

R277. Education, Administration.

R277-211. Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions.

R277-211-1. 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) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) 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.

(2) The purpose of this rule is to provide procedures regarding:

(a) notifications of alleged educator misconduct;

(b) review of notifications by UPPAC; and

(c) complaints, consents to discipline, and defaults.

(3) Title 63G, Chapter 4, Administrative Procedures Act, does not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

~~[(4) This rule is categorized as exempt as described in Rule R277-111.]~~

R277-211-2. Initiating Proceedings Against Educators.

(1)(a) The Executive Secretary shall refer ~~[a case]~~ [all referrals] any matter,
including anonymous complaints, reported concerning a licensed educator's alleged
misconduct to UPPAC within 60 days to make a determination if an investigation should
be opened ~~[regarding an educator upon receiving a notification of alleged educator~~
~~misconduct implicating a violation of Rule R277-217, Educator Standards, or Utah law].~~

(b) The Executive Secretary may refer a case to UPPAC upon the Executive Secretary's own initiative.

_____ (i) For each referral made under Subsection (1)(b), the Executive Secretary shall
prepare a written referral memorandum setting forth:

_____ (A) the known facts supporting the referral;

_____ (B) the source of the information;

_____ (C) the date of the referral;

_____ (D) the educator standards that may be implicated.

_____ (ii) The Executive Secretary shall record a referral under Subsection (1)(b) in the
UPPAC case management system and maintained as part of the permanent case file.

_____ (c) The Executive Secretary may not decline, dismiss, or otherwise resolve a
matter before presenting the matter to UPPAC.

(2) If an informant seeks to report information to UPPAC concerning alleged
educator misconduct, the informant shall submit an allegation of misconduct to the
Executive Secretary in writing, including the following, if available:

(a) the informant's:

(i) name;

(ii) position, such as administrator, teacher, parent, or student;

(iii) telephone number;

(iv) address; and

(v) contact information;

(b) information about the educator against whom the allegation is made:

(i) name;

(ii) position, such as administrator, teacher, candidate; and

(iii) school or LEA; ~~and~~

(c) name and contact information for any witnesses or groups with relevant
evidence; and

([e]d) the facts on which the allegation is based and supporting information.

(3) If an informant submits a written allegation of misconduct as provided in this
rule, the Executive Secretary shall notify the informant;

56 (a) if a case is opened or declined by UPPAC; and

57 (b) of a final action taken by the Board regarding the allegation.

58 ~~[(4)(a) Proceedings initiated upon the Executive Secretary's own initiative may~~
59 ~~be The Executive Secretary may refer a matter to UPPAC based on information~~
60 ~~received through a telephone call, letter, newspaper article, media information, notice~~
61 ~~from another state, or by other means.]~~

62 ~~[(b) The Executive Secretary may also recommend an investigation based on an~~
63 ~~anonymous allegation, notwithstanding the provisions of this rule, if the allegation bears~~
64 ~~sufficient indicia of reliability.]~~

65 (5)(a) The USBE Internal Audit Department shall refer to UPPAC and the LEA
66 any complaint against an educator that would violate Rule R277-217, Educator
67 Standards~~[, or Utah law].~~

68 (b) The Executive Secretary ~~[shall]~~ may consult with the educator's LEA and
69 request any relevant evidence from an educator's LEA concerning a complaint referred
70 under Subsection (5)(a).

71 (6) If an investigation is opened or an expedited hearing is conducted under this
72 rule, the Executive Secretary shall permanently maintain all written allegations,
73 subsequent dismissals, actions, or disciplinary letters related to a case against an
74 educator in the UPPAC case file.

