

R277. Education, Administration.

R277-322. LEA Codes of Conduct.

R277-322-1. Authority and Purpose [~~and Oversight Category~~].

(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) 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; and

(c) Section 63G-7-301, which requires the Board to create a model policy that:

(i) regulates behavior of a school employee toward a student; and

(ii) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(2) The purpose of this rule is to [~~require LEAs to create a code of conduct or appropriate behavior policy applicable to the LEA's staff~~] have each LEA and school adopt a code of conduct, not less stringent than the model code of conduct in R277-322-4 that applies to all employees within the LEA.

(3)(a) All provisions of this rule apply to all licensed educators. [This Rule R277-326 is categorized as Category 2 as described in Rule R277-111].

(b) Nothing in this rule shall limit the Board's authority under Rules R277-210 through R277-217 to investigate or discipline licensed educators for violations of educator standards.

R277-322-2. Definitions.

(1) "Boundary violation" means the same as that term is defined in Rule R277-210.

(2) "Personal identity characteristics" has the same meaning as defined in Section 53B-1-118.

~~[(3) "Staff" or "staff member" means an employee, contractor, or volunteer with unsupervised access to students.]~~

(3) "Promptly" means as soon as reasonably practicable under the circumstances.

(4) "Retaliation" means intimidation, threats, coercion, harassment, adverse employment actions, or other speech or conduct that would discourage a reasonable person from reporting or participating in an investigation.

~~(4) "Sexual conduct" means [any sexual contact or communication between a staff member and a student, including:~~

~~—— (a) "sexual abuse" as defined in Section 76-5-404.1;~~

~~—— (b) "sexual battery" as defined in Section 76-9-702.1; or~~

~~(c) a staff member and student sharing any sexually explicit or lewd communication, image, or photograph.] any verbal, written, visual, digital, or physical act or communication that is sexual in nature, sexualized, or reasonably perceived as intended to arouse sexual interest, normalize sexual behavior, or blur professional boundaries, including but not limited to:~~

(a) Sexualized speech, comments, jokes, narratives, hypotheticals, or discussions, whether explicit or implicit;

(b) Romantic or sexual expressions, flirtation, innuendo, or suggestive language;

(c) Electronic, digital, or social-media communications of a sexual or romantic nature, including emojis, images, memes, or coded language;

(d) Discussion or depiction of sexual activity, sexual identity, sexual orientation, sexual preferences, or sexual experiences that is not age-appropriate, curriculum-aligned, or pedagogically necessary;

(e) Conduct that a reasonable person would view as creating a sexualized, intimidating, hostile, or boundary-eroding educational environment;

(f) Any attempt to initiate, encourage, normalize, or advance a sexual or romantic relationship with a student or minor, regardless of consent or reciprocity;

(g) The sharing of any sexually explicit or lewd communication, image, or photograph;

(h) sexual abuse as defined in Section 76-5-404.1; or

(i) "sexual battery" as defined in Section 76-9-702.1.

R277-322-3. Required Model Code of Conduct [~~Policy~~].

(1) The ~~[Superintendent]~~ Board ~~[shall create]~~ hereby creates a model code of conduct. ~~[or appropriate behavior policy].~~

(2) A school employee:

(a) while acting within the scope of employment, shall avoid boundary violations, as defined in Rule R277-210, with a student or minor when the employee knows or reasonably should know that the individual is a student or minor;

(b) shall comply with the provisions of 65G-7-301 which require:

(i) providing training on the code of conduct to the employee; and

(ii) the employee to sign a statement acknowledging that the employee has read and understands the code of conduct;

(c) shall comply with all federal, state, and local laws;

(d) shall treat the students with respect;

(e) shall promptly report any known or reasonably suspected violation of the Code of Conduct to the appropriate school or LEA administrator in accordance with applicable reporting policies and procedures; and

(f) shall report suspected child abuse or neglect to law enforcement or the Division of Child and Family Services in accordance with Sections 53E-6-701 and 80-2-602;

(g) shall avoid the use of alcohol and illegal drugs while on duty or participating in a school-sponsored activity;

83 (h) shall avoid the use of prescription drugs while on duty or participating in a
84 school-sponsored activity , in a manner that impairs judgment or professional
85 performance;

86 (i) shall act professionally and in a manner that upholds the integrity of the school
87 and the public education system, while on duty or participating in a school-sponsored
88 activity;

