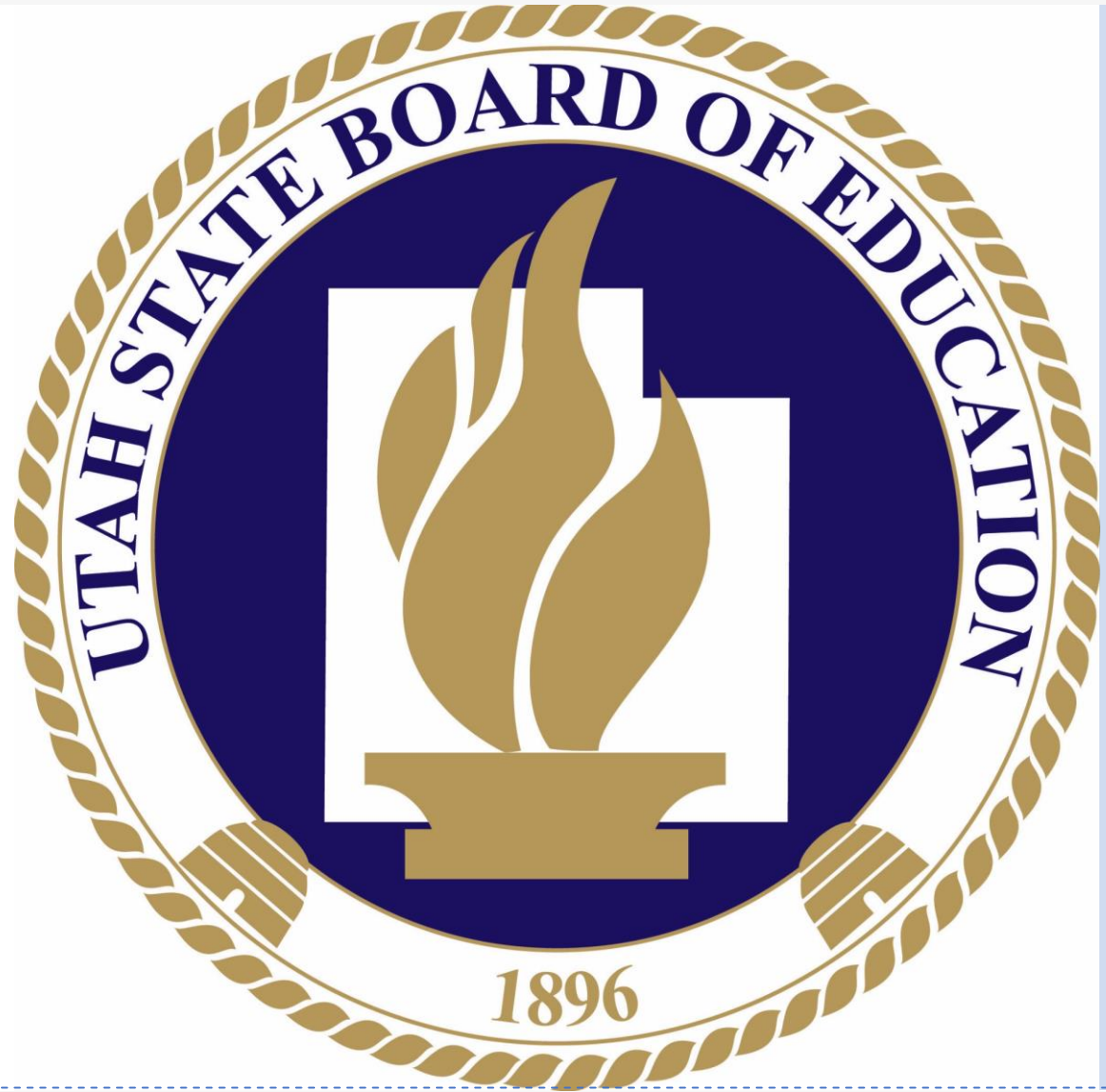


UPPAC Rule Changes

May 12, 2020

New Educator Standards



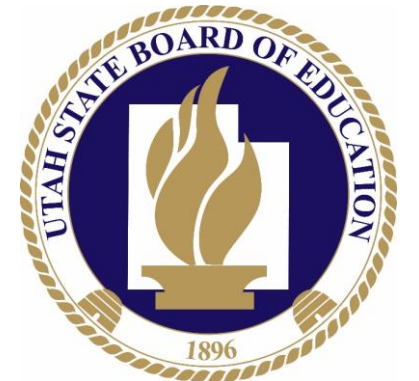
Utah Admin. Code R277-217



PROHIBITED CONDUCT



REQUIRED CONDUCT



Utah Admin. Code R277-217

- Some Items that used to be violations of the standards have been removed from the standards altogether:
 - Supervision of Students
 - Cooperating with required student assessments
 - Attending assessment training
 - Swearing – But there are exceptions
 - Teaching the Core Standards
 - Using instructional time effectively
 - Following LEA policies
 - Promoting Personal opinions or political positions as part of instruction
 - Dress and Grooming Standards
 - Professional Learning Requirements
 - Honoring contracts with LEAs for professional services



