subsection 53E-6-604(5)(b), the surrender will be:
 - (a) classified and reported as a revocation; and
 - (b) shared with LEAs through the state.
- (4)(a) Voluntary surrender of a license as set forth in this section is permanent.
- (b) An educator who surrenders a license as set forth in this section is not eligible for a reinstatement hearing at any time.

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R277-216-3. Review of Petition to Surrender.

(1)(a) Upon receiving a petition~~[-or stipulated agreement]~~ as provided in Subsection R277-216-2(2), the Executive Secretary shall review the request for surrender to determine if it meets the requirements set forth in the rule.

(b) If the requirements of Subsection R277-216-2(2) are not met, the Executive Secretary shall notify the educator that the request is insufficient and the reasons why the request is insufficient.

(c) If the requirements of Subsection R277-216-2(2) are met, the Executive Secretary shall notify the Board of the voluntary surrender and request direction on whether to continue the investigation.

(2) Upon receipt of a voluntary surrender of an educator license, the Executive Secretary shall:

- (a) notify the educator:
 - (i) that the voluntary surrender was received;
 - (ii) whether the Board required UPPAC to continue the investigation;
 - (iii) that the voluntary surrender will be reported in the public record as a voluntary surrender with pending UPPAC investigation except as provided in Subsection R277-216-2(3);
 - (iv) that the voluntary surrender will be reported to NASDTEC and to LEAs throughout the state; and
 - (v) that the educator's license cannot be reinstated at any time.
- (b) update ~~[CACTUS]~~the educator's licensing file to reflect the disposition;
- (c) report the disposition to NASDTEC;
- (d) notify the educator's last employer of record;
- (e) report the disposition to LEAs through the state; and
- (f) provide the educator a copy of the report to LEAs described in Subsection (2)(e).

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R277-216-4. Applicability of Rule.

This R277-216 does not apply to an educator's voluntary surrender of the educator's license if the educator is not ~~[being investigated]~~under investigation by UPPAC.

KEY: educators, license surrender, UPPAC

Date of Enactment or Last Substantive Amendment:

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-6-506; 53E-3-401(4)