NOTICE OF MEETING

UTAH STATE BOARD OF EDUCATION

August 6-7, 2015

Utah State Office of Education
Board/Committee Rooms
250 East 500 South
Salt Lake City, Utah

Thursday, August 6

3:00 p.m. Meeting with STEM Action Center Board - Basement West Conf Room

4:00 p.m. Study Session - Board Room

5:00 p.m. Dinner/Executive Session

6:00 p.m. Board Committee Meetings
- Finance Committee - Basement West Conference Room
- Law and Licensing Committee - North Board Room
- Standards and Assessment Committee - Conference Room 156

Friday, August 7

8:00 a.m. Board Meeting Begins - Board Room

2:30 p.m. Board Meeting Adjourns

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Public Participation: To sign up in advance for public comment, contact Board Secretary Lorraine Austin (lorraine.austin@schools.utah.gov or 801-538-7517) prior to the day of the meeting or sign up at the meeting by 8:00 a.m. Priority will be given to those that sign up in advance. You are welcome to send written comment to the Board at board@schools.utah.gov.

Broadcast: The August 6 study session and committee meetings will be broadcast beginning at 4:00 p.m. The August 7 meeting will be broadcast beginning at 8:00 a.m. To view the broadcast, go to http://uvc.uen.net/videos/channel/78/. Times are approximate. Executive sessions will not be broadcast.

Accommodations: In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for these meetings should contact Lorraine Austin at 801-538-7517 or lorraine.austin@schools.utah.gov, giving at least three working days notice.

UTAH STATE BOARD OF EDUCATION

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Brad C. Smith, Chief Executive Office
Lorraine Austin, Board Secretary

UTAH STATE BOARD OF EDUCATION
MEETING AGENDA -REVISION #2

August 6-7, 2015

Study Session/Committees - Thursday, August 6, 2015

3:00 p.m. to 4:00 p.m. - Basement West Conference Room
1. **DISCUSSION** with STEM Action Center Board

4:00 p.m. to 5:00 p.m. - Board Room
2. **STUDY SESSION** - Strategic Planning Discussion

5:00 p.m. to 6:00 p.m.
3. **DINNER/EXECUTIVE SESSION**

ACTION: Executive Session Item - Data Agreement

6:00 p.m.
4. **BOARD COMMITTEE MEETINGS**

Finance Committee - Basement West Conference Room

Time for public comment may be provided prior to each item

ACTION: Taxing Entity Committee to the Community Development and Renewal Agency of the City of Washington Terrace for the Southeast Urban Renewal Project Area - Plan Extension	Tab 4-A
ACTION: Understanding of and Potential Use of AIR Funds and SFY 16 Budget Amendments	Tab 4-B
INFORMATION: Report on the Status of Additional Positions for State Fiscal Year 16 Budget Adjustments	Tab 4-C
ACTION: Budgetary Authority	Tab 4-D
ACTION: SFY17 Funding Requests in Addition to the Base Budget	Tab 4-E
ACTION: Proposed Budget Reporting Schedule	Tab 4-F
ACTION: Loan Recommendations from the Charter School Revolving Account Committee	Tab 4-G

INFORMATION: Charter School Enrollment Variances — Tab 4-H

INFORMATION: Correction of Prior Year Fiscal Year Minimum School Program Payments — Tab 4-I

ACTION: Report on Cost of Converting Information Technology and Finance Positions from Merit to Career Exempt Positions — Tab 4-J

INFORMATION: FY16 USOE/USOR Indirect Cost Pool Updates — Tab 4-K

ACTION: R277-119 *Discretionary Funds* (Amendment to change title) — Tab 4-L

ACTION: Bylaws Additions for Board Budgeting Procedures — Tab 4-M

INFORMATION: Child Nutrition Programs Section SFY 16 Budget Update — Tab 4-N

ACTION: Contracting Procedure Review — Tab 4-O

INFORMATION: Finance Committee Requests for Data/Information — Tab 4-P

Law and Licensing Committee - North Board Room

Time for public comment may be provided prior to each item

All versions of rules presented will be accessible at http://schools.utah.gov/law/Administrative-Rules/USBE.aspx

INFORMATION: Paraeducator to Teacher Scholarships (PETTS) Program — Tab 4-Q

ACTION: Charter Amendment Request from Weilenmann School of Discovery — Tab 4-R

DISCUSSION: Utah Statute, Board Rules and Policies in regard to the Statewide Online Education Program — Tab 4-S

ACTION: R277-477 *Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program* (Repeal/Reenact) — Tab 4-T

ACTION: R277-491 *School Community Councils* (Repeal/Reenact) — Tab 4-U

ACTION: R277-533 *Educator Effectiveness Component Requirements* (New) — Tab 4-V

ACTION: R277-100 *Rulemaking Policy* (Continuation and Amendment) — Tab 4-W

ACTION: R277-207 *Utah Professional Practices Advisory Commission (UPPAC) Disciplinary Presumptions* (New) — Tab 4-X

ACTION: R277-514 and R277-517 (Repeal), R277-200 through R277-206 (Amendment) and R277-515 and R277-516 (Amendment) — Tab 4-Y

ACTION: R277-417 *Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation* (Amendment) — Tab 4-Z

ACTION: R277-438 *Dual Enrollment* (Amendment) — Tab 4-AA

ACTION: R277-494 *Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities* (Amendment and Continuation) — Tab 4-BB

