

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Ben Rasmussen, Director
Law and Professional Practices

DATE: May 12-13, 2016

ACTION: R277-515 *Utah Educator Standards* (Amendment)

Background:

In its meetings, the UPPAC working group has discussed the need for updates to the educator standards. R277-515 has been amended to provide clearer definitions for issues surrounding grooming and boundaries. R277-515 has also been amended to add provisions regarding educator use of technology, provide clarification and matters to report, and add a provision to the rule that educators must review the standards and reporting rules and annually sign a form acknowledging that they've read and understand the rules.

Board Strategic Plan:

This item supports the following imperative and strategies in the Board's Strategic Plan:
Oversight - Monitor, review, and provide general supervision to all public education institutions and other entities for which the State Board has responsibility.

Anticipated Action:

It is proposed that the Law and Licensing Committee consider approving R277-515, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-515, as amended on second reading.

Contact: Ben Rasmussen, 801-538-7835
Angie Stallings, 801-538-7550
Travis Rawlings, 801-538-7601

1 **R277. Education, Administration.**

2 **R277-515. Utah Educator Professional Standards.**

3 **R277-515-1. Authority and Purpose.**

4 (1) This rule is authorized by:

5 (a) Utah Constitution Article X, Section 3, which vests the general control and
6 supervision of the public schools in the Board;

7 (b) Subsection 53A-1-402(1)(a), which directs the Board to make rules
8 regarding the certification of educators;

9 (c) Title 53A, Chapter 6, Educator Licensing and Professional Practices Act,
10 which provides all laws related to educator licensing and professional practices; and

11 (d) ~~S[ub]section 53A-1-401[(3)]~~, which allows the Board to ~~[adopt rules in~~
12 ~~accordance with its responsibilities]~~make rules to execute the Board's duties and
13 responsibilities under the Utah Constitution and state law.

14 (2) The purpose of this rule is to:

15 (a) establish statewide standards for public school educators that provide
16 notice to educators and prospective educators and notice and protection to public
17 school students and parents;

18 (b) recognize that licensed public school educators are professionals and, as
19 such, should share common professional standards, expectations, and role model
20 responsibilities; and

21 (c) distinguish behavior for which educators shall receive license discipline
22 from behavior that all Utah educators should aspire to and for which license
23 discipline shall be initiated only in egregious circumstances or following a pattern of
24 offenses.

25 **R277-515-2. Definitions.**

26 (1)(a) "Boundary violation" means crossing verbal, physical, emotional, and
27 social lines that an educator must maintain in order to ensure structure, security, and
28 predictability in an educational environment.

29 (b) "Boundary violation" may include the following, depending on the
30 circumstances:

31 (i) isolated, one-on-one interactions with students out of the line of sight of

32 others;
33 (ii) meeting with students in rooms with covered or blocked windows;
34 (iii) telling risqué jokes;
35 (iv) employing favoritism;
36 (v) giving gifts to individual students;
37 (vi) frontal hugging or other uninvited touching;
38 (vii) photographing individual students;
39 (viii) engaging in contact outside of educational program activities;
40 (ix) exchanging personal email or phone numbers;
41 (x) interacting privately through social media, computer, or handheld devices;
42 and
43 (xi) discussing an educator’s personal life or personal issues with a student.
44 (c) “Boundary violations” does not include:
45 (i) offering praise, encouragement, or acknowledgment;
46 (ii) offering rewards available to all who achieve;
47 (iii) asking permission to touch for necessary purposes;
48 (iv) giving pats on the back or a shoulder;
49 (v) giving side hugs;
50 (vi) giving handshakes or high fives;
51 (vii) offering warmth and kindness;
52 (viii) utilizing public social media alerts to groups of students and parents; or
53 (ix) contact permitted by an IEP or 504 plan.
54 ([1]2) “Core Standard” means a statement:
55 (a) of what a student enrolled in a public school is expected to know and be
56 able to do at a specific grade level or following completion of an identified course;
57 and
58 (b) established by the Board in Rule R277-700 as required by Section 53A-1-
59 402.
60 ([2]3) “Diversion agreement” means an agreement between a prosecutor and
61 defendant entered into prior to a conviction delaying prosecution of a criminal charge
62 for a specified period of time and contingent upon the defendant satisfying certain
63 conditions.

64 (3)4(a) “Educator” or “professional educator” means a person who currently
65 holds a Utah educator license, held a license at the time of an alleged offense, is an
66 applicant for a license, or is a person in training to obtain a license.

