



# UTAH SCHOOL LAW UPDATE

Utah State Office of Education

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## Gangs: The Good, the Bad, and the Ugly, Minus the Good

The Ogden Metro Gang Unit held its annual conference this month to discuss trends and developments in gangs nationwide and here in Utah. Much of the information disseminated at the conference was highly relevant to schools and worthy of a front-page article in the School Law Newsletter.

Officer Jermaine Galloway from the Boise Police Department covered boozing, doping, and popular drug-related clothing.



One of the newest and more dangerous trends in boozing is energy drinks with alcohol. Most of these drinks have between 8-12 % alcohol in them but are not easily identified as alcohol because they come in cans that look very much like your non-alcohol energy drinks. The cans are colorful and are generally 16 ounces, instead of your typical 12 ounce can of beer. Additionally, the percentage of alcoholic content is written in small, fine print and if you don't know what you're looking for, is easily missed. Officer Jermaine explained that he's seen parents pick one of these drinks up for their teen-age

kids, not realizing it has alcohol in it; on one occasion, a student had one in class, sitting on his desk. Clerks at convenience stores who aren't well trained sell these drinks without asking for I.D., making it easily accessible to under-age drinkers. The danger is that it doesn't take much for minors to get drunk from these drinks, and not recognizing the effects because it looks like an energy drink, will down 2 or 3 of them before getting sloshed.

Another trend Officer Jermaine discussed was drug-related clothing. Local chains like American Eagle, Zumiez, and Pacsun sell belt buckles and Reef sandals that double as bottle openers. The actual utility of the bottle opener is not what's important as minors can get their alcohol in cans; it's the statement it makes about what the student is looking for. Officer Jermaine explained students who purchase and wear these items are marking themselves as drinkers and partyers. Hats with compartments built into the bill are also sold at these places; these compartments are perfect for hiding a student's drug stash.

Another frightening trend

Officer Jermaine talked about is vodka balling: the practice of pouring vodka directly into the eyeball. As the blood gets into the veins faster through the eye, the buzz is more immediate. Of course, the detrimental effects to the eye are astronomical.

Maylou Carillo, retired El Paso PD Tactical Gang and Special Ops Sergeant, talked about identifying gangs in schools. She explained that most gangs have nicknames or monikers. You should write these down when heard around school and keep track of them, even if you don't know who belongs to the gang. If you suspect but don't know who is in a gang, ask. Most kids will let you know what gang they belong to if you ask them, and they'll likely give you other helpful information like what type of clothing, hand signs, symbols and tagging are associated with that gang. Many gangs will wear "In memory of..." T-shirts after a gang member has been killed and you can identify many gang members that way. Also, if you don't get information from the gang member about his particular gang, he might share information on a rival gang, so keep asking questions.

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### UPPAC CASES

*The Utah State Board of Education refused to reinstate the license of David Clarke Houle, a former teacher in Alpine School District.*

*The Utah State Board of Education accepted a stipulated agreement for suspension of David Allen Lacy's license. He was a teacher in San Juan School District. The suspension results from Mr. Lacy's violation of the Native American Graves Protection and Repatriation Act.*

*The Utah State Board of Education accepted a stipulated agreement for suspension of Loren McKay Jones' license. He formerly taught in Uintah School District. The suspension results from Mr. Jones viewing inappropriate sexually oriented material on school computer equipment.*

## Gangs Cont.

Identifying gang paraphernalia is another way to spot a gang member. Watch for sagging pants, professional sports teams, long socks, military belts, heavy lipstick on girls, dark nail polish, and pony tails high on the head, Pebbles-style. Popular gang tattoos include: spider webs, bar codes, teardrops (which means something tragic has happened), 3 dots (a gang-related tattoo, but is not indicative of a specific gang), SUR, the number 13, other numbers such as 213 and 965—L.A. and El Paso’s area codes, respectively, areas from which a lot of gangs migrate—Roman numerals, feathers (which means rank), hand with an M (stands for Mexican Mafia), 666 (18<sup>th</sup> Street gang), and 3 horizontal bars with 3 dots (also 18<sup>th</sup> Street gang).