Standards and Assessment Committee - 1st Floor South Conference Room 156

Time for public comment may be provided prior to each item

All versions of rules presented will be accessible at http://schools.utah.gov/law/Administrative-Rules/USBE.aspx

ACTION: Standardized Template for Standards, and Revision Process — Tab 4-CC

ACTION: Utah Science and Engineering Education (SEEd) Standards–90-day Public Feedback — Tab 4-DD

ACTION: Statewide Kindergarten Readiness Indicators — Tab 4-EE

ACTION: Seal of Biliterate Proficiency — Tab 4-FF

ACTION: R277-444 *Distribution of Funds to Arts and Science Organizations* (Repeal/Reenact) — Tab 4-GG

ACTION: R277-920 *Implementation of the School Turnaround and Leadership Development Act* (New) — Tab 4-HH

ACTION: R277-616 *Education for Homeless and Emancipated Students* (Continuation and Amendment) — Tab 4-II

Utah State Board of Education Meeting - Friday, August 7, 2015

8:00 a.m. to 8:15 a.m.

5. **Opening Business**
    - Pledge of Allegiance
    - Swearing in of Stan Lockhart
    - Board Member Message
    - Recognition of Former Board Member
    - Introduction of New Employees

8:15 a.m. to 8:30 a.m.

6. **Public Participation/Comment**

    Priority shall be given to those individuals or groups, who, prior to the day of the meeting, have submitted a request to address the Board. Sign up is available the day of the meeting before 8:00 a.m.

8:30 a.m. to 8:40 a.m.

7. **ACTION:** General Consent Calendar (backup furnished electronically at http://www.schools.utah.gov/board/Meetings.aspx). Tab 7

8:40 a.m. to 8:55 a.m.

8. **ACTION:** Monthly Budget Report - Year End Close Tab 8

8:55 a.m. to 9:15 a.m.

9. **ACTION:** Options regarding SAGE Licensing by Other Vendors Tab 9

9:15 a.m. to 9:30 a.m.

10. **INFORMATION:** 2015 Report of the Public Educator Evaluation Committee Tab 10

9:30 a.m. to 9:45 a.m.

11. **ACTION:** Superintendent's Report

9:45 a.m. to 10:00 a.m.

12. Audit Committee Report

    ACTION: 2016 Prioritized Audit Plan Tab 12-1

    ACTION: Internal Audit Request for SFY17 Funding Priorities Tab 12-2

    ACTION: Request for Change to Utah Code 63I-5 *Internal Audit Act* Tab 12-3

10:00 a.m. to 10:15 a.m.

BREAK

10:15 a.m. to 12:00 p.m.

13. **ACTION:** Standing Committee Reports
    - Finance Committee — Tabs 4-A through 4-P
    - Law and Licensing Committee — Tabs 4-Q through 4-BB
    - Standards and Assessment Committee — Tabs 4-CC through 4-II

12:00 p.m. to 12:45 p.m.

LUNCH

12:45 p.m. to 1:00 p.m.

15. **INFORMATION:** Board Chair's Report
    - Legislative Update

1:00 p.m. to 1:15 p.m.

16. **INFORMATION:** Board Member Comments

1:15 p.m. to 2:15 p.m.

17. **EXECUTIVE SESSION**

2:15 p.m. to 2:30 p.m.

18. **ACTION:** Executive Session Items
    - Licensing Actions and UPPAC Recommendations — Tab 18
    - Appointments

2:30 p.m.

19. **ADJOURNMENT**

Finance Committee
Basement West Conference Room

Time for public comment may be provided prior to each item

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ACTION: Contracting Procedure Review	Tab 4-O
INFORMATION: Finance Committee Requests for Data/Information	Tab 4

Utah State Board of Education
Finance Committee

Jennifer Johnson, Chair	jj@jenniferajohnson.com
Mark Huntsman, Vice Chair	mhuntsman@sunrise-eng.com
Barbara Corry	barbara.corry@schools.utah.gov
Jefferson Moss	jeffersonRmoss@gmail.com
Joel Wright	joel.wright.uted@gmail.com
Staff: Scott Jones	scott.jones@schools.utah.gov
Secretary: Cammy Wilcox	cammy.wilcox@schools.utah.gov

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Taxing Entity Committee (TEC) to the Community Development and Renewal Agency of the City of Washington Terrace for the Southeast Urban Renewal Project Area – Plan extension

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Background:
The Community Development and Renewal Agency of the City of Washington Terrace is seeking to extend the Southeast Urban Renewal Area Project for an additional ten years, which extends tax increment participation from the taxing entities in order to prepare infrastructure to allow for and encourage development in the portion of the project areas where redevelopment has not occurred.

Key Points:
In accordance with Utah Code 17C-2-110 (3) the Community Development and Renewal Agency of the City of Washington Terrace will be requesting that the TEC approve an amendment to the adopted project area plan to permit the agency to receive tax increment for a longer period of time than allowed under the adopted project area plan.

Anticipated Action:
It is anticipated that the Finance Committee will give specific direction to the Board's TEC representative regarding this proposed TEC budget.