- Existing Procedures for Reporting Arrests – Citations Remain the Same:
 - Educator reports to LEA (or UPPAC if unemployed) within 48 hours of arrest, citation, or charge for specified offenses. LEA reports to UPPAC within 48 hours.
 - Educators reports all convictions or pleas in abeyance within 48 hours. LEA reports to UPPAC within 48 hours.





- An LEA shall notify UPPAC if an educator is determined pursuant to a judicial or administrative proceeding, or internal LEA investigation, to have violated the educator standards.
 - NO DISCRETION
 - NO EXCEPTIONS
- AN LEA may make a recommendation whether UPPAC should investigate.
- If no related criminal charges is filed, an LEA is not responsible to notify UPPAC of an allegation if the LEA's internal investigation establishes that the allegation is unsupported.

NOTIFICATION OF ALLEGED EDUCATOR MISCONDUCT

[Utah Admin. Code R277-217](#)



Date:

UPPAC

Educator's Name:

CACTUS ID:

School:

LEA:

Educator's Assignment:

Offense Type:

Choose One



Brief explanation of alleged misconduct:

New
Request

Please submit all relevant documentation or evidence with this form.

☐

Check here if you request that UPPAC submit a subpoena for additional evidence.

LEA employment action, to date:

Was a law enforcement report filed?

☐

Yes

☐

No

Law enforcement agency:

Case #

Criminal charges filed, if any:

Court: Case #:

Possible Witnesses: (Include name and contact information, if possible)

Note: The UPPAC investigator will discuss the matter with appropriate LEA personnel before contacting witnesses.

Does the LEA feel this matter warrants a UPPAC investigation? Would this matter be appropriate for an Expedited Hearing? Why or why not?

New
Request

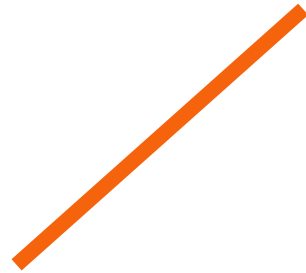
Form Submitted By:

Name:
Position:
Phone:
Email:

Return this Form to:
Ben Rasmussen
UPPAC Executive Secretary
ben.rasmussen@schools.utah.gov
250 E. 500 So.
P.O. Box 144200
Salt Lake City, UT 84114-4200
Fax: 801-538-7927