Marylou encouraged teachers to be super-vigilant in observing potential gang-related activity. One gang member Marylou worked with was caught with a gun when his teacher noticed he was carrying a book—not typical for him—and, confiscating it, saw that he had ripped out the pages and hidden the gun inside. Marylou closed with strategies to reduce gang violence in

schools. She suggested:

- Enforce a strict zero tolerance policy, and encourage schools to take gang-related threats or assaults seriously. Also, take graffiti and tagging seriously; tagging creates an appearance of a gang presence, which is both intimidating to rivals and inviting to members or wannabes. Banish it before others see it.
- Consider implementing uniform policies as uniforms strip gangs of the power to intimidate through clothing and take away from the businesses that are making money on drug/gang-related paraphernalia.
- Be creative with suspensions and expulsions. Expelling and suspending students for gang or drug-related activity just puts the students back on the street and only



exacerbates the problem. Consider making the students wear white shirts and ties, instead, or extending hours the student must be in school.

- Keep cameras around the school—even cameras without film in them. Students don’t know the difference between a camera that is rolling and one that is not.
- Keep accurate and thorough records of suspected activity to assist law enforcement.
- Consider requiring mandatory parenting classes if kids are skipping school, engaged in drug use, or joining gangs, in order to educate parents about what’s going on.

Many communities are still in denial that gangs are a problem. Parents and schools must be aware of the issue in order to know how to best address it.

## UPPAC Case of the Month

Most everyone can recognize a serious red flag boundary issue when it goes as far as having a sexual relationship with a student. Many would also agree that inviting a student on a family trip to Lake Powell would cross professional teacher-student boundaries. But what about all the boundary crossing that happens in the “gray areas”? The activities that don’t seem egregious and yet are still inappropriate?

Like loaning your car to an 18 year old student, who is not even your student, but is a member of the stage crew in the school play you’re directing. You’re in the middle of a busy dress rehearsal and you need someone to run to Subway and buy sandwiches for the crew before showtime. Subway’s only a mile away, the student claims to have a valid driver’s license, and really, there’s no one else to make the



sandwich run. While all these facts make the situation sound relatively harmless, what if it turns out the student actually does not have a license, he goes way beyond Subway to pick up a buddy, and then gets pulled over and ticketed on his way back to the school? Then the student fails to tell his parents about the ticket, a warrant is issued for the student’s arrest for failure to address the ticket, and the next time the student has a run-in with the law, he is thrown in jail, and his parents are completely clueless about how it all happened? While these “what-ifs” may not always happen every time a car is loaned to a student, the practice of car loaning is one that should be forbidden at your schools. In addition to the possibility of something going wrong, it is an inappropriate level of familiarity between students and teachers.

Similarly, counselors who make home

visits without specific written permission from the parents and the school district are crossing professional boundaries that blur the line between educator and student. Giving students your cell phone information and encouraging them to text you, or responding to students’ texts; adding or accepting a “friend” invitation on Facebook and engaging in Facebook chats, spending time one-on-one with students in your classroom, especially behind closed doors, and giving students rides in your personal vehicle are all examples of gray-ish inappropriate boundary crossing. While these activities in and of themselves are not necessarily unethical, it’s the familiarity and the breaking down of boundaries between student and teacher that starts a slippery slope toward obviously unethical activities.

## Can't Live Without Them—(Sometimes) Can't Live With Them

What would teachers do without VOLUNTEER parents and grandparents to assist classroom teachers in various ways!?! Class sizes in Utah are the largest in the country. But Utah also has a tremendous volunteer commitment and “volunteer/work ethic,” which helps to make large classes manageable. Parents, Utah fathers in specific, have volunteered their services to supervise in rowdy lunchrooms or assist in truancy-prevention programs. Many secondary school athletics and activities rely on the efforts of “volunteer coaches” and volunteer chauffeurs and booster club activists. As we begin this school year, what should the EDUCATORS who supervise the VOLUNTEERS know and remember about their relationship:

- Volunteers should not perform services that are more appropriately carried out by licensed educators. These decisions can be made at the school or district level; they are often made in concert with professional associations, based on professional standards.
- Utah law (§53A-3-410(1)) includes volunteers who have significant unsupervised access to students under the definition of “applicant” for whom district superintendents must require criminal background checks prior to employment or appointment. A school district

should carefully evaluate a volunteer’s interaction with students and require greater scrutiny, including the criminal background check, for volunteers who work with, tutor or counsel individual students for significant periods of time. LEAs should determine their own standards for “significant” and “unsupervised.”