75
76 **~~[R277-211-3. Online Database of Referrals.]~~**

77 ~~_____ (1) The Executive Secretary shall establish an online searchable database of any~~
78 ~~matter referred to UPPAC.~~

79 ~~_____ (2) The database should include:~~

80 ~~_____ (a) the name of the complainant;~~

81 ~~_____ (b) the name of the educator;~~

82 ~~_____ (b) the LEA, if any, mentioned in the complaint;~~

83 ~~_____ (c) the school, if any, mentioned in the complaint;~~

~~_____ (d) the status of the complaint;~~

~~_____ (e) any restrictions on the educator's license; and~~

~~_____ (f) the nature of the allegations.~~

~~_____ (3) If UPPAC receives a referral, which the Executive Secretary does not refer to the commission, the Executive Secretary shall record the matter in the database, along with the basis for not referring the matter to UPPAC.]~~

R277-211-3. Review of Notification of Alleged Educator Misconduct.

(1)(a) Upon receipt of a notification of alleged educator misconduct, the Executive Secretary shall review the notification with UPPAC within 60 days of receipt and UPPAC may:

(i) dismiss the matter if the alleged misconduct does not involve an ~~[issue that UPPAC should address]~~ an alleged violation of R277-217;

(ii) recommend an expedited hearing as described in Sections R277-211-5; or

(iii) open an investigation if the alleged misconduct involves ~~[an issue that warrants investigation by UPPAC]~~ a violation of R277-217.

(b) In considering whether to open a case regarding an allegation of educator misconduct, ~~[UPPAC]~~ the Commission shall consider the known facts and circumstances surrounding the allegation to determine whether opening a case is warranted.

~~[(c) UPPAC shall open a case most readily when the evidence shows that:~~

~~_____ (i) the alleged misconduct involves the physical or emotional safety and well-being of a student;~~

~~_____ (ii) the alleged misconduct had a highly visible impact on the educator's school community;~~

~~_____ (iii) the alleged misconduct has the potential to damage the integrity of the education profession;~~

~~_____ (iv) the educator's LEA recommends the Board investigate the matter; or~~

112 ~~— (v) the educator has received prior UPPAC discipline.]~~
113 (2)(a) ~~[Before a UPPAC investigator's initiation of an investigation,]~~ Within ten
114 business days of UPPAC opening an investigation, the Executive Secretary shall send
115 an investigative letter to the following:
116 (i) the educator to be investigated;
117 (ii) the LEA that employs the educator; and
118 (iii) the LEA where the alleged activity occurred.
119 (b) The notification shall include:
120 (i) the general nature of the complaint;
121 (ii) an overview of the process;
122 (iii) an explanation of the educator's rights, including the right to consult an
123 attorney and the right to inspect or receive a copy of the contents of the UPPAC case
124 file and UPPAC evidence file at no cost;
125 (iv) the name of the investigator assigned to handle the investigation;
126 (v) the possible licensing consequences;
127 (vi) whether the educator's CACTUS/USIMS account has been flagged.
128 (b) The Executive Secretary shall place a flag on the educator's CACTUS file
129 after:
130 (i) sending the educator an investigative letter; and
131 (ii) directing UPPAC staff to begin gathering evidence relating to the allegations.
132 (c) The Executive Secretary may not place a flag on an educator's CACTUS file
133 if the educator agrees to an expedited hearing under Section R277-211-5 unless the
134 expedited hearing panel recommends a full investigation.
135 (3) If UPPAC votes not to open a case, the Executive Secretary shall close the
136 file and notify the complainant and the educator's LEA.
137 ([3]4)(a) The investigator shall review relevant documentation and interview
138 individuals who may have knowledge of the allegations.

139 (b)(i) The investigator shall attempt to contact any witness with relevant
140 information identified by an educator.

141 (ii) An investigator shall document the reasons why any witness specified in
142 accordance with Subsection (b)(i) is not contacted.