67 (b) “Professional educator” does not include a paraprofessional, a volunteer,
68 or an unlicensed teacher in a classroom.

69 ~~[(4) “Felony offense” means any offense for which an individual is charged~~
70 ~~with a first, second, or third degree felony under:~~

- 71 ~~—— (a) Title 76, Utah Criminal Code;~~
- 72 ~~—— (b) Title 67, Chapter 16, Utah Public Officers’ and Employees’ Ethics Act;~~
- 73 ~~—— (c) Title 58, Chapter 37d, Clandestine Drug Lab Act;~~
- 74 ~~—— (d) Title 63G, Chapter 6a, Utah Procurement Code; or~~
- 75 ~~—— (e) any other statute in the Utah Code establishing a felony.]~~

76 (5) “Illegal drug” means a substance included in:

- 77 (a) Schedules I, II, III, IV, or V established in Section 58-37-4;
- 78 (b) Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title
79 II, Pub. L. No. 91-513; or
- 80 (c) any controlled substance analog.

81 (6) Grooming” means befriending and establishing an emotional connection
82 with a child or a child’s family to lower the child’s inhibitions for emotional, physical,
83 or sexual abuse.

84 (6)7 “LEA” or “local education agency” for purposes of this rule includes the
85 Utah Schools for the Deaf and the Blind.

86 (7)8 “Licensing discipline” means a sanction, including an admonition, a
87 letter of warning, a written reprimand, suspension of license, and revocation of
88 license, or other appropriate disciplinary measure, for violation of a professional
89 educator standard.

90 (8)9 “Misdemeanor offense,” for purposes of this rule, does not include
91 Class C or lower violations of Title 41, Utah Motor Vehicle Code~~[means any offense~~
92 ~~for which an individual is charged with a Class A, B, or C misdemeanor under:~~

- 93 ~~—— (a) Title 76, Utah Criminal Code;~~
- 94 ~~—— (b) Title 67, Chapter 16, Utah Officers’ and Public Employees’ Ethics Act;~~
- 95 ~~—— (c) Title 58, Chapter 37d, Clandestine Drug Lab Act;~~

96 ~~—— (d) Title 63G, Chapter 6a, Utah Procurement Code; or~~
97 ~~—— (e) any other statute in the Utah Code establishing a misdemeanor].~~

98 ([9]10) “Plea in abeyance” means a plea of guilty or no contest that is not
99 entered as a judgment or conviction but is held by a court in abeyance for a specified
100 period of time.

101 ([10]11) “School-related activity” means any event, activity, or program:
102 (a) occurring at the school before, during, or after school hours; or
103 (b) that a student attends at a remote location as a representative of the
104 school or with the school’s authorization, or both.

105 ([11]12) “Stalking” means the act of intentionally or knowingly engaging in a
106 course of conduct directed at a specific person as defined in Section 76-5-106.5.

107 ([12]13) “Utah Professional Practices Advisory Commission” or “UPPAC”
108 means an advisory commission established to assist and advise the Board in
109 matters relating to the professional practices of educators, as established by Section
110 53A-6-301.

111 ([13]14) “Weapon” means any item that in the manner of its use or intended
112 use is capable of causing death or serious bodily injury.

113 **R277-515-3. Educator as a Role Model of Civic and Societal Responsibility.**

114 (1) The professional educator is responsible for compliance with federal,
115 state, and local laws.

116 (2) The professional educator shall familiarize himself or herself with
117 professional ethics and is responsible for compliance with applicable professional
118 standards.

119 (3) Failing to strictly adhere to Subsection (4) shall result in licensing
120 discipline.

121 (4) The professional educator, upon receiving a Utah educator license:
122 (a) may not be convicted of any felony or misdemeanor offense that adversely
123 affects the individual’s ability to perform an assigned duty and carry out the
124 responsibilities of the profession, including role model responsibility;

125 (b) may not be convicted of or commit any act of violence or abuse, including
126 physical, sexual, or emotional abuse of any person;

127 (c) may not commit any act of cruelty to a child or any criminal offense
128 involving a child;

129 (d) may not be convicted of a stalking crime;

130 (e) may not possess or distribute an illegal drug or be convicted of any crime
131 related to an illegal drug, including a prescription drug not specifically prescribed for
132 the individual;

133 (f) may not engage in conduct of a sexual nature described in Section 53A-6-
134 405;

