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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: December 5, 2014

ACTION: R277-111 *Sharing of Curriculum Materials by Public School Educators*
(Continuation and Amendment)

Background:

1. R277-111 *Sharing of Curriculum Materials by Public School Educators* is due for its five-year review and continuation consistent with the Utah Administrative Rulemaking Act. The rule must be approved for continuation by the Board or it will expire on May 8, 2015. Staff have reviewed R277-111 and determined that the rule continues to be necessary.
2. R277-111 *Sharing of Curriculum Materials by Public School Educators* is amended to update terminology and remove unnecessary language.

Key Points:

1. R277-111 continues to be necessary because it provides provisions encouraging public school employees to share materials they develop to benefit public education generally.
2. The amendments to R277-111 provide minor terminology changes and delete one unnecessary sentence about LEAs.

Anticipated Action:

1. It is proposed that the Law and Licensing Committee consider approving R277-111 for continuation on first reading and, if approved by the Committee, the Board consider approving R277-111 for continuation on second reading.
2. It is proposed that the Law and Licensing Committee consider approving R277-111, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-111, as amended, on second reading.

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1 **R277. Education, Administration.**

2 **R277-111. Sharing of Curriculum Materials by Public School**
3 **Educators.**

4 **R277-111-1. Definitions.**

5 A. "Board" means the Utah State Board of Education.

6 B. "Creative Commons License" means copyright licenses
7 that grant certain rights such as the right to distribute the
8 copyrighted work without changes, at no charge. Works
9 licensed under a Creative Commons License is protected by
10 copyright applicable law. Creative Commons Licenses are
11 non-exclusive and non-revocable.

12 C. "LEA" means a local education agency, including local
13 school boards/public school districts, charter schools and,
14 for purposes of this rule, the Utah Schools for the Deaf and
15 the Blind.

16 ~~[C]~~D. "~~[District/]~~LEA materials" means materials
17 purchased or developed by an ~~[school—district/charter~~
18 ~~school]~~LEA using ~~[district]~~LEA funds or resources, including
19 materials, resources or activities which the ~~[district]~~LEA
20 requested employees to create, develop or compile during the
21 employees' contract time.

22 ~~[D]~~E. "Material(s)" means all copyrightable works,
23 including writings, lectures, musical or dramatic
24 compositions, sound recordings, films, videotapes and other
25 pictorial or technological reproductions, computer programs,
26 listings, charts, manuals, codes, instructions and software.

27 ~~[E]~~F. "Non-commercial use" means use or exchange without
28 payment or compensation of any kind.

29 ~~[F]~~G. "Personally developed materials" means materials
30 developed by an educator. These materials may be developed on
31 the educator's contract time using school resources, on the
32 educator's personal time using personal resources, as an
33 individual employment assignment, or in conjunction with other
34 colleagues.

35 ~~[G]~~H. "Teacher curriculum materials" means lesson plans,

36 educator research materials, activities, teaching strategies
37 or other printed or electronic materials developed by the
38 public educator.

39 **R277-111-2. Authority and Purpose.**

40 A. This rule is authorized by Utah Constitution Article
41 X, Section 3 which vests general control and supervision of
42 Public Education in the Board, Section 53A-1-401(3) which
43 allows the Board to adopt rules in accordance with its
44 responsibilities, and by Section 53A-1-402(1)(e) which directs
45 the Board to encourage school productivity and cost
46 effectiveness measures.

47 B. The purpose of this rule is to provide information and
48 assurance to public school educators about sharing materials
49 created or developed by educators primarily for use in their
50 own classes or assignments. The intent of this rule is to
51 allow or encourage educators to use valuable time and
52 resources to improve instruction and instructional practices
53 with assistance from appropriate materials developed by other
54 educators.

55 **R277-111-3. Educators Sharing Materials.**

56 A. Utah educators may share materials for noncommercial
57 use that educators have developed primarily for use in their
58 own classes, courses or assignments.

59 B. Utah educators may only share materials that they
60 developed personally and may not unilaterally share materials
61 that were purchased or developed by or on behalf of their
62 public employer or the State.

63 C. Utah educators may only share materials that are
64 consistent with R277-515 Utah Educator Professional Standards.
65 For example, educators may not share materials that advocate
66 illegal activities or that are inconsistent with their legal
67 and role model responsibilities as public employees and
68 licensed educators.

69 D. Utah educators may share materials under a Creative
70 Commons License and shall be personally responsible for
71 understanding and satisfying the requirements of a Creative
72 Commons License.

73 E. The presumption of this rule is that materials may be
74 shared. The presumption is that Utah educators need not seek
75 permission from their employers to share personally-developed
76 materials.~~[However public school employers may provide
77 notice to employees that materials developed with public
78 school funds or during public school employment must be
79 reviewed by the employer prior to sharing or distribution.]~~

80 F. Public educators may not sell teacher curriculum
81 materials developed in whole or in part with public education
82 funds or developed within the employee's scope of employment
83 to Utah educators.

84 **R277-111-4. [~~School District/Charter School~~LEA Rights.**

85 A. Utah [~~school districts or charter schools~~LEAs] may
86 develop and make available a policy that directs employees to
87 seek review and approval before employees share materials that
88 were developed on contract time, developed partially or
89 jointly with [~~school district/charter school~~LEA] funding, as
90 part of an [~~district/charter school~~LEA] assignment or if
91 materials reference or imply [~~school district/charter
92 school~~LEA] use or endorsement.

93 B. Utah [~~school districts/charter schools~~LEAs] may
94 prohibit their employees from sharing materials that were
95 purchased with [~~school district~~LEA] funds or which are
96 licensed specifically for [~~school district/charter school~~LEA]
97 use.

98 **KEY: curriculum materials, sharing**

99 **Date of Enactment or Last Substantive Amendment: [~~January 8,~~
100 2010]2015**

101 **Notice of Continuation: 2015**

102 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**
103 **53A-1-401(3); 53A-1-402(1)(e)**