143 (iii) The investigator shall maintain a record in the UPPAC attorney file of all
144 materials efforts to identify, contact, interview, and obtain evidence from witnesses
145 during an investigation

146 ([b]c) The investigator shall prepare an objective and independent investigative
147 report supported by the evidence and Rule R277-215 including:

148 (i) the findings of the investigation, including any exculpatory information;

149 (ii) the specific educator standards that the educator may have violated; and

150 (iii) the applicable disciplinary presumptions.

151 ([e]d) If the investigator discovers additional evidence of unprofessional conduct
152 beyond the original allegations, the investigator may include the additional evidence of
153 misconduct in the investigative report provided that the educator has had the
154 opportunity to respond to the additional evidence.

155 (e) For an interview with an educator investigation, the investigator shall:

156 (i) advise the educator that the educator has a right to have an attorney of their
157 choosing present;

158 (ii) advise the educator that what they say may be used as evidence against
159 them at a future time;

160 (iii) record the interview, unless the educator declines to have the interview
161 recorded.

162 ([e]f) The investigator shall submit the investigative report to the Executive
163 Secretary within six months of the date UPPAC opened the matter.

164 ([e]g) The Executive Secretary shall add the investigative report described in
165 Subsection (3)([e]f) to [a] the next UPPAC meeting agenda.

(f)h) The investigative report described in Subsection (3)(d) shall become part of the UPPAC case file.

(4)5) The investigator may prioritize an investigation over other longer pending cases if:

(a) the educator poses an ongoing risk to students;

(b) the case needs to be expedited to accommodate a crucial witness;

(c) the ongoing investigation creates unusual uncertainty or the alleged misconduct has a highly visible impact for the educator's LEA or community;

(d) the educator is unemployed as a result of the allegations; ~~or~~

(e) the educator requests expedited consideration for good cause~~[-]~~;

(f) the alleged misconduct has the potential to damage the integrity of the education profession;

(g) the educator's LEA recommends the Board prioritize the investigation; or

(h) the educator has received prior license discipline.

(6) An investigator may not maintain an open investigation without submitting an investigative report beyond six months unless:

(a) required by law;

(b) related criminal proceedings remain unresolved;

(c) obtaining necessary evidence delays the investigator's ability to prepare a report; or

(d) there's a stipulation from the educator.

(7) If a UPPAC investigator does not submit an investigative report to the Executive Secretary within the timeline established in this section, the investigator shall document the reasons for the delay in the UPPAC attorney file and send written notice to the educator.

(5)8) UPPAC shall review the investigative report and take one of the following actions:

(a) Recommend that the Board clear the CACTUS flag and take no action; or

(b)(i) make an initial recommendation for resolution consistent with the evidence and Rule R277-215[.]; and

(ii) for cases where the initial recommendation is for suspension or revocation, make an initial recommendation as to what restrictions should be placed on the educator's involvement in public schools in accordance with Sections 53E-6-603 and 53E-6-604.5.

~~[(c) The Executive Secretary shall document the motions made on UPPAC investigations, findings, and votes in the commission's minutes.]~~

(c) The Executive Secretary shall maintain a written record of all materials actions and decisions taken under this section in the UPPAC case file, including:

(i) decisions to open, decline, prioritize, or close an investigation;

(ii) investigative reports;

(iii) recommendations to the Board;

(iv) findings of fact;

(v) motions and votes of the commission; and

(vi) the basis for any commission recommendation or action.

~~[(6)9]~~ After receiving an initial recommendation from UPPAC for action, the Executive Secretary shall:

(a) prepare and serve a complaint; or

(b) negotiate and prepare a proposed consent to discipline.

~~[(7)8](a)~~ Upon request of an educator, ~~[UPPAC]~~ the investigator shall ~~[will]~~ provide a copy of the UPPAC case file and UPPAC evidence file to the educator.

(b) The investigator may only redact the file to the extent permitted by law.

(c) The investigator shall supplement a response under Subsection (7)(a) within ten business days if additional evidence is received prior to resolution of the case.

(10) The UPPAC evidence file shall include all evidence provided by the Complaint.