New Process

New case

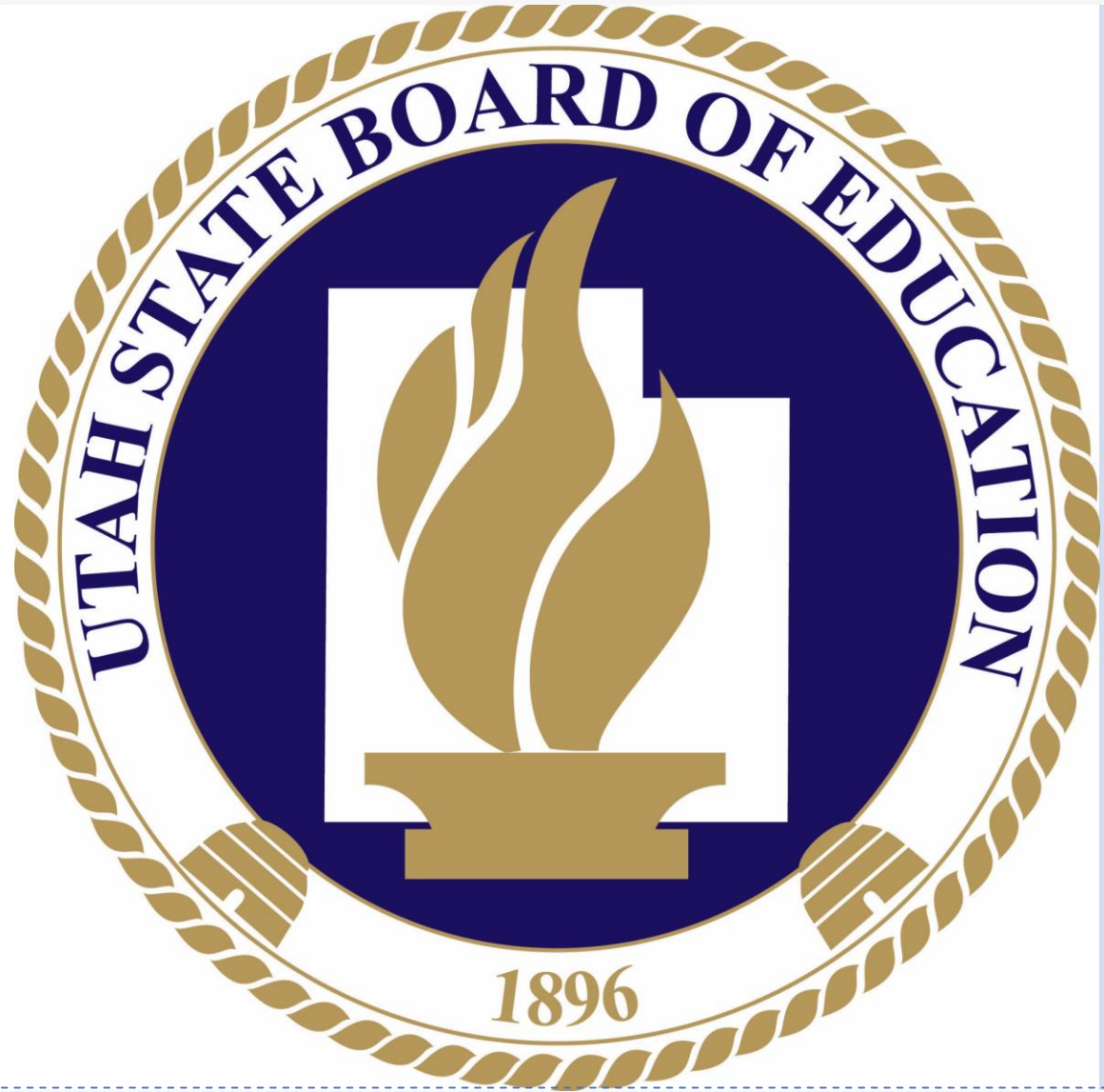


Expedited
Hearing

Investigation



Case Opening Considerations



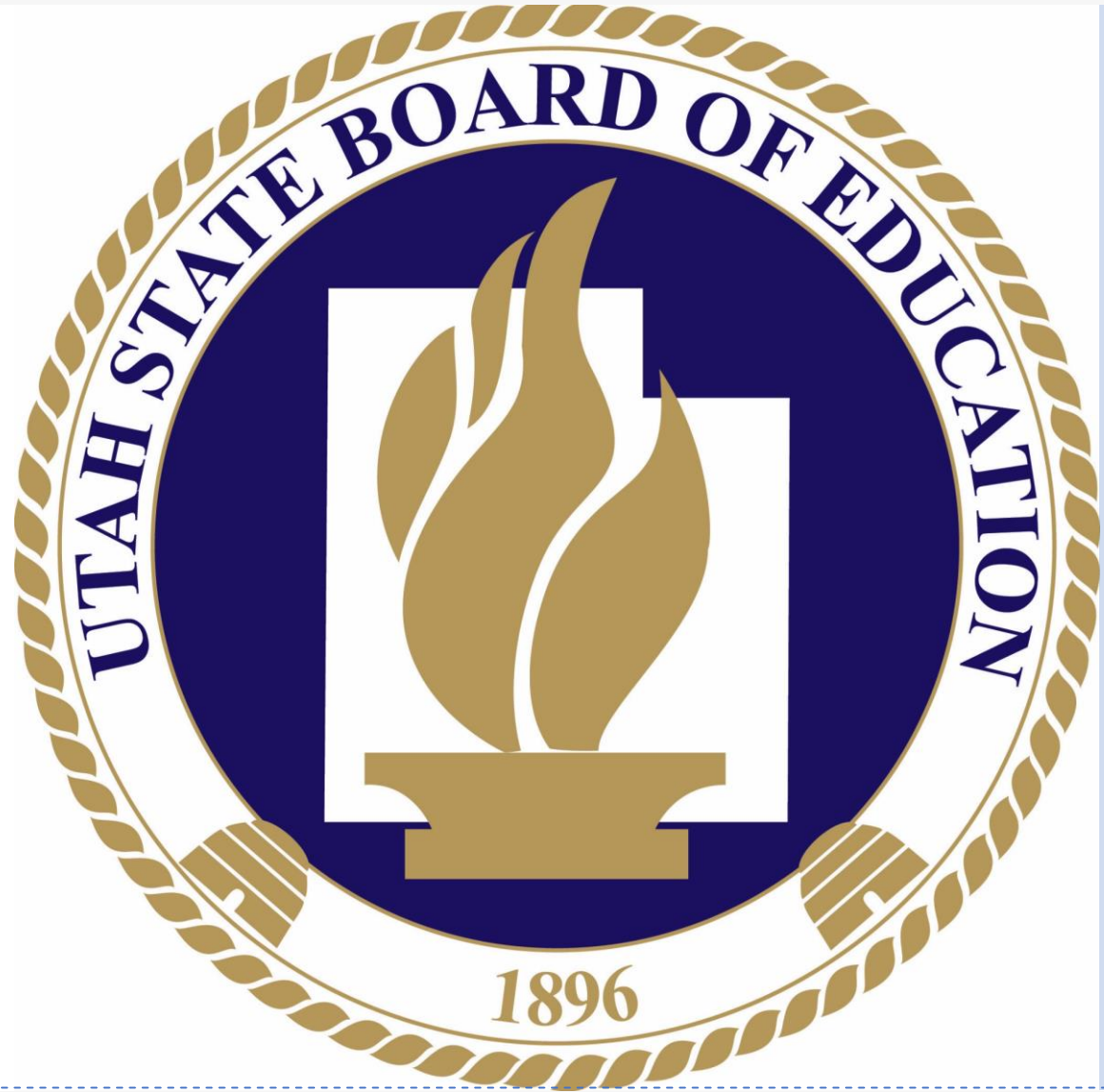
Utah Admin. Code R277-211

(3)(1)(b) In considering whether to open a case regarding an allegation of educator misconduct, UPPAC 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
 - (v) the educator has received prior UPPAC discipline.