135 (g) may not be subject to a diversion agreement specific to a sex-related or
136 drug-related offense, plea in abeyance, court-imposed probation, or court
137 supervision related to a criminal charge that could adversely impact the educator's
138 ability to perform the duties and responsibilities of the profession;

139 (h) may not provide to a student or allow a student under the educator's
140 supervision or control to consume an alcoholic beverage or unauthorized drug;

141 (i) may not attend school or a school-related activity in an assigned
142 supervisory capacity while possessing, using, or under the influence of alcohol or an
143 illegal drug;

144 (j) may not intentionally exceed the prescribed dosage of a prescription
145 medication while at school or a school-related activity;

146 (k) shall cooperate in providing all relevant information and evidence to the
147 proper authority in the course of an investigation by a law enforcement agency or by
148 the Division of Child and Family Services regarding potential criminal activity, except
149 that an educator may decline to give evidence against himself or herself in an
150 investigation if the evidence may tend to incriminate the educator as that term is
151 defined by the Fifth Amendment of the U.S. Constitution;

152 (l) shall report suspected child abuse or neglect to law enforcement or the
153 Division of Child and Family Services pursuant to Sections 53A-6-502 and 62A-4a-
154 409 and comply with rules and LEA policy regarding the reporting of suspected child
155 abuse;

156 (m) shall strictly adhere to state laws regarding the possession of a firearm
157 while on school property or at a school-sponsored activity and enforce an LEA policy
158 related to student access to or possession of a weapon;

159 (n) may not solicit, encourage, or consummate an inappropriate relationship,
160 whether written, verbal, or physical, with a student or minor;

161 (o) may not engage in grooming of a student or minor;

162 ([e]p) may not:

163 (i) participate in sexual, physical, or emotional harassment towards any public
164 school-age student or colleague; or

165 (ii) knowingly allow harassment toward a student or colleague;

166 ([p]q) may not make inappropriate contact in any communication, including
167 written, verbal, or electronic, with a minor, student, or colleague, regardless of age
168 or location;

169 ([q]r) may not interfere or discourage a student's or colleague's legitimate
170 exercise of political and civil rights, acting consistent with law and LEA policy;

171 ([r]s) shall provide accurate and complete information in a required evaluation
172 of himself or herself, another educator, or student, as directed, consistent with the
173 law;

174 ([s]t) shall be forthcoming with accurate and complete information to an
175 appropriate authority regarding known educator misconduct that could adversely
176 impact performance of a professional responsibility, including a role model
177 responsibility, by himself or herself, or another;

178 ([t]u) shall provide accurate and complete information required for licensure,
179 transfer, or employment purposes;

180 ([u]v) shall provide accurate and complete information regarding
181 qualifications, degrees, academic or professional awards or honors, and related
182 employment history when applying for employment or licensure;

183 ([v]w) shall notify the USOE at the time of application for licensure of past
184 license disciplinary action or license discipline from another jurisdiction;

185 ([w]x) shall notify the USOE honestly and completely of past criminal
186 convictions at the time of the license application and renewal of licenses; and

187 ([x]y) shall provide complete and accurate information during an official inquiry
188 or investigation by LEA, state, or law enforcement personnel.

189 (5) An LEA shall report violations of Subsection (4) to UPPAC.

190 ([5]6)(a) Failure to adhere to this Subsection (5) may result in licensing

191 discipline.

192 (b) A penalty shall be imposed, most readily, if an educator has received a
193 previous documented warning from the educator's employer.

194 (c) An educator may not:

195 (i) exclude a student from participating in any program or deny or grant any
196 benefit to any student on the basis of race, color, creed, sex, national origin, marital
197 status, political or religious belief, physical or mental condition, family, social, or
198 cultural background, or sexual orientation; and

199 (ii) may not engage in conduct that would encourage a student to develop a
200 prejudice on the grounds described in Subsection (5)(c)(i) or any other, consistent
201 with the law.

202 (d) An educator shall maintain confidentiality concerning a student unless
203 revealing confidential information to an authorized person serves the best interest
204 of the student and serves a lawful purpose, consistent with:

205 (i) Title 53A, Chapter 13, Part 3, Utah Family Educational Rights and Privacy
206 Act; and

207 (ii) the Federal Family Educational Rights and Privacy Acts, 20 U.S.C. Sec.
208 1232g and 34 CFR Part 99.