R277-211-4. Expedited Hearings on Criminal Charges in lieu of Initial UPPAC Review.

(1) In a case involving the report of an arrest, citation, or charge of an educator, which requires self-reporting by the educator under Section R277-217-4, the Executive Secretary, with the consent of the educator, may schedule the matter for an expedited hearing in lieu of initially referring the matter to UPPAC.

(2)(a) The Executive Secretary shall hold an expedited hearing within 60 days of the criminal court disposition, unless otherwise agreed upon by both parties.

(b) An expedited hearing panel shall conduct an expedited hearing on a criminal charge and include the following additional invited individuals where possible:

- (i) the educator;
- (ii) the educator's attorney or representative;
- (iii) a UPPAC attorney; and
- (iv) a representative of the educator's LEA.

(3) The panel may consider the following matters at an expedited hearing on a criminal charge:

- (a) an educator's oral or written explanation of the events;
- (b) a police report;
- (c) a court docket or transcript;
- (d) an LEA's investigative report or employment file; and
- (e) additional information offered by a participant in the expedited hearing if the Executive Secretary deems it probative of the issues at the expedited hearing.

(4) All witnesses providing evidence shall be sworn by the Executive Secretary.

([4]5) After reviewing the evidence described in Subsection (3), the expedited hearing panel shall make written findings and a recommendation based upon a preponderance of the evidence to UPPAC consistent with the evidence and Rule R277-215 to do one of the following:

- (a) close the case;

(b) close the case upon completion of court requirements;
(c) recommend that the Board issue a letter of education or letter of warning;
(d) open a full investigation; or
(e) recommend action by the Board, subject to an educator's due process rights under Rule 277-210 through Rule R277-217.

(~~[5]~~6) An expedited hearing on a criminal charge may be recorded, but the testimony from the expedited hearing is inadmissible during a future UPPAC action related to the allegation unless the educator stipulates to admitting the recording.

(~~[6]~~7) If the Board fails to adopt UPPAC's recommendation, UPPAC ~~[may]~~ shall open a full investigation or issue a complaint.

(~~[7]~~8) An expedited hearing panel may proceed under this section with only two voting panel members with the stipulation of the educator.

R277-211-5. Expedited Hearings on Minor Violations of the Educator Standards.

(1) Upon review of an allegation of educator misconduct, UPPAC may recommend conducting an expedited hearing if:

(a) the material evidence provided by the informant does not appear to be disputed;

(b) the allegations, if true, implicate the presumption for a letter of warning under Subsection R277-215-2(8); and

(c) the educator consents to participate.

(2) If an educator elects not to participate in an expedited hearing after UPPAC opens a case, the Executive Secretary shall initiate an investigation into the allegations of misconduct with no prejudice to the educator for not participating in the expedited hearing.

(3) At an expedited hearing under this section, an expedited hearing panel shall conduct the hearing and include the following invited individuals where possible:

(a) the educator;

- 278 (b) the educator's attorney or representative;
- 279 (c) a UPPAC attorney; and
- 280 (d) an administrator from the educator's school or LEA.
- 281 (4) At an expedited hearing under this section, the panel may consider:
- 282 (a) an educator's oral or written explanation of the events;
- 283 (b) an LEA's investigative report or employment file, including witness
- 284 statements; and
- 285 (c) additional information proffered by a participant in the expedited hearing if the
- 286 Executive Secretary deems it probative of the issues at the expedited hearing.
- 287 (5) After reviewing the evidence described in Subsection (4), the expedited
- 288 hearing panel shall make written findings and a recommendation consistent with the
- 289 evidence and Rule R277-215 to do one of the following:
- 290 (a) close the case;
- 291 (b) close the case upon completion of recommended training or other educator
- 292 requirements;
- 293 (c) issue a letter of education or letter of warning; or
- 294 (d) open a full investigation.
- 295 (6) If an expedited hearing panel recommends a full investigation be opened, the
- 296 Executive Secretary shall follow the requirements set forth in Subsection R277-211-
- 297 3(2).
- 298 (7) An expedited hearing under this section may be recorded.
- 299 (8) Testimony offered at an expedited hearing may be considered in a
- 300 subsequent report to UPPAC or hearing.
- 301 (9) An expedited hearing panel may proceed under this section with only two
- 302 voting panel members with the stipulation of the educator.