Expedited Hearings

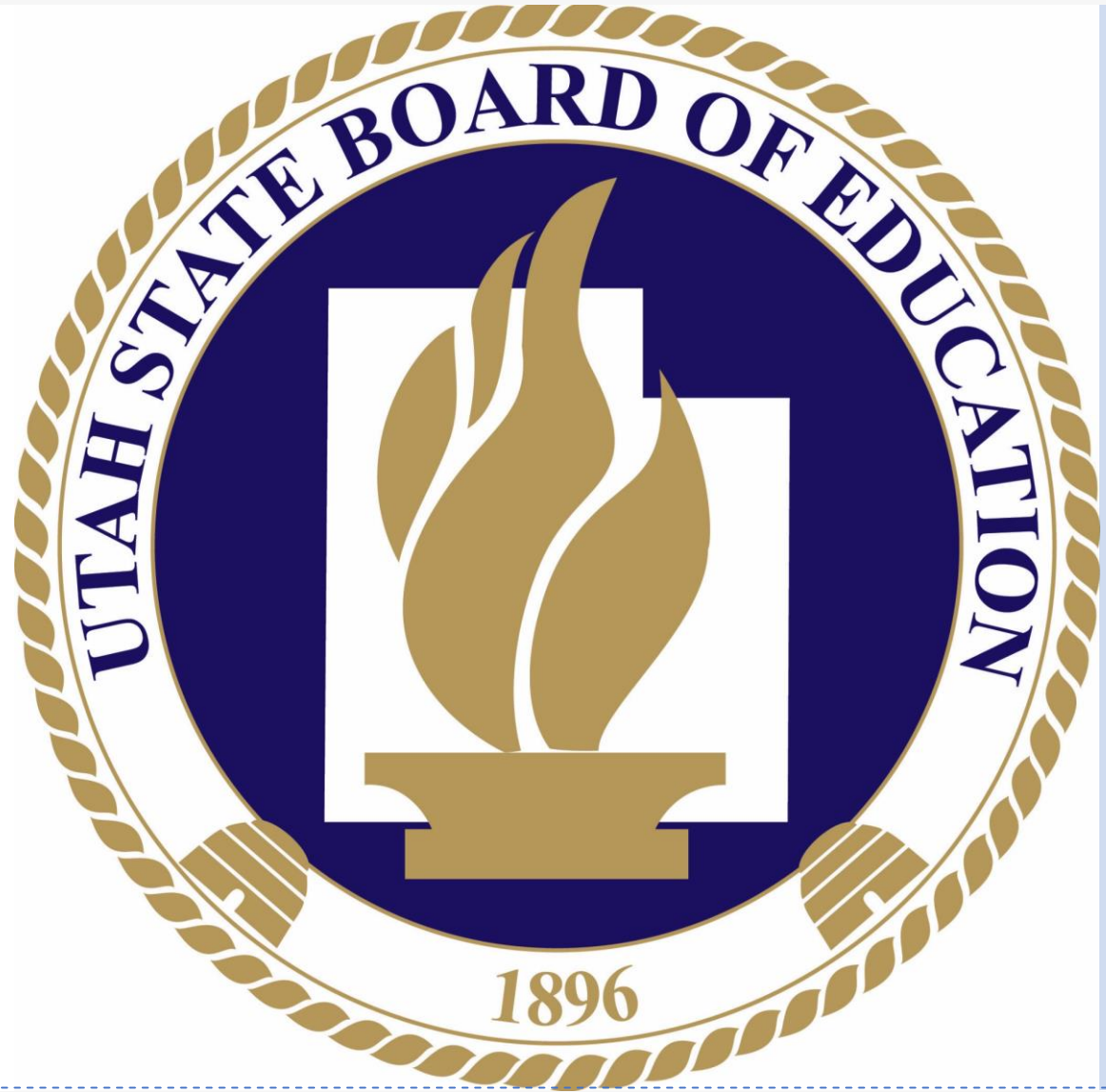


Expedited Hearings – R277-211-5

- Three member Panel with Hearing Officer (Staff Member)
- UPPAC will target less serious violations for this process
- Optional for Educator
- Short hearing involving Educator, Educator's attorney, UPPAC attorney, LEA representative, and panel
- Targeted for matters where the material allegations are not in dispute
- After the expedited hearing, the panel may recommend:
 - Closing the Case;
 - Closing the Case upon completion of recommended training or other educator requirements;
 - Issuing a Letter of Education or Letter of Warning;
 - Conducting a full investigation
- Testimony from an expedited hearing may be used in a future evidentiary hearing
- NO CACTUS FLAG unless the panel recommends a full investigation



Definitions





Changes in Letters

- Letter of Admonishment GONE
- Letter of Education – “A letter sent by the Board to an educator to instruct and caution the educator in an area of professional conduct when the evidence does not show a violation of the educator standards in Rule R277-217, but the evidence may show conduct that could lead to a violation of the standards in the future.”
- Letter of Warning – “ A letter sent by the Board to an educator: (a) for misconduct that was inappropriate or unethical; and (b) that does not warrant longer term or more serious discipline.”

~~Letter of~~ Reprimand

“Reprimand” is an action by the Board, which:

- (a) is imposed for misconduct that was longer term or more seriously unethical or inappropriate than conduct warranting a letter of warning, but not warranting invalidation of the educator’s license;
- (b) is accompanied by a flag on the educator’s CACTUS file, which the educator may request the Board remove from the educator’s CACTUS file two years from the date the educator’s CACTUS file was flagged for investigation, or after such other time period as prescribed by the Board; and
- (c) may include specific directives that the educator must complete prior to requesting the flag be removed from the educator’s CACTUS file.



What Distinguishes a Letter of Warning from a Reprimand?

- A Reprimand is presumed appropriate if an educator engages in conduct that would otherwise fall under a Letter of Warning classification, but is:
 - More Egregious or Repetitive; or
 - Something for which the Educator has received two or more written warnings from the LEA within the last ten years.

