

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Angie Stallings, Associate Superintendent
Policy and Communication

DATE: December 3-4, 2015

DISCUSSION: Board Policy – 1001, *Board Internal Policymaking Authority and Process*

Background:

The Board is both required and allowed to enact rules consistent with the Utah Constitution, statute and the Utah Administrative Rulemaking Act. For some purposes, when governing internal agency actions, a Board policy seems more appropriate than a Board rule.

Key Points:

The Board will review a draft Board policy establishing the Board's internal policymaking authority and process. The policy establishes a process for the Board to approve policies, describes when a policy is more appropriate than a Board rule, and provides that the Board's agencies and departments may establish their own policies, as long as the agency policies do not conflict with federal or state law, Board rule, or Board policy.

Anticipated Action:

It is proposed that the Law and Licensing Committee approve Board Policy – 1001, *Board Internal Policymaking Authority and Process* on first reading and, if approved by the Committee, the Board consider approving Board Policy - 1001 on second and final reading.

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To: Board, USOE, USOR, and USDB Staff

Date: December 4, 2015

Policy No. Board – 1001, *Board Internal Policymaking Authority and Process*

By this policy, the Utah State Board of Education (the Board) establishes the following internal rules and procedures for establishment of written policy within the agency:

1. A Board policy shall be in writing.
2. A Board policy may be reviewed by a Board standing committee prior to being referred to the full Board for consideration.
3. A Board policy shall be adopted by a majority vote of the Board membership to become effective.
4. A Board policy may be finalized on first reading, unless the Board, by motion, elects to employ an expanded Board policy adoption process.
5. Once adopted, a Board policy shall be binding on:
 - a. The Board;
 - b. The Utah State Office of Education, "USOE," and its sections;
 - c. The Utah State Office of Rehabilitation, "USOR," and its divisions; and
 - d. The Utah Schools for the Deaf and the Blind, "USDB."
6. A Board policy has no force or effect on:
 - a. An LEA; or
 - b. The general public.
7. A Board policy is subject to federal and state law, Board administrative rules, and the Board's bylaws.

8. If Board policy is found to be in conflict with federal or state law, a Board rule, or the Board's bylaws, the conflicting terms in Board policy shall be disregarded and the Board shall consider an amendment to the Board's written policy to ensure compliance and consistency.
9. USOE, USOR, USDB, and their departments, may adopt their own respective internal policies, as needed, so long as they don't conflict with Board policies, Board administrative rule, or federal and state law.
10. The combined policies of the Board, USOE, USOR, and USDB shall be numbered in a uniform manner and maintained centrally for staff access.
11. The Board will establish written policies, as opposed to using the formal rulemaking process, when:
 - a. The subject of the policy is aimed at internal affairs of the Board, USOE, USOR, or USDB;
 - b. The subject of the policy has no effect on an LEA or the general public;
 - c. The subject of the policy is not of a nature to require public input in its adoption or implementation;
 - d. Rulemaking is not mandated for the subject of the policy by statute; and
 - e. The Board desires to retain flexibility for revisiting the subject of the policy through a more streamlined adoption process.