

1 **R277. Education, Administration.**

2 **R277-213. Request for Licensure Reinstatement and Reinstatement**  
3 **Procedures.**

4 **R277-213-1. Authority and Purpose.**

5 (1) This rule is authorized by:

6 (a) Utah Constitution Article X, Section 3, which vests general control and  
7 supervision over public education in the Board;

8 (b) Section 53A-6-306, which directs the Board to adopt rules regarding  
9 UPPAC duties and procedures; and

10 (c) Section 53A-1-401, which allows the Board to [adopt rules in accordance  
11 with its responsibilities]make rules to execute the Board's duties and responsibilities  
12 under the Utah Constitution and state law.

13 (2) The purpose of this rule is to establish procedures regarding educator  
14 license reinstatement.

15 (3) The standards and procedures of the Utah Administrative Procedures Act  
16 do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

17 **R277-213-2. Application for Licensing Following Denial or Loss of License.**

18 (1)(a) An individual who has been denied a license or lost the individual's  
19 license through suspension, or through surrender of a license or allowing a license  
20 to lapse in the face of an allegation of misconduct, may request a review to consider  
21 reinstatement of a license.

22 (b) A request for review described in Subsection (1)(a) shall:

23 (i) be in writing;

24 (ii) be transmitted to the UPPAC Executive Secretary; and

25 (iii) have the following information:

26 (A) name and address of the individual requesting review;

27 (B) the action being requested;

28 (C) specific evidence and documentation of compliance with terms and  
29 conditions of any remedial or disciplinary requirements or recommendations from  
30 UPPAC or the Board;

31 (D) reason(s) that the individual seeks reinstatement; and

- 32 (E) signature of the individual requesting review.
- 33 (2)(a) The Executive Secretary shall review the request with UPPAC.
- 34 (b) If UPPAC determines that the request is incomplete or invalid:
- 35 (i) the Executive Secretary shall deny the request; and
- 36 (ii) notify the individual requesting reinstatement of the denial.
- 37 (c) If UPPAC determines that the request of an individual described in
- 38 Subsection (1) is complete, timely, and appropriate, UPPAC shall schedule and hold
- 39 a hearing as provided under Section R277-213-3.
- 40 (3)(a) Burden of Persuasion: The burden of persuasion at a reinstatement
- 41 hearing shall fall on the individual seeking the reinstatement.
- 42 (b) An individual requesting reinstatement of a suspended license shall:
- 43 (i) show sufficient evidence of compliance with any conditions imposed in the
- 44 past disciplinary action;
- 45 (ii) provide sufficient evidence to the reinstatement hearing panel that the
- 46 educator will not engage in recurrences of the actions that gave rise to the
- 47 suspension and that reinstatement is appropriate;
- 48 (iii) undergo a criminal background check not more than six months prior to
- 49 the requested hearing; and
- 50 (iv) provide materials for review by the hearing panel that demonstrate the
- 51 individual's compliance with directives from UPPAC or the Board found in petitioner's
- 52 original stipulated agreement or hearing report.
- 53 (c) An individual requesting licensing following a denial shall show sufficient
- 54 evidence of completion of a rehabilitation or remediation program, if applicable,
- 55 when requesting reinstatement.
- 56 (4) An individual whose license has been suspended or revoked in another
- 57 state shall seek reinstatement of the individual's license in the other state before a
- 58 request for a reinstatement hearing may be approved.

59 **R277-213-3. Reinstatement Hearing Procedures.**

- 60 (1) A hearing officer shall:
- 61 (a) preside over a reinstatement hearing; and
- 62 (b) rule on all procedural issues during the reinstatement hearing as they

63 arise.

64 (2) A hearing panel, comprising individuals as set forth in Subsection (2),  
65 shall:

66 (a) hear the evidence; and

67 (b) along with the [prosecutor]UPPAC attorney and hearing officer, question  
68 the individual seeking reinstatement regarding the appropriateness of reinstatement.

69 (3) An individual seeking reinstatement may:

70 (a) be represented by counsel; and

71 (b) may present evidence and witnesses.

72 (4) A party may present evidence and witnesses consistent with Rule  
73 R277-212.

74 (5) A hearing officer of a reinstatement hearing shall direct one or both  
75 parties to explain the background of a case to panel members at the beginning of  
76 the hearing to provide necessary information about the initial misconduct and  
77 subsequent UPPAC and Board action.

78 (6) An individual seeking reinstatement shall present documentation or  
79 evidence that supports reinstatement.

80 (7) The USOE, represented by [the]a UPPAC [prosecutor]attorney, shall  
81 present any evidence or documentation that explains and supports USOE's  
82 recommendation in the matter.