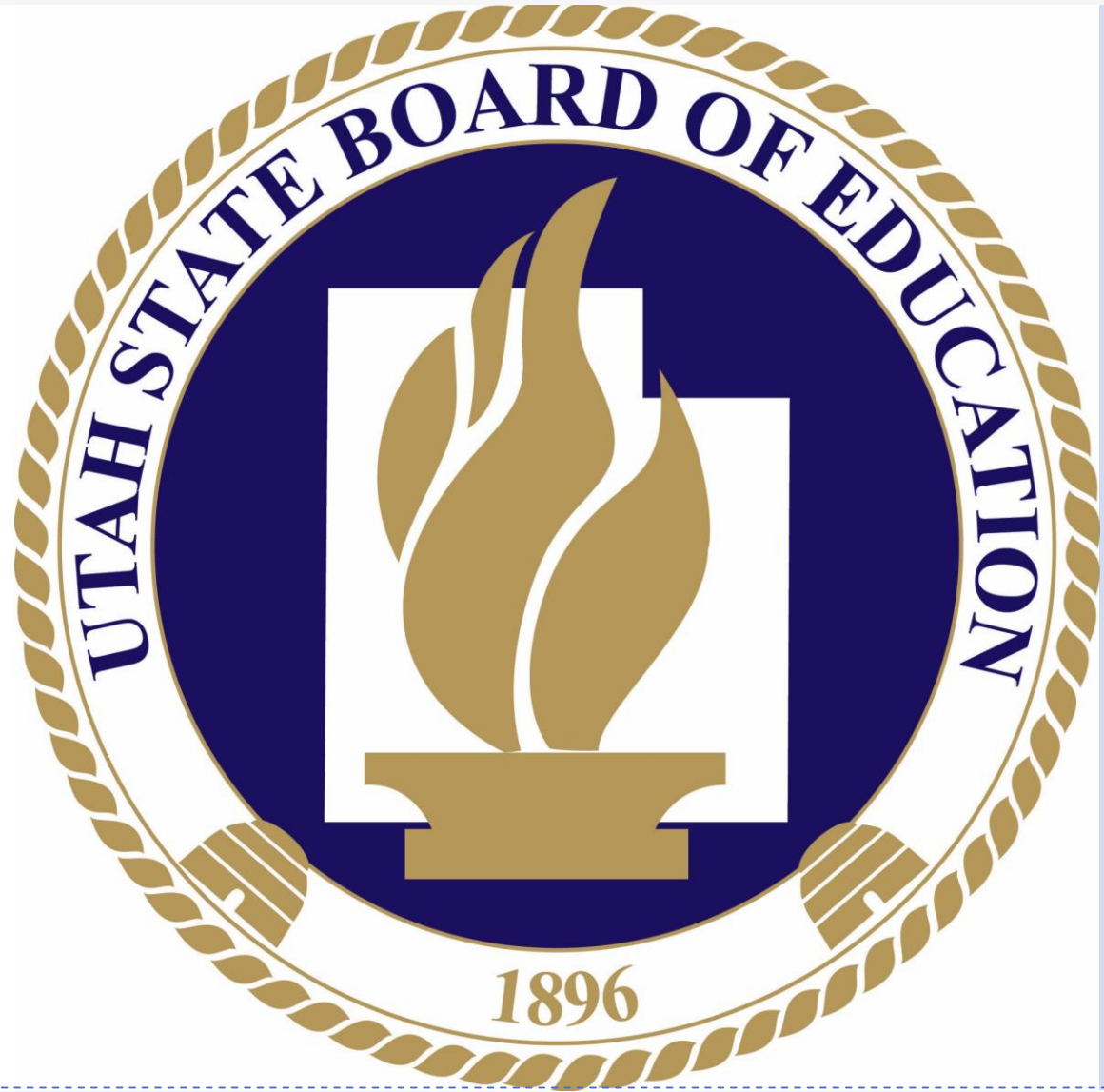


Other Key Definition Changes:

- Boundary violation no longer specifies “educator-initiated frontal hugging” as a violation. “Uninvited or inappropriate touching” remains an issue.
- “Conflict of Interest” means a business, family, monetary, or relationship concern that may cause a reasonable educator to be unduly influenced or that creates the appearance of undue influence.
- “Grooming” – REMOVED FROM DEFINITIONS
- “School-Related Activity” means a class, event, activity, or program:
 - (a) occurring at the school before, during, or after school hours; or
 - (b) that a student attends at a remote location as a representative of the school or with the school’s authorization.



