

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] staff member toward a student; and

(ii) includes a prohibition against any sexual conduct between [an] a [employee] staff member and a student and against the [employee] staff member 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] staff within the LEA or school.

(3) ~~[This Rule R277-322 is categorized as Category 2 as described in Rule R277-444]~~ (a) All provisions of this rule apply to all licensed educators.

(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)]~~(2) "Promptly" means as soon as reasonably practicable under the circumstances.

~~[(4)]~~(3) "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)]~~(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]~~
(a) any sexual conduct or communication between a staff member and a student;
(b) "sexual abuse" as defined in Section 76-5-404.1;
(c) "sexual battery" as defined in Section 76-9-702.1; or
(d) a staff member and student sharing any sexually explicit or lewd
communication, image, or photograph.
(5) "Staff" or "staff member" means an employee, contractor, or volunteer with
significant unsupervised access to students.
(6) "Substantiated" means that an allegation has been proven through an
investigation or hearing process by a preponderance of competent evidence.

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]~~ staff member:
~~[(b)]~~ (a) [shall avoid any] may not engage in sexual [contact] conduct with a
student or minor while on school property or while acting within the scope of
employment;
~~[(a)]~~ (b) [while acting within the scope of employment,] while on school property
or while acting within the scope of employment, [shall avoid boundary violations] may not
commit boundary violations and shall maintain professional boundaries, as defined in
Rule R277-210, with a student or minor when the [employee] staff member knows or
reasonably should know that the individual is a student or minor;
~~[(b)]~~ (c) shall comply with the provisions of 65G-7-301 which require:

(i) [providing]participating in training on the code of conduct to the
[employee]staff; and

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

~~[(e)](d)~~ shall comply with all federal, state, and local laws;

~~[(d)](e)~~ shall treat ~~[the]~~ students with respect;

~~[(e)](f)~~ 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)](g)~~ 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;

~~[(e)](h)~~ ~~[shall avoid the use of alcohol and illegal drugs]~~may not use alcohol or
illegal drugs while on duty or participating in a school-sponsored activity;

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

(j) shall not engage in sexual conduct and shall act professionally while on school
property or during contracted time;

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

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

~~[(b) this includes, but is not limited to campaign slogans, political party insignia, or advocacy symbols, during work hours, on school property, or in connection with official LEA, or school, activities;]~~

(k) [An]A [employee]staff member may not plan, organize, promote, encourage, or participate in an unauthorized activity during the school day that disrupts instructional time or encourages or results in student nonattendance from scheduled classroom instruction;

~~[(k)]~~~~[(H)]~~(l) subject to constitutional rights against self-incrimination, [the]a [employee] staff member shall fully cooperate with criminal or civil law enforcement, and an LEA, school, UPPAC, or Board investigation involving a student or [employee] staff by:

(i) responding truthfully and promptly to lawful inquiries;

(ii) providing relevant information within the [employee's] staff member's knowledge or possession; and

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

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

~~[(m)]~~(m) shall annually attend abuse prevention training as required in Section 53G-9-207;

~~[(n)]~~(n) shall comply with the requirements of Section 76-5-404.1 regarding sexual abuse; and

~~[(e)]~~(o) shall comply with the requirements of Section 76-9-702.1 regarding sexual battery.

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

139 ~~_____ (3) An LEA's code of conduct or appropriate behavior policy, adopted pursuant~~
140 ~~to Subsection (2), may not be less stringent than the model code of conduct or~~
141 ~~appropriate behavior policy described in Subsection (1) and shall include, at a minimum:~~
142 ~~_____ (a) a statement that a staff member shall avoid boundary violations, as defined~~
143 ~~in Rule R277-210, with students;~~
144 ~~_____ (b) a statement that a staff member may not subject a student to:~~
145 ~~_____ (i) physical abuse;~~
146 ~~_____ (ii) verbal abuse;~~
147 ~~_____ (iii) sexual abuse; or~~
148 ~~_____ (iv) mental abuse;~~
149 ~~_____ (c) a statement that a staff member shall report any suspected incidents of:~~
150 ~~_____ (i) physical abuse;~~
151 ~~_____ (ii) verbal abuse;~~
152 ~~_____ (iii) sexual abuse;~~
153 ~~_____ (iv) mental abuse; or~~
154 ~~_____ (v) neglect;~~
155 ~~_____ (d) a statement that a staff member may not touch a student in a way that makes~~
156 ~~a reasonably objective student feel uncomfortable;~~
157 ~~_____ (e) a statement that a staff member may not participate in sexual conduct with a~~
158 ~~student;~~
159 ~~_____ (f) a statement regarding appropriate verbal or electronic communication~~
160 ~~between a staff member and a student;~~
161 ~~_____ (g) a statement regarding providing gifts, special favors, or preferential treatment~~
162 ~~to a student or group of students;~~
163 ~~_____ (h) a statement that a staff member may not discriminate against a student on~~
164 ~~the basis of the student's personal identity characteristics;~~
165 ~~_____ (i) a statement regarding appropriate use of electronic devices and social media~~
166 ~~for communication between a staff member and a student;~~