83 (8) Other evidence or witnesses may be presented by either party and shall  
84 be presented consistent with Rule R277-212.

85 (9) The individual seeking reinstatement shall:

86 (a) focus on the individual's actions, rehabilitative efforts, and performance  
87 following license denial or suspension;

88 (b) explain item by item how each condition of the hearing report or stipulated  
89 agreement was satisfied;

90 (c) provide documentation in the form of evaluations, reports, or plans, as  
91 directed by the hearing report or stipulated agreement, of satisfaction of all required  
92 and outlined conditions;

93 (d) be prepared to completely and candidly respond to the questions of the  
94 UPPAC [prosecutor]attorney and hearing panel regarding:

95 (i) the misconduct that caused the license suspension;  
96 (ii) subsequent rehabilitation activities;  
97 (iii) counseling or therapy received by the individual related to the original  
98 misconduct; and  
99 (iv) work, professional actions, and behavior between the suspension and  
100 reinstatement request;  
101 (e) present witnesses and be prepared to question witnesses (including  
102 counselors, current employers, support group members) at the hearing who can  
103 provide substantive corroboration of rehabilitation or current professional fitness to  
104 be an educator;  
105 (f) provide copies of all reports and documents to the UPPAC  
106 [prosecutor]attorney and hearing officer at least five days before a reinstatement  
107 hearing; and  
108 (g) bring eight copies of all documents or materials that an individual seeking  
109 reinstatement plans to introduce at the hearing.  
110 (10) The UPPAC [prosecutor]attorney, the hearing panel, and hearing officer  
111 shall thoroughly question the individual seeking reinstatement as to the individual's:  
112 (a) underlying misconduct which is the basis of the sanction on the educator's  
113 license;  
114 (b) specific and exact compliance with reinstatement requirements;  
115 (c) counseling, if required for reinstatement;  
116 (d) specific plans for avoiding previous misconduct; and  
117 (e) demeanor and changed understanding of petitioner's professional integrity  
118 and actions consistent with Rule R277-515.  
119 (11) If the individual seeking reinstatement sought counseling as described  
120 in Subsection(10)(c), the individual shall state, under oath, that he provided all  
121 relevant information and background to his counselor or therapist.  
122 (12) A hearing officer shall rule on procedural issues in a reinstatement  
123 hearing in a timely manner as they arise.  
124 (13) No more than 20 days following a reinstatement hearing, a hearing  
125 officer, with the assistance of the hearing panel, shall:  
126 (a) prepare a hearing report in accordance with the requirements set forth in

127 Section R277-213-5; and

128 (b) provide the hearing report to the UPPAC Executive Secretary.

129 (14) The Executive Secretary shall submit the hearing report to UPPAC at the  
130 next meeting following receipt of the hearing report by the Executive Secretary.

131 (15) UPPAC may do the following upon receipt of the hearing report:

132 (a) accept the hearing panel's recommendation as prepared in the hearing  
133 report;

134 (b) amend the hearing panel's recommendation with conditions or  
135 modifications to the hearing panel's recommendation which shall be:

136 (i) directed by UPPAC;

137 (ii) prepared by the UPPAC Executive Secretary; and

138 (iii) attached to the hearing report; or

139 (c) reject the hearing panel's recommendation.

140 (16) After UPPAC makes a recommendation on the hearing panel report, the  
141 UPPAC recommendation will be forwarded to the Board for final action on the  
142 individual's reinstatement request.

143 (17) If the Board denies an individual's request for reinstatement, the  
144 individual shall wait at least twenty four (24) months prior to filing a request for  
145 reinstatement again, unless a different time is specified by UPPAC or the Board.

146 (18) If the Board reinstates an educator's license, the Executive Secretary  
147 shall:

148 (a) update CACTUS to reflect the Board's action; and

149 (b) report the Board's action to the NASDTEC Educator Information Clearing  
150 house.

151 (19) The Executive Secretary shall send notice of the Board's decision no  
152 more than 30 days following Board action to:

153 (a) the educator;

154 (b) the educator's LEA.

155 **R277-213-4. Rights of a Victim at a Reinstatement Hearing.**

156 (1) If the allegations that gave rise to the underlying suspension involve abuse  
157 of a sexual or physical nature, UPPAC shall make reasonable efforts to notify the

158 victim or the victim's family of the reinstatement request.

159 (2) A UPPAC's notification described in Subsection (1) shall:

160 (a) advise the victim or the victim's family that a reinstatement hearing has  
161 been scheduled;

162 (b) notify the victim or the victim's family of the date, time, and location of the  
163 hearing;

164 (c) advise the victim or the victim's family of the victim's right to be heard at  
165 the reinstatement hearing; and

166 (d) provide the victim or the victim's family with a form upon which the victim  
167 can submit a statement for consideration by the hearing panel.