Contact: Scott Jones, Associate Superintendent, 801-538-7514
Natalie Grange, School Finance Director, 801-538-7668

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

Washington Terrace Redevelopment Agency

10 year extension

Existing RDA

- The Washington Terrace RDA was authorized in November of 1987 and is set to expire in 2015.
- The Weber County School District is impacted by this project area.
- The RDA covers 172.34 acres.
- Taxing entities currently receive 40% of tax increment, the RDA receives 60%.
- The value of the property in the base year was $1,216,203. The property value in 2014 was $67,237,266.
- Since the inception of the RDA, it has generated $9,324,198 in tax increment for the RDA. The uses, as reported by the RDA, are as follows:

Revenues of the RDA:	
Tax Increment	$ 9,324,198
Grants	4,964,287
Interest Income	138,775
Bonds	3,490,000
Miscellaneous	223,778
Total Sources	$ 18,141,038

Expenditures of the RDA:	
Road and Utilities	$ 12,119,253
Developer Incentives	90,000
Bond Interest	895,676
Bond Principal	3,490,000
Administration	1,292,503
Professional & Technical	253,607
Total Uses	$ 18,141,038

Extension Proposal:

- The proposed RDA area will not change.
- The base year property value will remain unchanged at $1,216,203, estimated to increase to $90,361,263 by 2025.
- RDA life is proposed to be extended 10 years.
- Taxing entities currently receive 40% of tax increment, the RDA receives 60%; 10 year extension proposes to change to 50%/50%.

- Total tax increment estimated over the 10 year extension is $11.6 million. Weber School District's portion is $5,098,841, of which they would receive approximately $2,549,421.

The RDA plans to use the tax increment funding for land acquisition and assemblage, transportation/pedestrian improvements, demolition costs, grading/site improvements, water, storm and sewer infrastructure, economic incentives, and 4% for administrative costs. Residential property is not part of the development plan.

The existing RDA has resulted in the development of the central project area resulting in the construction of the Ogden Regional Medical Center and surrounding medical offices, a grocery store, and city hall.

Two parcels on the south and north end of the project area have not developed much over the past 30 years, and the city is hoping to extend the RDA life to encourage the development of these two parcels. The two parcels are owned by the same individual, who has owned the property since the inception of the RDA. Access to the south parcel is by a toll road, which is owned by the same land owner. Development of the south parcel will most likely be hindered until the toll road becomes a public road. The north parcel could benefit from reconfiguration of an intersection with Washington Boulevard, which is contiguous to the property. It appears that the benefits of the improvements paid for by the tax increment and any potential incentives will most likely benefit the same land owner.

The RDA represents that they did not generate sufficient tax increment to support the road reconfiguration during the life of the RDA and wishes to extend the period of the RDA to complete this portion of the project. Seven taxing entities would be providing tax increment for an additional 10 years if the RDA extension is approved.

Would the project proceed without tax increment financing? The city has not provided any indications as to whether the road reconfigurations or other planned improvements would proceed without tax increment financing.

Economic Impact of the extension: Initial plans for the extension of the RDA indicate that road reconfigurations on the north parcel would result in the development of office buildings or additional medical offices. Plans for the parcel on the south end indicate the potential of the development of a hotel. The RDA did not provide information pertaining to new jobs created or the type and wage of these jobs. It does not appear that there are any prospective buyers or developers lined up at the present time.

Position of the Local Board of Education on the extension

Initial indications from District Representatives indicate they are not in support of the extension. A District representative, and potential a local board member, will be at the Finance committee meeting and can brief the Board on their position.

Why?

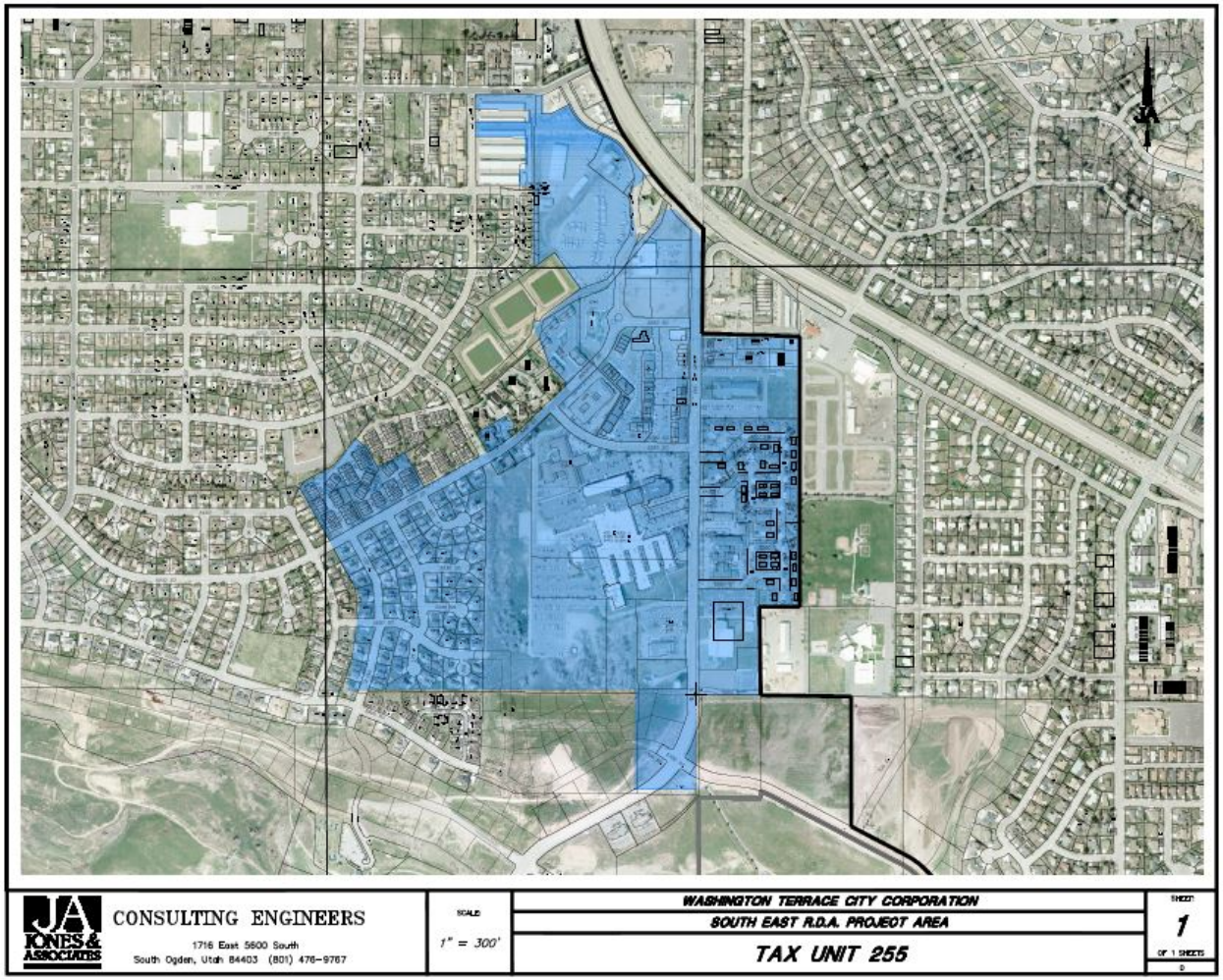
Bottom Line:

