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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: March 6, 2015

ACTION: R277-517-5 *Board and UPPAC Disciplinary Definitions and Actions – Board Disciplinary Actions* (Amendment)

Background:

R277-517-5 is amended to provide updated language for Board action against an educator for failure to respond to a complaint resulting in a default action, and an educator's failure to appear for a disciplinary hearing. These proposed changes will make the rule consistent with UPPAC rules.

Key Points:

Proposed changes to R277-517-5:

- Provide for UPPAC to recommend, and the Board to impose, a revocation in addition to the current general rule of a five-year suspension in default circumstances.
- Allow the Board to take default action in a case where an educator fails to appear for a disciplinary hearing.

Anticipated Action:

It is proposed that the Law and Licensing Committee consider approving R277-517-5, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-517-5, as amended, on second reading.

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1 **R277. Education, Administration.**

2 **R277-517. Board and UPPAC Disciplinary Definitions and**
3 **Actions.**

4 **R277-517-5. Board Disciplinary Actions.**

5 A. Board disciplinary actions:

6 (1) The Board may suspend an educator's license
7 consistent with R277-517-1G:

8 (a) A suspension may be recommended by a Stipulated
9 Agreement negotiated between UPPAC and an educator; or

10 (b) A suspension may be recommended following an
11 administrative hearing under the provisions of R686-100;

12 (c) A suspension may include specific conditions which
13 shall be satisfied by the educator prior to requesting a
14 reinstatement hearing from UPPAC under R686-100;

15 ~~[(d) If a complaint is filed against an educator and the~~
16 ~~educator fails to respond to the complaint, the Board may~~
17 ~~suspend the educator's license. This action may be taken only~~
18 ~~if UPPAC has documentation of attempts to contact the~~
19 ~~educator, consistent with 686-100.]~~

20 ([e]d) A suspension shall provide a minimum time period
21 after which the educator may request a reinstatement hearing
22 from UPPAC.

23 (2) The Board may revoke an educator's license:

24 (a) A revocation is permanent, except as provided under
25 R277-517-5A(2)(c) below;

26 (b) A revocation is required under Section 53A-6-405(2);

27 (c) An individual whose license has been revoked may seek
28 reinstatement of his license only in the following limited
29 circumstances:

30 (i) the individual provides evidence of mistake or false
31 information that was critical to the revocation action;

32 (ii) the individual identifies material procedural UPPAC
33 or Board error in the revocation process.

34 (3) If a complaint is filed against an educator and the

35 educator fails to respond to the complaint or fails to appear
36 for a hearing before the Board or UPPAC, the Board may revoke
37 or suspend the educator's license. This action may be taken
38 only if UPPAC has documentation of attempts to contact the
39 educator, consistent with 686-100.

40 ([3]4) The Board may reinstate an educator's license:

41 (a) An educator may request a reinstatement hearing
42 following a license suspension. The reinstatement request
43 shall be made consistent with R686-100.

44 (b) An educator has a reasonable expectation of a
45 reinstatement hearing, consistent with due process and
46 reinstatement hearing conditions set by UPPAC, but no
47 expectation of license reinstatement by the Board.

48 (c) An educator whose license has been suspended and the
49 reinstatement denied by the Board may request an additional
50 reinstatement hearing once every 24 months unless otherwise
51 directed by the Board.

52 (d) An educator requesting a reinstatement hearing shall
53 have a criminal background check, that was conducted not more
54 than six months prior to the requested hearing, on file with
55 the USOE. The background check and review of any offenses must
56 be completed prior to reinstatement.

57 (e) Prior to sending a reinstatement recommendation to
58 the Board for its consideration, UPPAC shall provide evidence
59 to the Board of its consideration of Board-identified criteria
60 central to the Board's authority to reinstate an educator's
61 license.

62 D. The Board has sole discretion in final administrative
63 decisions.

64 E. The Board shall send written notice to an educator of
65 Board action no more than 30 days following the Board's final
66 action.

67 F. The Board shall send written notice of an educator's
68 license suspension or revocation to an educator's former

69 employer if the employer was a public or private school.

70 **KEY: educator, professional, standards**

71 **Date of Enactment or Last Substantive Amendments: February 21,**
72 **2013**

73 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**
74 **53A-1-402(1)(a); 53A-6; 53A-1-401(3)**