Credit for Time
Served

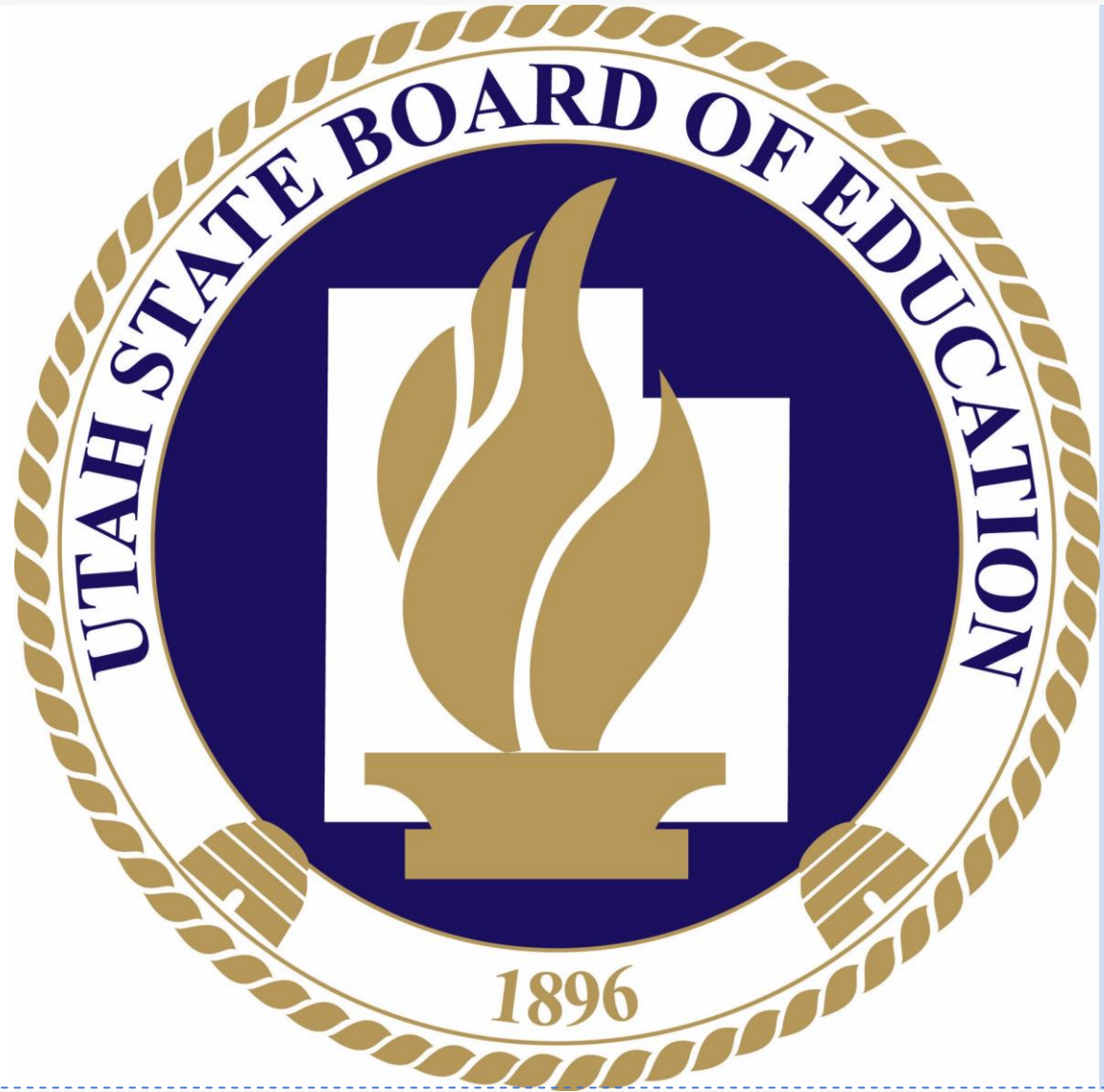


Options for UPPAC R277-215

- Circumstances Warranting Consideration of Deviation from Presumptions
 - the educator's misconduct resulted in a disproportionate period of missed classroom time;
 - UPPAC's investigation took longer than six months
 - No pending criminal charges
 - Circumstances Beyond the Educator's Control
 - UPPAC may consider matching the presumption period to a plea in abeyance period
 - If the plea results from charges stemming from the educator's alleged misconduct.