To create a stronger tax base for taxing entities.

Southeast RDA Extension
City of Washington Terrace

July 2015

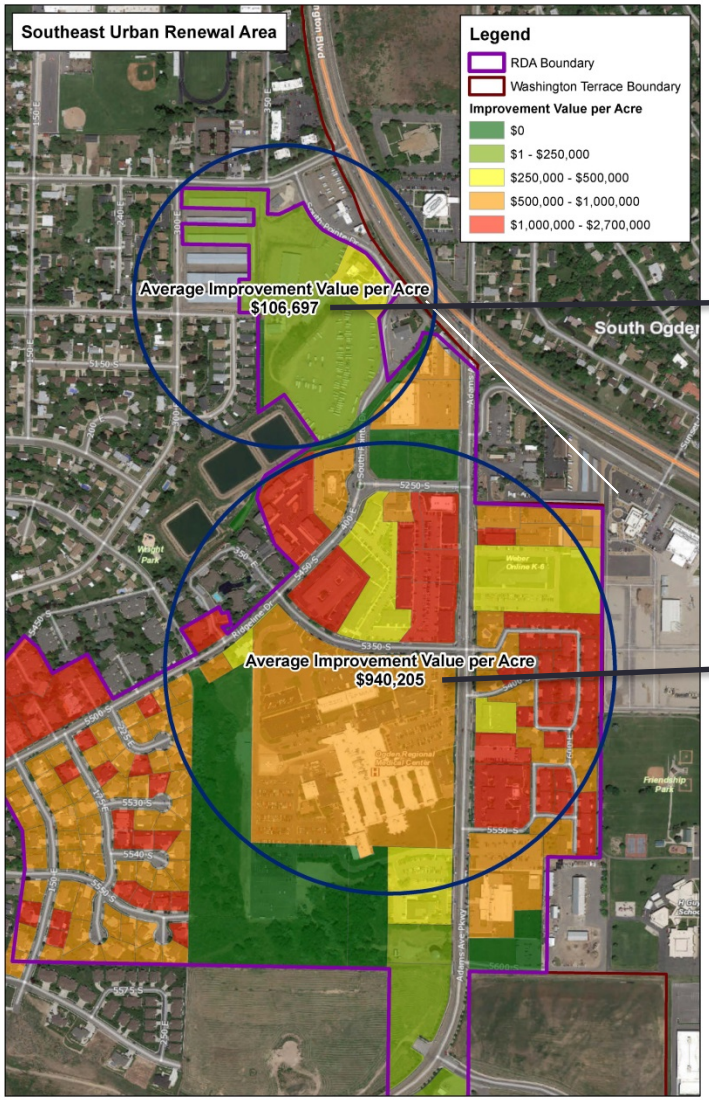
Southeast RDA - Project Area Map



Existing Conditions

- **Existing URA due to expire in 2015**
- **Taxing entities currently receive 40% of increment; the RDA receives 60%.**
- **172.34 acres in Project Area**
- **Central part has developed well; North and South ends ("bookends") need further assistance**
- **North end has poor roadway configuration, access and grading issues**