303

304 **R277-211-6. Complaints.**

(1) If UPPAC determines that an allegation is sufficiently supported by evidence discovered in the investigation, the Executive Secretary ~~may~~ shall direct the UPPAC attorney to serve a complaint upon the educator being investigated.

(2) At a minimum, a complaint shall include:

(a) a statement of legal authority and jurisdiction under which the action is being taken;

(b) a statement of the facts and allegations, including specific provisions of the Rule R277-217, upon which the complaint is based;

(c) other information necessary to enable the respondent to understand and address the allegations;

(d) a statement of the potential consequences if an allegation is found to be true or substantially true;

(e) a statement that the respondent shall answer the complaint and request a hearing, if desired, within 30 days of the date the complaint is mailed to the respondent;

(f) a statement that the respondent shall file a written answer described in Subsection (2)(e) with the Executive Secretary;

(g) a statement advising the respondent that if the respondent fails to respond within 30 days, the Executive Secretary may issue a default order in accordance with Section R277-211-8;

(h) a statement that, if a hearing is requested, the hearing will be scheduled no less than 45 days, nor more than 180 days, after receipt of the respondent's answer, unless a different date is agreed to by both parties in writing;

(i) a copy of the applicable hearing rules as required by Section 53E-6-607; and

(j) if the respondent is not represented by counsel, a written guide to help the respondent understand the UPPAC investigation and hearing process, which shall include[-]:

(i) the right to retain legal counsel;

(ii) how a respondent can request a UPPAC file;

333 (iii) the right to be treated professionally; and

334 (iv) the right to have a hearing in not less than 45, nor more than 180 days.

335 (3) On the Executive Secretary's own motion, the Executive Secretary, or the
336 Executive Secretary's designee, with notice to the parties, may reschedule a hearing
337 date.

338 (4)(a) A respondent may file an answer to a complaint by filing a written
339 response signed by the respondent or the respondent's attorney with the Executive
340 Secretary within 30 days after the complaint is mailed.

341 (b) The answer shall include:

342 (i) a request for a hearing;

343 (ii) the file number of the complaint;

344 (iii) the names of the parties; and

345 (iv) the relief that the respondent seeks at a hearing.

346 (c) As an alternative to filing an answer, the respondent may file a voluntary
347 surrender pursuant to Rule R277-216.

348 (5)(a) The Executive Secretary shall schedule a hearing, if requested by the
349 respondent, in accordance with Subsection (2)(h) and Rule R277-212.

350 (b) If the parties can reach an agreement before the hearing ~~[consistent with the~~
351 ~~terms of UPPAC's initial recommendation]~~, the UPPAC attorney may negotiate a
352 proposed consent to discipline with the respondent.

353 (c) A proposed consent to discipline described in Subsection (5)(b) shall be
354 submitted to the Board for the Board's consideration in accordance with Section R277-
355 211-[7]8.

356 (6)(a) If a respondent does not respond to the complaint within 30 days, the
357 Executive Secretary may initiate default proceedings in accordance with the procedures
358 set forth in Section R277-211-[8]9.

(b) If the Executive Secretary enters an order of default, the Executive Secretary shall make a recommendation to the Board for discipline consistent with the evidence and Rule R277-215.

R277-211-7. Proposed Consent to Discipline.

(1) At any time after UPPAC has made an initial recommendation, a respondent may accept UPPAC's initial recommendation, rather than request a hearing, by entering into a proposed consent to discipline.