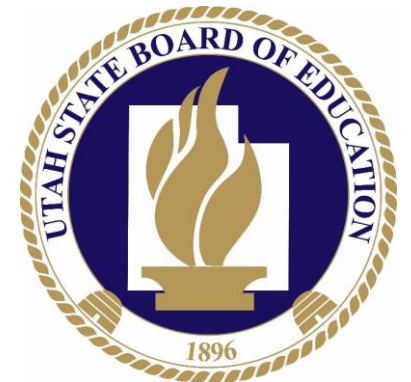


Aggravating/
Mitigating
Circumstances

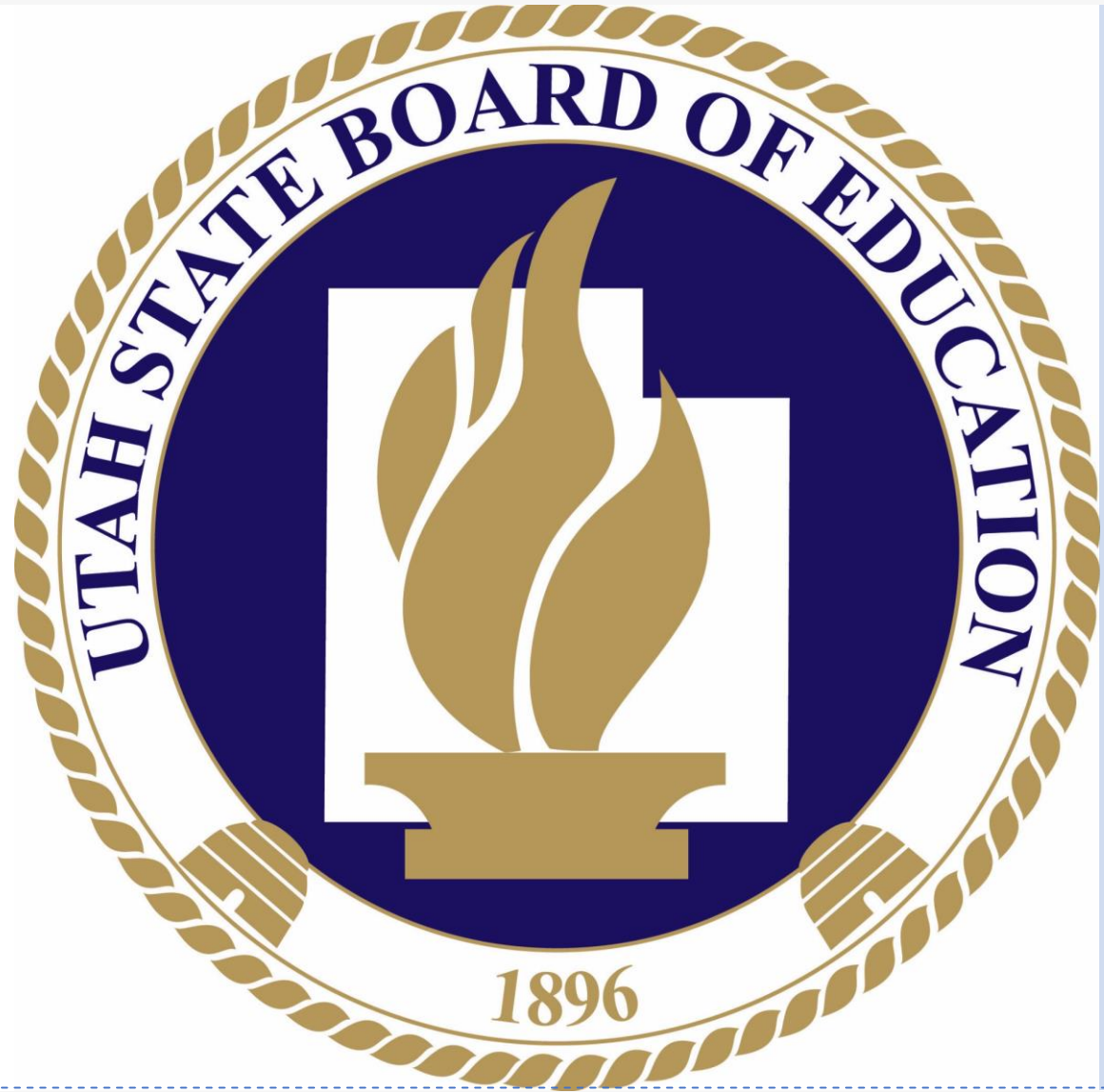


Changes

- Aggravating – An educator’s attitude “exhibits indifference, flippancy, disregard, or defiance towards the allegations or the consequences.” (~~Educator does not reflect responsibility.~~)
- Mitigating – An educator has “voluntarily sought treatment, counseling or training specific to the misconduct.”
- Mitigating – An educator has “made a timely, good faith effort to make restitution or rectify the consequences of the educator’s misconduct.
- Mitigating – An educator “received a plea in abeyance from the court for criminal charges stemming from the alleged misconduct.”



Changes to Reinstatement



From R277-213...

- An educator may file a request for reinstatement at any time one year prior to the expiration of the suspension period if the educator has completed the requirements identified in the educator's consent to discipline.
 - UPPAC can hold a hearing before the time has lapsed so that an educator doesn't have to wait longer than the reinstatement period to come back.
- The Board eliminated the default requirement that an individual who is denied reinstatement must wait 24 months before requesting another hearing.
 - A recommendation to deny reinstatement should include a recommended wait period.





QUESTIONS, CONCERNS, SARCASTIC REMARKS, CHEAP SHOTS,
JOKES?