Comparative Improvement Values per Acre



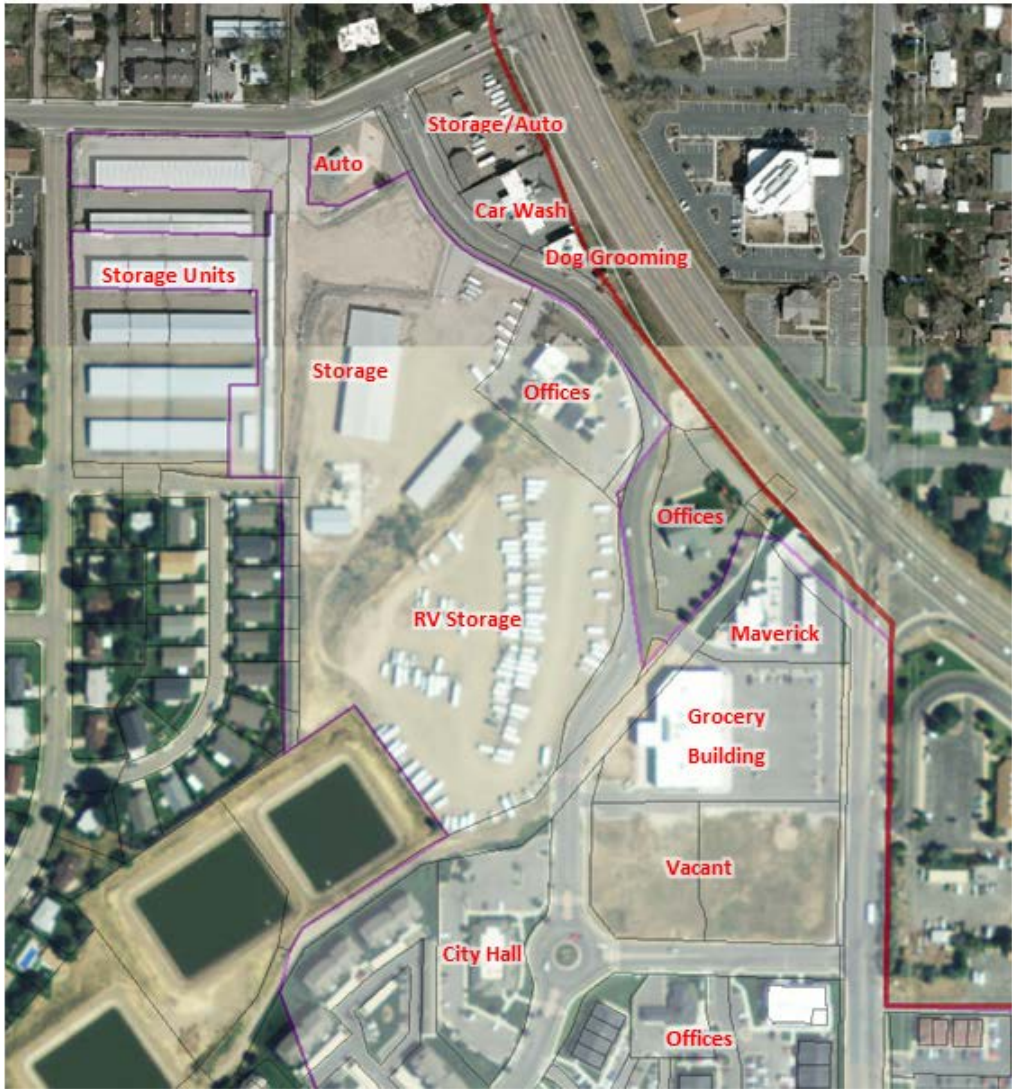
$106,697

$940,205

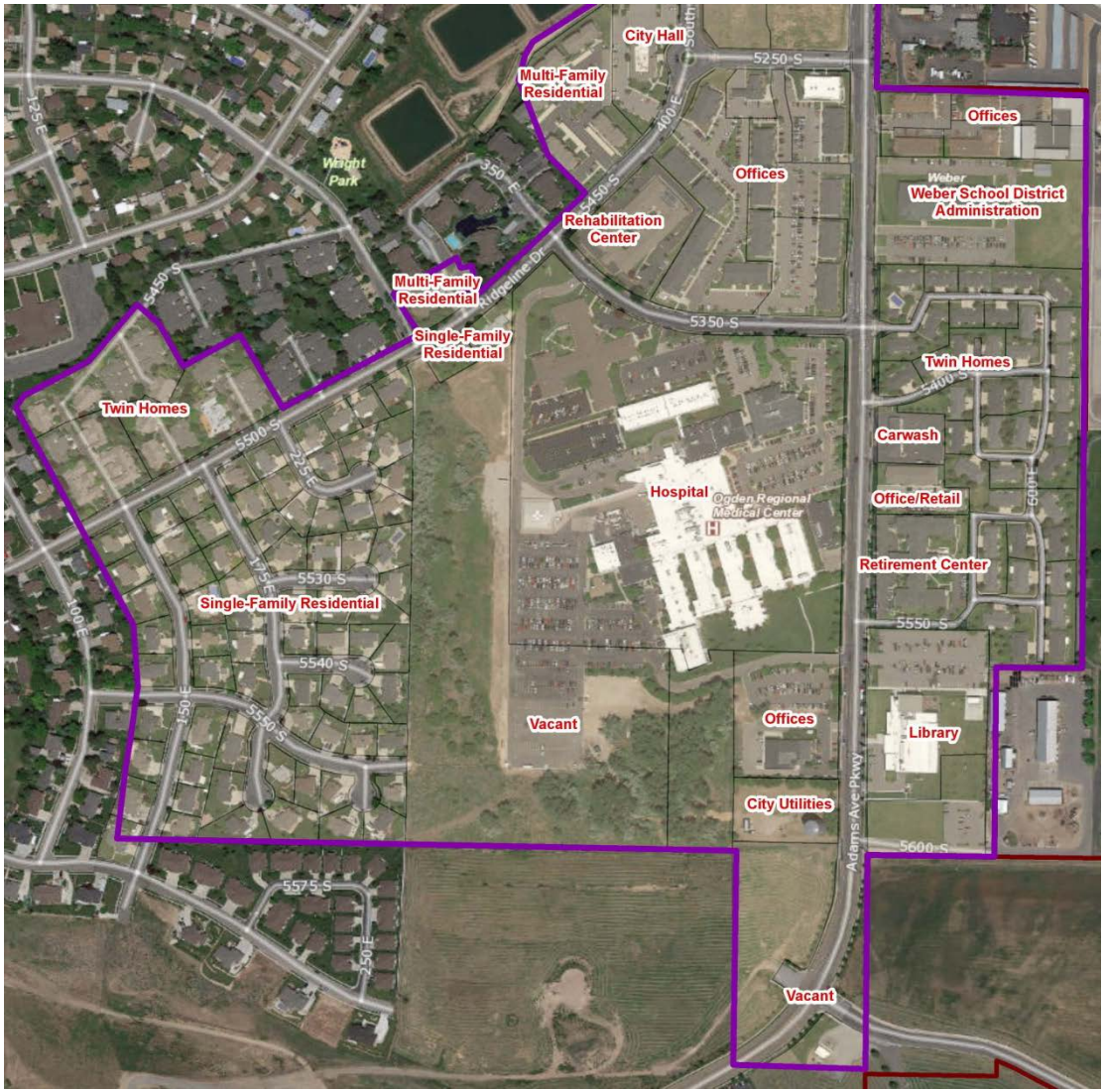
Why a 10-Year Extension?