- Volunteering is not a right. If a school determines that a volunteer is disruptive or unhelpful or requires excessive supervision, a school or teacher can request the volunteer not provide services at the school. Teachers or administrators cannot discriminate against volunteers for unconstitutional reasons, but it is possible that some volunteers are welcome and some are not.
- Having just said that volunteering in a public school is not a *right*, schools should also guard against practices that would result in illegal discrimination. For instance, if parent volunteers are never alone with individual children, criminal background checks would be unnecessary. Schools should not discriminate against dads or grandpas by requiring a background check for volunteer activities from them but not requiring one of female volunteers. Similarly, school

volunteers must treat all students with respect, without regard to ethnicity, disabilities or the immigration status of the students’ families.

- Either individual teachers, schools or districts should have orientation sessions with volunteers. Volunteers should receive specific instructions about interacting with students. They should be instructed about confidentiality. They should be directed to have a criminal background check, if appropriate, and they should be well-informed about school policies and rules. If school volunteering includes booster club activities, parent volunteers should understand and follow the school’s rules for collecting and accounting for funds coming to the school. Schools should tell parent volunteers directly if they are welcome to bring younger children with them to volunteer—or not.
- **Finally, the teacher is responsible for the volunteers in her classroom. They should be adequately trained and appropriately supervised.**



## Your Questions

**Q:** Are local superintendents required to have a Utah educator license?



**A:** Consistent with Utah law (Utah Code, Section 53A-3-301(5)), a local school board may request the Utah State Board of Education to issue a letter of authorization (this is considered a “license”). The state law was changed by the Legislature last year. The law still requires the local board to select the superintendent based on “outstanding professional qualifications.” The preference

### What do you do when . . . ?

provided for in the law that a superintendent be “licensed” by the Utah State Board of Education initiates the criminal background check requirement, consistent with other educator license holders. Licensing also makes the local superintendent subject to professional educator standards—important for THE role model for school district employees.

**Q:** I have a teacher friend who

occasionally lets students drive his car to run school errands for him. Is this a problem?

**A:** Yes! Not only is a teacher letting a student drive a personal vehicle in violation of almost every local district policy, it would violate the directives and policies of all district insurance carriers. The practice (even if occasional or convenient) is also unprofessional. Licensed educators should not intentionally or carelessly violate district policies, but they also should not allow students to do personal

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The Utah Professional Practices Advisory Commission, as an advisory commission to the Utah State Board of Education, sets standards of professional performance, competence and ethical conduct for persons holding licenses issued by the Board.

The Government and Legislative Relations Section at the Utah State Office of provides information, direction and support to school districts, other state agencies, teachers and the general public on current legal issues, public education law, educator discipline, professional standards, and legislation.

Our website also provides information such as Board and UPPAC rules, model forms, reporting forms for alleged educator misconduct, curriculum guides, licensing information, NCLB information, statistical information about Utah schools and districts and links to each department at the state office.

## Your Questions Cont.

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favors for them that involve high risk activities—like teen age driving.

**Q:** I am a teacher in a small Utah community. I live in the school area where I teach. Consequently, I am the neighborhood Boy Scout leader and my own children go to school with my “students.” How can I maintain a proper professional demeanor, but still be realistic about personal and community relationships?

**A:** Utah State Board of Education Rule 277-515 sets the professional standards for Utah educators. There are other state and federal laws that require public education employees to protect the confidentiality of students and the privacy of student information or records. None of these standards makes excuses for teachers who live in small, closely knit communities. First, you should be (or become) familiar with educator professional standards.

Second, you can always be completely, thoroughly confidential about student information and student records. That information may be shared with specific individuals and with parents, upon request. You should give your best professional efforts to acting as a licensed educator while at school or in teacher assignments, recognizing that you are also a valued community member.

**Q:** I am an elementary school principal. I have had two calls this week from parents moving from California or Oregon where their children started kindergarten in their respective states—and the children do not turn five until December. Parents want to NOW enroll their children in kindergarten in my Utah school. Should I enroll them, just because they started in another state where the deadline allows younger children to enroll?

**A:** NO. Students must be five years old by September 1 to enroll in school in Utah. So sorry that parents started their children in

another state. You can offer parents a little bit of flexibility—for next year when children are eligible for public school in Utah. If child continues in a kindergarten program in a private school or through homeschooling, next year the school/district can evaluate student’s readiness for first grade instead of kindergarten. There are private schools that will take children into a kindergarten program—at any age. Finally, the only exception for this hard and fast kindergarten eligibility date is if one of the child’s parents/legal guardians is active duty military. If the child is then moving from another state or country where he was eligible to attend public school, her eligibility would carry over into Utah.