209 (e) Consistent with Title 67, Chapter 16, Utah Public Officers' and Employees'
210 Ethics Act, Section 53A-1-402.5, and rule, a professional educator:

211 (i) may not accept a bonus or incentive from a vendor or potential vendor or
212 a gift from a parent of a student, or a student where there may be the appearance
213 of a conflict of interest or impropriety;

214 (ii) may not accept or give a gift to a student that would suggest or further an
215 inappropriate relationship;

216 (iii) may not accept or give a gift to a colleague that is inappropriate or furthers
217 the appearance of impropriety;

218 (iv) may accept a donation from a student, parent, or business donating
219 specifically and strictly to benefit a student;

220 (v) may accept, but not solicit, a nominal appropriate personal gift for a
221 birthday, holiday, or teacher appreciation occasion, consistent with LEA policy and
222 Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

- 223 (vi) may not use the educator's position or influence to:
- 224 (A) solicit a colleague, student, or parent of a student to purchase equipment,
- 225 supplies, or services from the educator or participate in an activity that financially
- 226 benefits the educator unless approved in writing by the LEA; or
- 227 (B) promote an athletic camp, summer league, travel opportunity, or other
- 228 outside instructional opportunity from which the educator receives personal
- 229 remuneration and that involve students in the educator's school system, unless
- 230 approved in writing consistent with LEA policy and rule; and
- 231 (vii) may not use school property, a facility, or equipment for personal
- 232 enrichment, commercial gain, or for personal uses without express supervisor
- 233 permission.

234 **R277-515-4. Educator Responsibility for Maintaining a Safe Learning**

235 **Environment and Educational Standards.**

236 (1) A professional educator maintains a positive and safe learning

237 environment for a student and works toward meeting an educational standard

238 required by law.

239 (2)(a) Failure to strictly adhere to this Subsection (2) shall result in licensing

240 discipline.

241 (b) The professional educator, upon receiving a Utah educator license:

242 (i) shall take prompt and appropriate action to prevent harassment or

243 discriminatory conduct toward a student or school employee that may result in a

244 hostile, intimidating, abusive, offensive, or oppressive learning environment;

245 (ii) shall resolve a disciplinary problem according to law, LEA policy, and local

246 building procedures and strictly protect student confidentiality and understand laws

247 relating to student information and records;

248 (iii) shall supervise a student appropriately at school and a school-related

249 activity, home or away, consistent with LEA policy and building procedures and the

250 age of the students;

251 (iv) shall take action to protect a student from any known condition detrimental

252 to that student's physical health, mental health, safety, or learning;

253 (v)(A) shall demonstrate honesty and integrity by strictly adhering to all state

254 and LEA instructions and protocols in managing and administering a standardized
255 test to a student consistent with Section 53A-1-608 and Rule R277-404;

256 (B) shall cooperate in good faith with a required student assessment;

257 (C) shall encourage a student's best effort in an assessment;

258 (D) shall submit and include all required student information and
259 assessments, as required by statute and rule; and

260 (E) shall attend training and cooperate with assessment training and
261 assessment directives at all levels;

262 (vi) may not use or attempt to use an LEA computer or information system in
263 violation of the LEA's acceptable use policy for an employee or access information
264 that may be detrimental to young people or inconsistent with the educator's role
265 model responsibility; and

266 (vii) may not knowingly possess, while at school or any school-related activity,
267 any pornographic material in any form.

268 (3) An LEA shall report violations of Subsection (2) to UPPAC.

269 (~~3~~4)(a) Failure to adhere to this Subsection (3) may result in licensing
270 discipline.

271 (b) A penalty shall be imposed, most readily, if an educator has received a
272 previous documented warning from the educator's employer.

273 (c) A professional educator:

274 (i) shall demonstrate respect for a diverse perspective, idea, and opinion and
275 encourage contributions from a broad spectrum of school and community sources,
276 including a community whose heritage language is not English;

277 (ii) shall use appropriate language, eschewing profane, foul, offensive, or
278 derogatory comments or language;

279 (iii) shall maintain a positive and safe learning environment for a student;

280 (iv) shall make appropriate use of technology by:

281 (A) using social media responsibly, transparently, and primarily for purposes
282 of teaching and learning per school and district policy;

283 (B) maintaining separate professional and person virtual profiles;

284 (C) respecting student privacy on social media; and

285 (D) taking appropriate and reasonable measures to maintain confidentiality

286 of student information and education records stored or transmitted through the use
287 of electronic or computer technology;

- 288 (i) shall work toward meeting an educational standard required by law;
289 (vi) shall teach the objectives contained in a Core Standard;
290 (vii) may not distort or alter subject matter from a Core Standard in a manner
291 inconsistent with the law; and
292 (viii) shall use instructional time effectively consistent with LEA policy.