- **Property value has increased from a base year value of $1,261,203 to $67,237,266 in 2014**
- **Traffic counts are much higher on Washington (22,570 ADTs) compared to Adams (14,293 ADTs)**
- **However, property values along Washington Blvd. are significantly lower than property values along Adams Avenue, suggesting that assistance is needed for this area to redevelop**
- **Due to poor access, the northern part of the area has not developed successfully on its own; requires disproportionate infrastructure costs of development**

Focus Area - North



Focus Area - South



Photos of North Project Area

Photos of North Project Area

Photos of Project Area

Photos of North Project Area

Photos of North Project Area

Photos of South Project Area

Potential for Project Area

Potential for Project Area

Potential for Project Area “NOT”

Development Plan

- Taxable value growth of 3% per year
- Mixed use with office and retail development
- No residential planned for this area
- Economic Plan completed by the City in 2013 specifically identifies the North and South portions of the Project Area as having potential for redevelopment
- North End – Class A- office with some minimal retail
- South End – class A- office, Medical Facilities, and possible hotel (servicing hospital, Hill Air Force Base, recreation and medical)

Development Project Budget (North)

JONES & ASSOCIATES
Consulting Engineers

Washington Terrace City Corporation

SOUTHEAST RDA IMPROVEMENTS BUDGET

Project Location: Southeast RDA - North & South Ends

Revision Date: June 22, 2015

NORTHERN PROJECTS

1	South Pointe Drive Roadway Realignment & Re-signaling	$1,700,000
2	South Pointe Drive Pedestrian Access Improvements	$300,000
3	South Pointe Drive Water System Service Improvements	$80,000
4	South Pointe Drive Storm Drainage Improvements	$450,000
5	South Pointe Drive Landscaping Improvements	$100,000
6	Property Acquisition	$250,000
	TOTAL ESTIMATED BUDGET (NORTHERN) =	**$2,880,000**

Development Project Budget (South)

SOUTHERN PROJECTS

Adams Avenue Roundabout / City Gateway	$1,100,000
Roundabout Intersection Stub for Adjacent Development	$250,000
Culinary Water Improvements (PRV, Loops, Fire Service)	$480,000
Sewer Service Improvements	$220,000
Storm Drainage Improvements	$300,000
Landscaping Improvements	$100,000
Property Acquisition	$450,000
TOTAL ESTIMATED BUDGET (SOUTHERN) =	**$2,900,000**
TOTAL BUDGET (ALL PROJECTS) =	**$5,780,000**

Tax Increment Revenues Generated

Total Increment Generated - 100% for 10 Years	
Weber County	$2,899,448
Weber County School District	$5,098,841
Washington Terrace	$2,422,848
Weber Basin Water Conservancy	$155,481
Central Weber Sewer	$654,739
Weber County Mosquito Abatement	$110,165
Weber Area Dispatch 911	$236,737
TOTAL	**$11,578,261**

Proposed Tax Increment Distribution

10-Year Timeframe
Proposed Percent to Agency:

Taxing Entity	Percent
Weber County	50%
Weber County School District	50%
Washington Terrace	50%
Weber Basin Water Conservancy	50%
Central Weber Sewer	50%
Weber County Mosquito Abatement	50%
Weber Area Dispatch 911	50%

The Agency is currently receiving 60%; this represents a reduction to 50%

Incremental Revenues to Taxing Entities

Incremental Amount to Taxing Entities	10 Years
Weber County	$1,449,724
Weber County School District	$2,549,421
Washington Terrace	$1,211,424
Weber Basin Water Conservancy	$77,741
Central Weber Sewer	$327,370
Weber County Mosquito Abatement	$55,082
Weber Area Dispatch 911	$118,369
Total	**$5,789,130**

Incremental Revenues to Agency

Incremental Amount to Agency	10 Years
Weber County	$1,449,724
Weber County School District	$2,549,421
Washington Terrace	$1,211,424
Weber Basin Water Conservancy	$77,741
Central Weber Sewer	$327,370
Weber County Mosquito Abatement	$55,082
Weber Area Dispatch 911	$118,369
Total	**$5,789,130**

