

1 **R277. Education, Administration.**

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

4 **R277-316-1. Authority and Purpose.**

5 (1) This rule is authorized by:

6 (a) Utah Constitution Article X, Section 3, which vests general control and
7 supervision over public education in the Board;

8 (b)(i) Subsection 53E-3-301(3), which instruct the Superintendent to perform duties
9 assigned by the Board that include:

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

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

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

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

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

19 (ii) the evaluation of instructional personnel; and

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

23 (2) The purpose of this rule is to ensure that all students who are compelled by law
24 to attend public schools, subject to release from school attendance consistent with Section
25 53G-6-204, are instructed and served by public school teachers and employees who have
26 not violated laws that would endanger students in any way.

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

29 (1) "Association" means the same as that term is defined in Subsection
30 53G-7-1101(3).

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

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

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

38 (a) personal directory information;

39 (b) educational background;

40 (c) endorsements;

41 (d) employment history;

42 (e) professional development information;

43 (f) completion of employee background checks; and

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

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

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

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

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

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

56 (c) A licensed educator includes an individual who:

- 57 (i) is student teaching;
58 (ii) is in an alternative route to licensing program or position; or
59 (iii) holds an LEA-specific competency-based license.
60 (9) “Non-licensed public education employee” means an employee of a an LEA who:
61 (a) does not hold a current Utah educator license issued by the Board under Title
62 53E, Chapter 6, Educator Licensing and Professional Practices Act; or
63 (b) is a contract employee.
64 (10) “Public education employer” means the education entity that hires and employs
65 an individual, including public school districts, the Utah State Office of Education, Regional
66 Service Centers, and charter schools.
67 (11) “Volunteer” means a volunteer who may be given significant unsupervised
68 access to children in connection with the volunteer’s assignment.

69
70 **R277-316-3. Non-licensed Public Education Employee, Volunteer, and Charter**
71 **School Board Member Background Check Policies.**

- 72 (1) An LEA shall adopt a policy for non-licensed public education employee,
73 volunteer, and charter school board member background checks that includes at least the
74 following components:
75 (a) a requirement that the individual submit to a background check and ongoing
76 monitoring through registration with the systems described in Section 53G-11-404 as a
77 condition of employment or appointment; and
78 (b) identification of the appropriate privacy risk mitigation strategy that will be used
79 to ensure that the LEA only receives notifications for individuals with whom the LEA
80 maintains an authorizing relationship.
81 (2) An LEA policy shall describe the background check process necessary based
82 on the individual’s duties.

83
84 **R277-316-4. Non-licensed Public Education Employee, Volunteer, or Charter School**

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

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

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

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

92 (a) reporting of the following:

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

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

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

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

97 (v) any matters involving arrests for alleged offenses against the person under Title
98 76, Chapter 5, Offenses Against the Person.

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

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

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

106 (e) adequate due process for the accused employee consistent with Section
107 53G-11-405;

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

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

- 113 (4) An LEA shall ensure that the records described in R277-516-5(3)(g):
114 (a) include final administrative determinations and actions following investigation;
115 and
116 (b) are maintained:
117 (i) only as necessary to protect the safety of students; and
118 (ii) with strict requirements for the protection of confidential employment information.
119

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

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

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

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

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

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

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

135 (A) [Title 53G, Chapter 9, Part 6](#), Bullying and Hazing; and

136 (B) [R277-613](#); and

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

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

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

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

143
144 **R277-316-6. Public Education Employer Responsibilities Upon Receipt of Arrest**
145 **Information.**

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

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

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

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

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

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

162
163 **KEY: school employees, self reporting, background check**

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

165 **Notice of Continuation:**

166 **Authorizing, and Implemented, or Interpreted Law: [Art X Sec 3](#); [53E-3-301\(3\)\(a\)](#);**
167 **[53E-3-301\(3\)\(d\)\(x\)](#); [53E-3-501\(1\)\(a\)\(i\)](#); [53E-3-501\(1\)\(a\)\(iii\)](#)**