293 **R277-515-5. Professional Educator Responsibility for Compliance with LEA**
294 **Policy.**

295 (1)(a) Failure to strictly adhere to this Subsection (1) shall result in licensing
296 discipline.

297 (b) ~~The~~A professional educator:

298 ~~(i) understands and follows a rule and LEA policy;~~

299 ~~—(ii) understands and follows a school or administrative policy or procedure;~~

300 ~~(iii) understands~~and, respects, and does not violate appropriate
301 boundaries;

302 (A) established by ethical rules and school policy and directive in teaching,
303 supervising, and interacting with a student or colleague; and

304 (B) described in Subsection R277-515-2(1); and

305 ~~(v)ii~~ shall conduct financial business with integrity by honestly accounting for
306 all funds committed to the educator's charge, as school responsibilities require,
307 consistent with LEA policy.

308 (2) An LEA shall report violations of Subsection (1) to UPPAC.

309 ~~(2)3~~(a) Failure to adhere to this Subsection (2) may result in licensing
310 discipline.

311 (b) A penalty shall be imposed most readily, if an educator has received a
312 previous documented warning from the educator's employer.

313 (c) The professional educator:

314 (i) understands and follows a rule and LEA policy;

315 (ii) understands and follows a school or administrative policy or procedure;

316 ~~(iii) shall~~ resolves a grievance with a student, colleague, school community

317 member, and parent professionally, with civility, and in accordance with LEA policy;
318 and

319 (ii) ~~shall~~ follows LEA policy for collecting money from a student, accounting
320 for all money collected, and not commingling any school funds with personal funds.

321 **R277-515-6. Professional Educator Conduct.**

322 (1) A professional educator exhibits integrity and honesty in relationships with
323 an LEA administrator or personnel.

324 (2)(a) Failure to adhere to this Subsection (2) may result in licensing
325 discipline.

326 (b) A penalty shall be imposed most readily, if an educator has received a
327 previous documented warning from the educator's employer.

328 (c) The professional educator:

329 (i) shall communicate professionally and with civility with a colleague, school
330 and community specialist, administrator, and other personnel;

331 (ii) shall maintain a professional and appropriate relationship and demeanor
332 with a student, colleague, school community member, and parent;

333 (iii) may not promote a personal opinion, personal issue, or political position
334 as part of the instructional process in a manner inconsistent with law;

335 (iv) shall express a personal opinion professionally and responsibly in the
336 community served by the school;

337 (v) shall comply with an LEA policy, supervisory directive, and generally-
338 accepted professional standard regarding appropriate dress and grooming at school
339 and at a school-related event;

340 (vi) shall work diligently to improve the educator's own professional
341 understanding, judgment, and expertise;

342 (vii) shall honor all contracts for a professional service;

343 (viii) shall perform all services required or directed by the educator's contract
344 with the LEA with professionalism consistent with LEA policy and rule; and

345 (ix) shall recruit another educator for employment in another position only
346 within a LEA timeline and guideline.

347 **R277-515-7. Violations of Professional Ethics.**

348 (1) This rule establishes standards of ethical decorum and behavior for
349 licensed educators in the state.

350 (2)(a) Beginning in the 2017-18 school year, every active licensed educator
351 shall review this rule and annually execute a form approved by the Superintendent
352 verifying that the educator:

353 (i) has read R277-515 and R277-516; and

354 (ii) understands that the educator's conduct is governed by R277-515 and
355 R277-516.

356 (b) Failure to submit the form identified in Subsection (a) by September 30
357 may result in licensing discipline.

358 ~~(2)3~~ Provisions of this rule do not prevent, circumvent, replace, nor mirror
359 criminal or potential charges that may be issued against a professional educator.

360 ~~(3)4~~ The Board and USOE shall adhere to the provisions of this rule in
361 licensing and disciplining a licensed Utah educator.

362 ~~(4)5~~ Reporting and employment provisions related to professional ethics are
363 provided in:

364 (a) Section 53A-15-1507;

365 (b) Section 53A-6-501;

366 (c) Section 53A-11-403; and

367 (d) Section R277-516-7.

368 **KEY: educator, professional, standards**

369 **Date of Enactment or Last Substantive Amendments: [~~October 8, 2015~~2016**

370 **Notice of Continuation: [~~November 15, 2012~~2016**

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

372 **53A-6; 53A-1-401[~~3~~]**