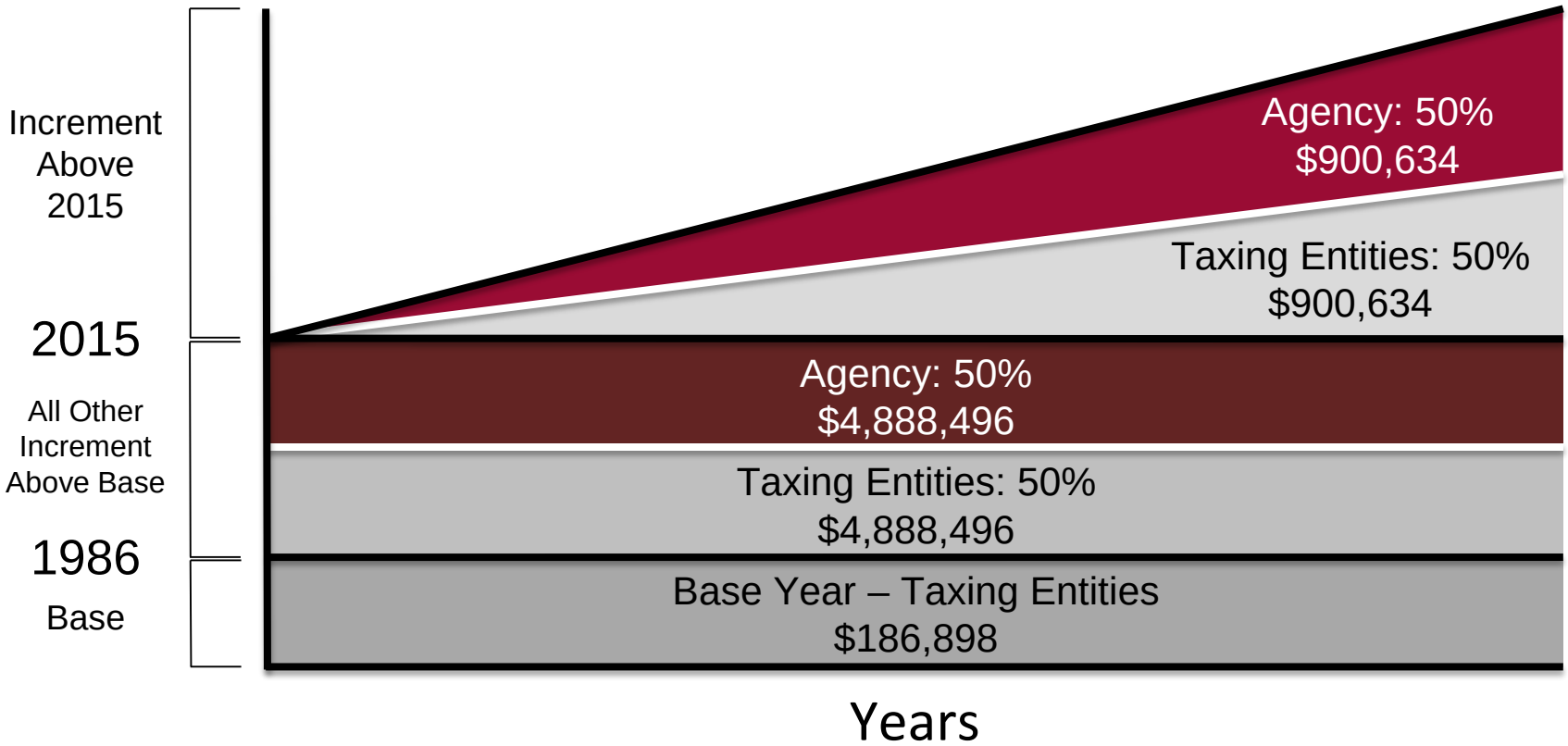
Annual Incremental Revenue after 10 Years

Taxing Entity	Annual Amount
Weber County	$330,650
Weber County School District	$581,467
Washington Terrace	$276,299
Weber Basin Water Conservancy	$17,731
Central Weber Sewer	$74,666
Weber County Mosquito Abatement	$12,563
Weber Area Dispatch 911	$26,997
TOTAL	**$1,320,374**