89 (j) shall maintain political neutrality in the performance of professional duties
90 while acting within the scope of employment or in an official capacity a school employee
91 may not use or display partisan political language, campaign materials, political party
92 insignia, or advocacy symbols in the presence of students, unless such use is directly
93 related to instruction aligned with the approved curriculum;

94 (k) this includes, but is not limited to campaign slogans, political party insignia, or
95 advocacy symbols, during work hours, on school property, or in connection with official
96 LEA, or school, activities;

97 (l) An employee may not plan, organize, promote, encourage, or participate in
98 an unauthorized activity during the school day that disrupts instructional time or
99 encourages or results in student nonattendance from scheduled classroom instruction;

100 (m) subject to constitutional rights against self-incrimination, the employee shall
101 fully cooperate with criminal or civil law enforcement, and an LEA, school, UPPAC, or
102 Board investigation involving a student or employee by:

103 (i) responding truthfully and promptly to lawful inquiries;

104 (ii) providing relevant information within the employee's knowledge or
105 possession; and

106 (iii) complying with lawful subpoenas, warrants, or other compulsory processes;

107 (n) shall not, while on school property, while acting within the scope of
108 employment, or under circumstances in which a reasonable person would perceive the
109 conduct as school-sponsored, invite, suggest, or encourage a student to reconsider or
110 change the student's sexual orientation or gender identity.; and

111 (m) shall annually attend abuse prevention training as required in Section 53G-9-207.

112 ~~[(2) Each LEA and school shall adopt a code of conduct [or appropriate behavior~~
113 ~~policy] applicable to [the LEA's staff] all employees.~~

114 ~~—— (3) An LEA's code of conduct or appropriate behavior policy, adopted pursuant~~
115 ~~to Subsection (2), may not be less stringent than the model code of conduct or~~
116 ~~appropriate behavior policy described in Subsection (1) and shall include, at a minimum:~~

117 ~~—— (a) a statement that a staff member shall avoid boundary violations, as defined~~
118 ~~in Rule R277-210, with students;~~

119 ~~—— (b) a statement that a staff member may not subject a student to:~~

120 ~~—— (i) physical abuse;~~

121 ~~—— (ii) verbal abuse;~~

122 ~~—— (iii) sexual abuse; or~~

123 ~~—— (iv) mental abuse;~~

124 ~~—— (c) a statement that a staff member shall report any suspected incidents of:~~

125 ~~—— (i) physical abuse;~~

126 ~~—— (ii) verbal abuse;~~

127 ~~—— (iii) sexual abuse;~~

128 ~~—— (iv) mental abuse; or~~

129 ~~—— (v) neglect;~~

130 ~~—— (d) a statement that a staff member may not touch a student in a way that makes~~
131 ~~a reasonably objective student feel uncomfortable;~~

132 ~~—— (e) a statement that a staff member may not participate in sexual conduct with a~~
133 ~~student;~~

134 ~~—— (f) a statement regarding appropriate verbal or electronic communication~~
135 ~~between a staff member and a student;~~

136 ~~—— (g) a statement regarding providing gifts, special favors, or preferential treatment~~
137 ~~to a student or group of students;~~

~~———— (h) a statement that a staff member may not discriminate against a student on
the basis of the student's personal identity characteristics;
———— (i) a statement regarding appropriate use of electronic devices and social media
for communication between a staff member and a student;
———— (j) a statement regarding use of alcohol, tobacco, and illegal substances during
work hours and on school property;
———— (k) a statement that a staff member shall:
———— (i) report any suspicion of child abuse or bullying to the proper authorities;
———— (ii) annually read and sign all policies related to identifying, documenting, and
reporting child abuse; and
———— (iii) for an employee or contractor, annually attend abuse prevention training
required in Section 53G-9-207; and
———— (4) An LEA shall post the LEA's code of conduct or appropriate behavior policy
adopted pursuant to Subsection (2) on the LEA's website.
———— (5) An LEA shall annually provide training to staff regarding the policy, including
the staff member's responsibility to report and how to report:
———— (a) known violations of the LEA's code of conduct or appropriate behavior policy;
and
———— (b) known violations of the Utah Educator Standards contained in Rule R277-
217.
———— (6) A staff member shall annually sign a statement acknowledging that the staff
member has read and understands the code of conduct or appropriate behavior policy].~~

R277-322-4. LEA and School Responsibilities.

———— (1) Each LEA and school shall adopt a code of conduct, which may not be less
stringent than the model code of conduct established in Section R277-322-3.

