

UTAH STATE BOARD OF EDUCATION

Subject:

ACTION: R277-123, Process for Members of the Public to Report Violations of Statute and Board Rule (Amendment)

Agenda item type:

Action Item

Recommended Action:

That the Committee approve R277-123, Process for Members of the Public to Report Violations of Statute and Board Rule, Draft [2 or 3], on first reading and forward to the Board for approval on second and final reading.

Background:

Staff will present R277-123, Drafts 2 and 3 for consideration of approval. Draft 2 is a revised version of Draft 1 that was provided in October Law and Licensing that incorporates feedback from various stakeholders and provides for the most local control by having LEAs provide a Hotline. Draft 3 is also a revised version of Draft 1 with some similar edits as were made to Draft 2, but provides for less local control as it gives the opportunity for LEAs to use the state Public Education Hotline as their hotline.

Staff recommends amending R277-123, which will also necessitate an amendment of R277-113 for the following reasons:

1. To address changes needed based on recent statutory updates (2024 HB 261 and HB 29);
2. To provide clarity on the Hotline receipt and referral process as well as roles and responsibilities;
3. To move the requirement for an LEA to have a hotline from R277-113 to R277-123, which will:
 - a. support that a hotline is for all types of concerns not just those related to fraud, waste, and abuse (i.e., financial);
 - b. place hotline related requirements at the state level and local level in proximity, which is more transparent and efficient; and
 - c. indicate that LEAs must (draft 2) have their own hotline with a related policy, or (draft 3) have their own Hotline or use the state Public Education Hotline. The USBE Public Education Hotline would remain an option for reporting concerns as required by 53E-3-401(8)(d).

Additional context/questions for consideration:

- LEAs must certify in an annual fraud risk assessment that is submitted to the Office of the State Auditor if they "have or promote a fraud Hotline" and if they "have a formal audit committee"; having these items impacts the LEAs risk score. An LEA audit committee is required by Utah Code 53G-7-402(1).
- The average annual number of concerns referred from the state Public Education Hotline back to an LEA is approximately 4 per LEA per year.
- Neither the state, nor LEAs, can control the types of concerns received on a hotline. Also, as the state Public Education Hotline receives non-LEA concerns related to public education, thus, R277-123 needs to be broad enough to cover those concerns as well.
- R277-613-4 and 5 currently require LEAs to develop and implement policies regarding incidents of bullying, cyberbullying, hazing, retaliation, abusive conduct, and making a false report; to develop action plans for handling incidents; to investigate allegations of incidents, including designation of an individual to investigate incidents and an individual who will oversee and monitor implementation of the action plan, policy, and related training.

- HB261, passed in the 2024 Legislative Session, requires the USBE to receive concerns specific to violations of the sections specified in the bill, in compliance with the process established to comply with 53E-3-401 (i.e., the Public Education Hotline) and provide an update to the Legislature on an LEA's compliance specific to reported violations.
- What are the roles and responsibilities of the state and LEA, board level and administration level, related to concerns about public education?
 - Does LEA use of the state Public Education Hotline cause confusion for individuals who think they are contacting the LEA, when they are contacting the state?
 - Are there common policies, procedures, processes that parents/students/taxpayers should expect all LEAs to follow regarding investigation of any concern received? If so, are these/should these be codified?
 - Is there a risk level (e.g., tolerance/appetite) that should indicate when investigations should be conducted by individuals/functions independent of the entity where the concern is alleged or that the state should be involved?
 - What are the possible consequences of the public education system not doing enough to address concerns that are reported?

2024 HB 261, also changed the term "library materials" to "instructional materials" to match the rest of law.

Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401](#)(4) and (8)

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Attachments:

1. R277-123 - Draft 1 - October 2024 Committee
2. R277-123 - Draft 2 - November 2024 Committee
3. R277-123 - Draft 3 - November 2024 Committee
4. R277-123 Quad Chart - October 2024 Committee
5. R277-123 Reporting Burden and Fiscal Impact Estimate Form