168 (3) A victim entitled to notification of the reinstatement proceedings shall be  
169 permitted:

170 (a) to attend the hearing; and

171 (b) to offer the victim's position on the educator's reinstatement request, either  
172 by testifying in person or by submitting a written statement.

173 (4) A victim choosing to testify at a reinstatement hearing shall be subject to  
174 reasonable cross examination in the hearing officer's discretion.

175 (5) A victim choosing not to respond in writing or appear at the reinstatement  
176 hearing waives the victim's right to participate in the reinstatement process.

177 **R277-213-5. Reinstatement Hearing Report.**

178 (1) A hearing officer shall provide the following in a reinstatement hearing  
179 report:

180 (a) a summary of the background of the original disciplinary action;

181 (b) adequate information, including summary statements of evidence  
182 presented, documents provided, and petitioner's testimony and demeanor for both  
183 UPPAC and the Board to evaluate petitioner's progress and rehabilitation since  
184 petitioner's original disciplinary action;

185 (c) the hearing panel's conclusions regarding petitioner's appropriateness and  
186 fitness to be a public school educator again;

187 (d) the hearing panel's recommendation; and

188 (e) a statement indicating whether the hearing panel's recommendation to

189 UPPAC was unanimous or identifying how the panel member's voted concerning  
190 reinstatement.

191 (2)(a) The hearing panel report is a public document under GRAMA following  
192 the conclusion of the reinstatement process unless specific information or evidence  
193 contained therein is protected by a specific provision of GRAMA, or another  
194 provision of state or federal law.

195 (b) The Executive Secretary shall add the hearing panel report to the UPPAC  
196 case file.

197 (3) If a license is reinstated, an educator's CACTUS file shall be updated to:

198 (a) remove the flag;

199 (b) show that the educator's license was reinstated; and

200 (c) show the date of formal Board action reinstating the license.

201 ~~(4)(a) UPPAC and the Board shall follow the procedures described in~~  
202 ~~Subsection R277-212-12(7) when considering a reinstatement hearing report.~~

203 ~~(b) The Board decision as to whether to accept the recommendation of the~~  
204 ~~reinstatement hearing report is within the Board's sole discretion.~~

205 ~~(5) If the Board denies an individual's request for reinstatement, the individual~~  
206 ~~shall wait at least twenty four (24) months prior to filing a request for reinstatement~~  
207 ~~again, unless a different time is specified by UPPAC or the Board.~~

208 ~~(6) If the Board reinstates an educator, the Executive Secretary shall:~~

209 ~~(a) update CACTUS to reflect the Board's action; and~~

210 ~~(b) report the Board's action to the NASDTEC Educator Information Clearing~~  
211 ~~house.~~

212 ~~(7) The Executive Secretary shall send notice of the Board's decision no more~~  
213 ~~than 30 days following Board action to:~~

214 ~~(a) the educator;~~

215 ~~(b) the educator's LEA.]~~

216 **R277-213-6. Reinstatement from Revocation of License.**

217 (1) The Executive Secretary shall deny any request for a reinstatement  
218 hearing for a revoked license unless the educator's stipulated agreement or  
219 revocation order from the Board allows the educator to request a reinstatement

220 hearing.

221 (2) An educator may request that the Superintendent order a new hearing if:

222 (a) an educator provides:

223 (i) evidence of mistake or false information that was critical to the revocation

224 action; or

225 (ii) newly discovered evidence:

226 (A) that undermines the revocation determination; and

227 (B) that the educator could not have reasonably obtained during the original

228 disciplinary proceedings; or

229 (b) an educator identifies material procedural Board error in the revocation

230 process.

231 (3) A request for review by the Superintendent must be filed within 30 days

232 of Board action for circumstances identified in Subsection (2)(a)(i) or (b).

233 (4) A request for review by the Superintendent must be filed within 90 days

234 of discovery of the new evidence for circumstances identified in Subsection(2)(a)(ii).

235 (5) The Superintendent:

236 (a) shall make a determination on a request made under Subsection(2) within

237 60 days; and

238 (b) may request briefing from an educator and USOE staff in making a

239 determination.

240 (6) If the Superintendent finds that the criteria in Subsection (2)(a) have been

241 established, the Superintendent shall direct UPPAC to conduct a new hearing

242 consistent with Rule R277-212.

243 (7) If the Superintendent[s] finds that the criteria in Subsection (2)(b) have

244 been established, the Superintendent shall recommend to the Board that they

245 reconsider their previous action.

246 **KEY: licensure, reinstatement, hearings; license reinstatement**

247 **Date of Enactment or Last Substantive Amendment: 2016**

248 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-**

249 **1-401**