167 ~~_____ (j) a statement regarding use of alcohol, tobacco, and illegal substances during~~
168 ~~work hours and on school property;~~
169 ~~_____ (k) a statement that a staff member shall:~~
170 ~~_____ (i) report any suspicion of child abuse or bullying to the proper authorities;~~
171 ~~_____ (ii) annually read and sign all policies related to identifying, documenting, and~~
172 ~~reporting child abuse; and~~
173 ~~_____ (iii) for an [employee]~~[staff or staff member]~~ or contractor, annually attend abuse~~
174 ~~prevention training required in Section 53G-9-207; and~~
175 ~~_____ (4) An LEA shall post the LEA's code of conduct or appropriate behavior policy~~
176 ~~adopted pursuant to Subsection (2) on the LEA's website.~~
177 ~~_____ (5) An LEA shall annually provide training to staff regarding the policy, including~~
178 ~~the staff member's responsibility to report and how to report:~~
179 ~~_____ (a) known violations of the LEA's code of conduct or appropriate behavior policy;~~
180 ~~and~~
181 ~~_____ (b) known violations of the Utah Educator Standards contained in Rule R277-~~
182 ~~217.~~
183 ~~_____ (6) A staff member shall annually sign a statement acknowledging that the staff~~
184 ~~member has read and understands the code of conduct or appropriate behavior policy].~~
185 ~~[(a)(i) An LEA and school shall prohibit retaliation against an individual who, in~~
186 ~~good faith, reports a suspected violation of an LEA or school code of conduct, policy,~~
187 ~~Board rule, or the law.]~~
188 ~~(3) [(b)](a) [An]A [employee]staff member may not knowingly make a false report~~
189 ~~alleging a violation of the LEA's or school's code of conduct.~~
190 ~~[(ii)](b) [An]A [employee]staff member who retaliates against an individual for~~
191 ~~reporting alleged misconduct under this Code of Conduct may be subject to disciplinary~~
192 ~~action by the LEA or school, up to and including termination of employment; referral to~~
193 ~~UPPAC if the individual is licensed by the Board; and other remedies or penalties~~
194 ~~available under the law.~~

(4) [An] A [employee] staff member who knowingly makes a false, malicious, or frivolous report may be subject to disciplinary action by the LEA or school, up to and including termination of employment; referral to UPPAC if the individual is licensed by the Board; and other remedies or penalties available under the law.

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

(6)[An] A [employee] staff member at an LEA or school that retaliates or facilitates retaliation against [an] a [employee] staff member for reporting an alleged violation of this code of conduct or R277-210 or R277-217 may be subject to disciplinary action by the LEA or school, up to and including termination of employment; corrective action or other sanctions in law and rule; or UPPAC action, if a licensed educator.

~~[(4) Staff responsible for implementing and monitoring compliance with 63G-7-301 and this Rule, including the LEA superintendent or director, may be subject to sanctions and UPPAC action.]~~

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) The code of conduct adopted by an LEA or school under Subsection (1) shall include language regarding contractors and volunteers.

~~[(2)]~~(3) 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] required hotline.

~~[(3)]~~(4) An LEA, and each school, shall prominently post its code of conduct on its website.

~~[(4)]~~(5) An LEA and each public school shall provide code of conduct training to its [employees] staff and require each [employee] staff member to sign a statement

acknowledging that the ~~[-employee]~~ staff member has read and understands the code of conduct.

~~[(5)]~~(6) 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]~~ staff member acknowledgments;
- (c) posted its Code of Conduct as required; and
- (d) promoted R277-123-7 as required.

~~[(6)]~~(7) ~~[(a)]~~ An LEA shall annually submit to the Superintendent ~~[and the Board's Internal Audit Department]~~ aggregate data on substantiated code of conduct complaints, categories of violations, and ~~[dispositions]~~ outcomes ~~[Internal Audit]~~.

~~[(b)]~~ ~~[Internal Audit]~~ The Superintendent shall make the information submitted under Subsection ~~[(9)]~~(6) (a) available to the Board ~~[quarterly]~~ annually.

~~[(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] staff at the LEA, or school, who:~~

~~[(a)]~~(8) 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~~

~~[(a)]~~ resigns, retires, 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)]~~(7) 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)](8)~~ 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)](9)~~ (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, or request [an]a [employee]staff member to enter into an agreement, which restricts or prohibits [an]a [employee]staff member from communicating or reporting any complaint or concern regarding the direct or indirect safety and welfare of a student or any inappropriate conduct by the LEA, or school, to law enforcement, a local board, the Board, or UPPAC.

~~_____ [(11)](10) The Superintendent shall classify a report submitted under Subsection [(10)](9) as private in accordance with Subsections 63G-2-302(2)(a) and (d).]~~

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

~~_____ [(12)](12)~~ An LEA, or school, shall update the website posting within ~~[30]~~90 days of adopting or revising its code of conduct.

~~_____ [(13)](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 or administrators to corrective action or other sanctions.

~~_____ [(ii)] [Employees]Staff 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. Superintendent Responsibilities

(1) The Superintendent shall classify a report submitted under Subsection (9) as private in accordance with Subsections 63G-2-302(2)(a) and (d).

~~[(14)] [The Board's Internal Audit Department shall prepare a report of all data collected under this rule every 90 days for the first year following the rule's enactment, and shall present the report to the Board during a monthly Board meeting in public or executive session, as the law permits]~~(2) The Superintendent shall prepare a report of all data collected under this rule and shall provide the report to the Board annually.

~~[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][staff] 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][staff] may not knowingly make a false report alleging a violation of the LEA's or school's code of conduct.~~

~~_____ (3) An [employee][staff] 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 employeestaff at an LEA that retaliates or facilitates retaliation against~~
~~an employeestaff 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, employeestaff conduct

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