_____ (2) An LEA shall establish a hotline as described in Section R277-123-7 for students, parents, and personnel to report violations of Board rule and LEA policy, including the code of conduct and in its training promote awareness of the R277-123-7.

_____ (3) An LEA, and each school, shall prominently post its code of conduct its website.

_____ (4) An LEA and each public school shall provide code of conduct training to its employees and require each employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

_____ (5) An LEA shall submit an annual assurance to the Board consistent with this rule and Section 53G-10-206 verifying that the LEA and each school has complied with:

_____ (a) required code of conduct training;

_____ (b) obtained employee acknowledgments;

_____ (c) posted its Code of Conduct as required; and

_____ (d) promoted R277-123-7 as required.

_____ (6) (a) An LEA shall annually submit to the Superintendent and the Board's Internal Audit Department aggregate data on code of conduct complaints, categories of violations, and dispositions Internal Audit.

_____ (b) Internal Audit shall make the information submitted under Subsection (9)(a) available to the Board quarterly.

_____ (7) An LEA, or school, shall report to the Board's Internal Audit Department, in a manner prescribed by the department, within 45 days, any employee at the LEA, or school, who:

_____ (a) resigns or retires in lieu of termination for conduct that violates sexual conduct provisions of the LEA's code of conduct or appropriate behavior policy; or

_____ (b) resigns or separates under an agreement that limits disclosure of the underlying reason for separation, including non-disclosure or confidentiality agreements, if the conduct involved potential violation of sexual conduct provisions of the LEA's, or school's, code of conduct

(8)A report under this Subsection (10) shall include, at a minimum:

(a) the individual's name and position or assignment;

(b) the date of separation or LEA, or school, action;

(c) the nature of the conduct that led to the separation or LEA, or school, action;

and

(d) whether the matter has been referred to law enforcement, UPPAC, or another regulatory authority.

(9) An LEA, or school, may not construe this section to prevent the LEA, or school, from making reports to law enforcement, UPPAC, or the Department of Health and Human Services as otherwise required by law.

(10) (a) An LEA, or school, may not enter into any agreement that prevents or restricts the LEA, or school, from providing the notice required by this section.

(b) An LEA, or school, may not enter into an agreement, which restricts or prohibits an employee from communicating or reporting any complaint or concern regarding the direct or indirect safety and welfare of students or any inappropriate conduct by the LEA, or school, to law enforcement, a local board, or the Board.

(11)The Superintendent shall classify a report submitted under Subsection (10) as private in accordance with Subsections 63G-2-302(2)(a) and (d).

(12)An LEA, or school, shall update the website posting within 30 days of adopting or revising its code of conduct.

(13)(a) Failure of an LEA, or school, to comply with this rule constitutes noncompliance subject to corrective action or sanctions

(b)(i) Repeated failure to abide by the provisions of 63G-7-301 or this Rule, may subject the LEA or school to corrective action or other sanctions.

(ii) Employees responsible for implementing and monitoring compliance with 63G-7-301 and this Rule, including the LEA superintendent, may be subject to sanctions and UPPAC action.

R277-322-5. Retaliation and False Reports.

(1)(a) An LEA and school shall prohibit retaliation against an individual who, in good faith, reports a suspected violation of LEA or school code of conduct, policy, Board rule, or the law.

(b) An employee who retaliates against an individual for reporting alleged misconduct under this Code of Conduct may be subject to:

(i) disciplinary action by the LEA, up to and including termination of employment;

(ii) referral to UPPAC if the individual is licensed by the Board; and

(iii) other remedies or penalties available under the law.

(2) An employee may not knowingly make a false report alleging a violation of the LEA's or school's code of conduct.

(3) An employee who knowingly makes a false, malicious, or frivolous report may be subject to:

(a) disciplinary action by the LEA or school, up to and including termination of employment;

(b) referral to UPPAC if the individual is licensed by the Board; and

(c) other remedies or penalties available under the law.

(4) Nothing in this section shall be construed to discourage or penalize good-faith reports.

(5) An employee at an LEA that retaliates or facilitates retaliation against an employee for reporting an alleged violation of this code of conduct or R277-210 or R277-217 may be subject to:

(a) disciplinary action by the LEA, up to and including termination of employment;

(b) corrective action or other sanctions in law and rule; or

(c) UPPAC action, if a licensed educator.

KEY: codes of conduct, appropriate behavior, employee conduct

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248 **Notice of Continuation: June 7, 2024**

249 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 63G-**
250 **7-301**

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