(2) By entering into a proposed consent to discipline, a respondent waives the respondent's right to a hearing to contest the recommended disposition, contingent on final approval by the Board.

(3) At a minimum, a proposed consent to discipline shall include:

(a) a summary of the facts, the allegations, the presumption described in Rule R277-215, mitigating or aggravating factors described in Rule R277-215, and the evidence relied upon by UPPAC in its recommendation;

(b) a statement that the respondent admits or does not contest the facts recited in the proposed consent to discipline for purposes of the Board administrative action;

(c) a statement that the respondent:

(i) waives the respondent's right to a hearing to contest the allegations that gave rise to the investigation; and

(ii) agrees to the proposed action rather than contest the allegations;

(d) a statement that the respondent agrees to the terms of the proposed consent to discipline and other provisions applicable to the case, such as remediation, assessment and recommended counseling, restitution, rehabilitation, and other conditions, if any, under which the respondent may request a reinstatement hearing or a removal of the reprimand;

(e) a statement that the action and the proposed consent to discipline shall be reported to other states through the NASDTEC Educator Information Clearinghouse;

(f) a statement that respondent waives the respondent's right to contest the facts stated in the proposed consent to discipline at a subsequent reinstatement hearing, if any;

(g) a statement that all records related to the proposed consent to discipline shall remain permanently in the UPPAC case file;

(h) a statement reflecting the classification of the proposed consent to discipline under Title 63G, Chapter 2, Government Records Access and Management Act;

(i) a statement that information regarding the proposed reprimand, suspension, or revocation may be included in an online licensing database that is available for public access in accordance with Rule R277-312.

(j) a statement that a violation of the terms of an approved consent to discipline may result in additional disciplinary action and may affect the reinstatement process; and

(k) a statement that the educator understands that the Board is not bound by UPPAC's recommendation or the negotiated proposed consent to discipline unless the Board approves the proposed consent to discipline;

(l) if for a suspension of the educator's license:

(i) specific conditions that an educator must satisfy before requesting a reinstatement hearing; and

(ii) a minimum time period that must elapse before the educator may request a reinstatement hearing;

(m) if for suspension or revocation of a license, a statement ~~[that the respondent may not work or volunteer in a public school in accordance with Subsection 53E-6-603(3)]~~ setting forth any restrictions on working or volunteering in a public school in accordance with Sections 53E-6-603 and 53E-6-604.5; and

(n) if for suspension or revocation of a license, a statement that any attempt to represent to any other state a valid Utah license shall result in further licensing action in Utah.

415 (4)(a) The Executive Secretary shall forward a proposed consent to discipline to
416 the Board for approval.

417 (b) If the Board does not approve a proposed consent to discipline, the Board
418 may:

419 (i)(A) remand the case to UPPAC and shall include issues or questions that
420 need to be addressed;

421 (B) offer respondent the opportunity for a hearing; ~~[or]~~
422 (C) allow the respondent to file a written response to the UPPAC report; or

423 ~~[(C)D]~~ provide alternative terms and disposition to the Executive Secretary,
424 consistent with the available evidence and presumptions described in Rule R277-215,
425 that would be satisfactory to the Board to be submitted to the educator for
426 consideration;

427 (ii) direct the Executive Secretary to issue a letter of education, letter of warning,
428 or dismiss the matter; or

429 (iii) take other appropriate action consistent with due process and Rule R277-
430 215.

431 (5) If the respondent accepts a consent to discipline with alternative terms and
432 disposition proposed by the Board, the consent to discipline, as modified, is a final
433 Board administrative action without further Board consideration.

434 (6) If the terms approved by the Board are rejected by the respondent, the
435 proceedings shall continue from the point under these procedures at which the
436 agreement was negotiated, as if the consent to discipline had not been submitted.

437 (7) If the Board remands to UPPAC to provide respondent the opportunity for a
438 hearing under Subsection (4)(b)(i)(B), the Executive Secretary shall:

439 (a) notify the parties of the decision;

440 (b) direct a UPPAC attorney to issue a complaint; and

441 (c) direct the proceedings as if the proposed consent to discipline had not been
442 submitted.

(8) If the Board approves a proposed consent to discipline, the approval is a final Board administrative action and the Executive Secretary shall:

- (a) notify the parties of the decision within ten business days;
- (b) update CACTUS to reflect the action;
- (c) report the action to the NASDTEC Educator Information Clearinghouse if the agreement results in:
 - (i) a revocation;
 - (ii) a suspension; or
 - (iii) a reprimand;
- (d) direct the appropriate penalties to begin; and
- (e) notify the LEAs throughout the state.

R277-211-8. Default Procedures.

(1) If a respondent does not respond to a complaint within 30 days from the date the complaint is served, the Executive Secretary may issue an order of default against the respondent consistent with the following:

- (a) the Executive Secretary shall prepare and serve on the respondent at the respondent's last known address, an order of default including:
 - (i) a statement of the grounds for default; and
 - (ii) a recommended disposition if the respondent fails to file a response to a complaint;
- (b) ten days following service of the order of default, a UPPAC attorney shall attempt to contact respondent or respondent's attorney by telephone or electronically unless the respondent is incarcerated and unrepresented;
- (c) UPPAC shall maintain documentation of attempts toward written, telephonic, or electronic contact;
- (d) the respondent has 20 days following service of the order of default to respond to UPPAC; and

(e) if UPPAC receives a response from respondent to a default order before the end of the 20 day default period, UPPAC shall allow respondent a final ten day period to respond to a complaint.

(2) The Executive Secretary shall make a recommendation to the Board for discipline consistent with the evidence and Rule R277-215.

(3) If an educator's default results in a suspension, the order of default shall include conditions the educator must meet before requesting a reinstatement hearing.

R277-211-[9]10. Disciplinary Letters and Dismissal.

(1) If UPPAC recommends issuance of a letter of warning, letter of education, or dismissal, the Executive Secretary shall forward the case to the Board for review on a consent calendar.

(2) If the Board does not approve a recommendation for a letter of warning, letter of education, or dismissal described in Subsection (1), the Board may:

(a) remand the case to the Executive Secretary with:

(i) direction as to the issues UPPAC should address;

(ii) alternative terms and disposition that would be satisfactory to the Board to be submitted to the educator for consideration; and

(iii) the opportunity for the educator to participate in a hearing in accordance with Rule R277-212;

(b) dismiss the matter; or

(c) take other appropriate action consistent with due process and Rule R277-215.

(3) If the Board approves a letter of warning or letter of education, the Executive Secretary shall:

(a) prepare the letter of warning or letter of education and mail it to the educator;

(b) place a copy of the letter of warning or letter of education in the UPPAC case file; and

(c) update CACTUS to reflect that the case is closed.

277-211-10. Public Access to Final Disciplinary Action.

(1)(a) The Superintendent shall maintain a searchable online database of final Board disciplinary actions and license reinstatements.

(b) The Superintendent shall include an educator in the database not later than 30 days after Board disciplinary action becomes final and the searchable online database is operational and available to the public.

(c) The database required under Subsection (1)(a) shall be searchable by:

(i) educator name;

(ii) LEA; and

(iii) school.

(d) The database required under Subsection (1)(a) shall include:

(i) an educator's name;

(ii) UPPAC case number;

(iii) the LEA where the conduct giving rise to the disciplinary action occurred;

(iv) the school where the educator was employed at the time of the misconduct, if applicable;

(v) a concise description of the conduct that resulted in discipline;

(vi) the applicable provisions of Board rule determined to have been violated;

(vii) the licensing action imposed by the Board;

(viii) the effective date of the Board action; and

(ix) a statement that an individual may request records pertaining to the matter in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(2) The Superintendent shall provide access to the database through the Board's website.

(3) Unless a different period is prescribed by law, the Superintendent shall remove information regarding an action from the database after ten years unless the educator still has license restrictions.

(4) The requirements of this section do not alter the Executive Secretary's obligation to maintain UPPAC files under other provisions of this rule.

(5) Nothing in this section requires disclosure of records that are restricted under Title 63G, Chapter 2, Government Records Access and Management Act.

(6) The database established under Subsection (1)(a) shall provide public notice of final Board disciplinary actions and shall not include allegations, pending investigations, dismissed matters, letters of education, letters of warning, or other non-final matters.

277-211-11. UPPAC Records Management and Documentation

(1) The Executive Secretary shall establish and maintain a records management system sufficient to document, track, and preserve UPPAC proceedings and actions taken under this rule.

(2) The records management system shall include records necessary to document the history, status, disposition, and administrative handling of matters referred to UPPAC.

(3) The Executive Secretary shall ensure that material actions and decisions are documented in a manner that permits meaningful review by UPPAC, the Board, auditors, and other persons authorized by law.

(4) Records maintained under Subsection (2) shall include:

(a) referrals and complaints received;

(b) the date a matter was received, reviewed, referred, opened, closed, dismissed, or otherwise resolved;

(c) notes documenting follow up by the Executive Secretary and UPPAC staff;

(d) investigative reports and supporting materials;

554 (e) material communications relating to the administration of a case;
555 (f) motions, findings, recommendations, recusals, conflict disclosures, and votes
556 of UPPAC;
557 (g) votes taken by the Board on UPPAC matters;
558 (h) final Board actions; and
559 (i) other records necessary to document the disposition of a matter.
560 (5) The Executive Secretary shall maintain records sufficient to identify:
561 (a) the source of a referral;
562 (b) whether a referral originated from:
563 (i) an external complainant;
564 (ii) an LEA;
565 (iii) the Internal Audit Department;
566 (iv) another governmental entity; or
567 (v) the Executive Secretary.
568 (6) A UPPAC investigator shall maintain records sufficient to document materials
569 investigative activities, including efforts to identify, contact, interview, and obtain
570 evidence from witnesses.
571 (7) The Executive Secretary shall maintain records required under this section as
572 part of the UPPAC administrative record and retained in accordance with applicable
573 state records retention requirements.
574 (8) Nothing in this section requires disclosure of records except as authorized by
575 state or federal law.
576
577 **R277-211-12. Administrator Responsibility for Supervision of Non-Licensed**
578 **Employees.**
579 (1) A superintendent or principal shall exercise reasonably supervision over non-
580 licensed employees, volunteers, contractors, and other adults working under the
581 administrator's direct authority or within the administrator's area of responsibility.

(2) An superintendent or principal:
(a) may not knowingly permit, direct, encourage, conceal, minimize, or fail to take
reasonable corrective action regarding misconduct, boundary violations, abuse, neglect,
or other conduct by a non-licensed employee, volunteer, contractor, or other adult
working under the administrator’s authority that threatens student safety;
(b) shall make all reports required by state law or Board rule regarding
misconduct by a non-licensed employee, volunteer, contractor, or other adult;
(c) may not be grossly negligent in supervision that creates a foreseeable risk of
harm to students; and
(d) may not knowingly disregard credible information indicating that a non-
licensed employee, volunteer, contractor, or other adult presents a threat to student
safety, well-being, or educational interests.
(3) The Board may not discipline an administrator solely because an individual
engaged in misconduct absent evidence that the administrator violated a duty described
in this section.
(4) Nothing in this section limits the Board’s authority to investigate and discipline
a licensed educator for conduct related to supervision, reporting, student safety, or
compliance with state law, or Board rule.

KEY: teacher licensing, conduct, hearings

Date of Last Change: November 21, 2025

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-506; 53E-3-401(4)