Uses of Tax Increment

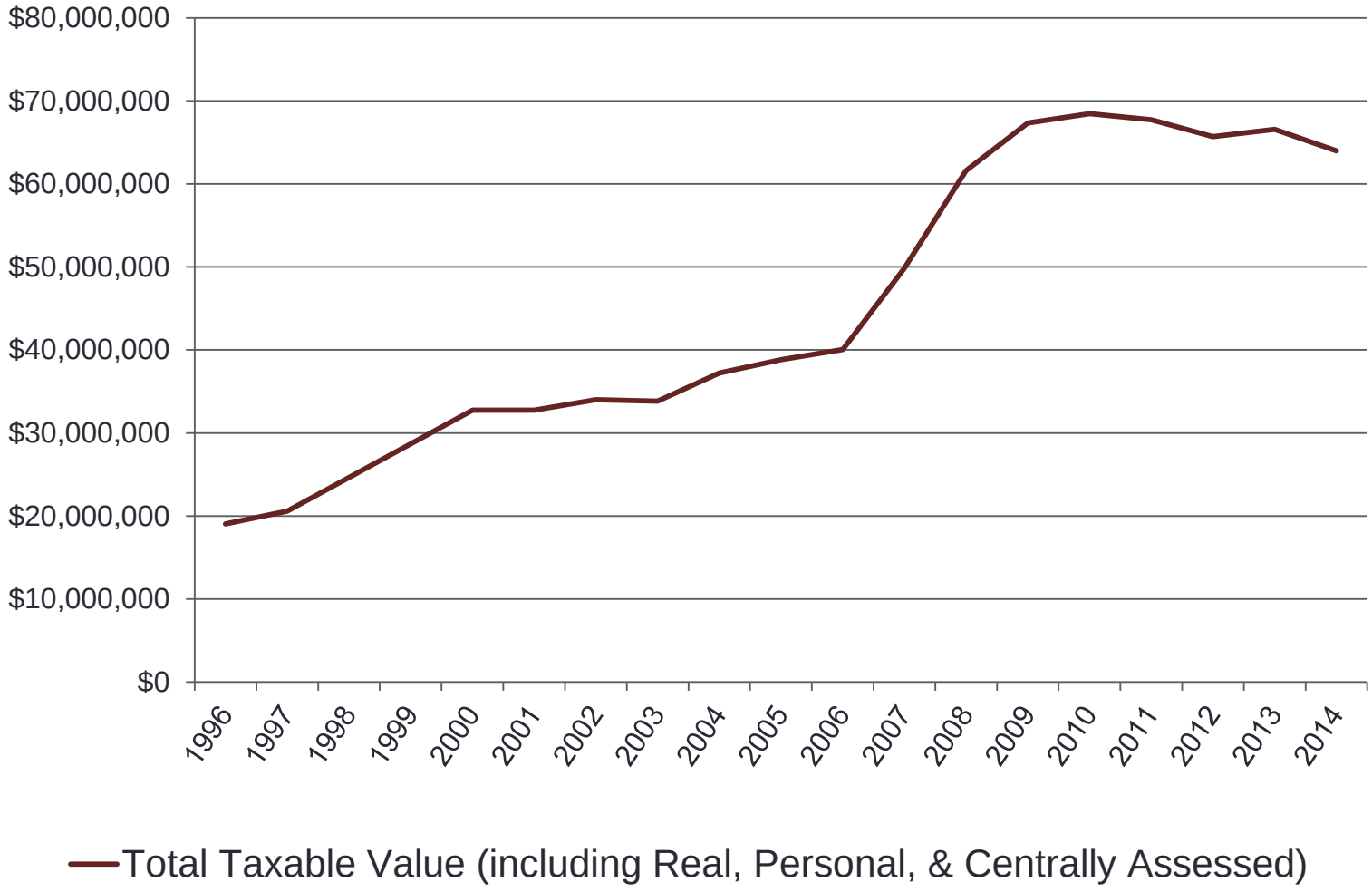
Land Acquisition and Assemblage
Transportation / Pedestrian Improvements
Demolition Costs
Grading / site improvements
Water, Storm and Sewer Infrastructure
Economic Incentives
Administrative Costs – 4%

Summary of Benefits – 10-Year Extension



Revenue Distribution - 10 Additional Yrs @ 50%	Agency	Taxing Entities
Base Year Taxes	$0	$186,898
Incremental Revenues to 2015 Level	$4,888,496	$4,888,496
Incremental Revenues for 10 Additional Years	$900,634	$900,634
TOTAL	**$5,789,130**	**$5,976,028**

Historical Growth in Taxable Value



Payback Period

4.4 Years

Questions and Answers

City of Washington Terrace

DRAFT RESTATEMENT - Southeast Urban Renewal Area Project Area Plan Extension

June 2015

ZIONS BANK ZBPF PUBLIC FINANCE

BACKGROUND AND OVERVIEW

On November 18, 1987, the City of Washington Terrace adopted, by Ordinance 6-87, the Southeast Redevelopment Plan. The Plan, dated September 21, 1987, has been the official redevelopment plan for the project area. However, the Project Area Plan is due to expire in 2015 and the Agency now desires to extend its timeframe for by ten years.

The purpose of original plan stated the following primary redevelopment objectives within the project area:

- Removal of structurally substandard buildings to permit the return of the project area land to economic use and new construction.
- Removal of impediments to land disposition and development through assembly of land into reasonably sized and shaped parcels served by improved public utilities and new community facilities.
- Rehabilitation of buildings to assure sound long term economic activity in the core area of Washington Terrace City.
- The elimination of environmental deficiencies, including, among others, small and irregular lot subdivision, overcrowding of the land and inadequate off-street parking.
- Achievement of an environment reflecting a high level of concern for architectural and urban design principles developed through encouragement, guidance, appropriate controls and professional assistance to owner participants and redevelopers.
- Implement the tax increment financing provisions of the Utah Neighborhood Development Act.
- The strengthening of the tax base and economic health of the entire community and of the State of Utah.
- Provisions for improvements to public streets, curbs and sidewalks, other public rights-of-way, street lights, landscape area, public parking and other public improvements.

The Community Development and Renewal Agency of Washington Terrace now finds it necessary to extend the collection of tax increment from the Southeast Urban Renewal Area for a period of ten years for the following reasons:

- The project area has seen significant redevelopment, with taxable value increasing from $1,261,203 in 1987 to $67,237,266 in 2014. However, there are still significant portions of the project area where redevelopment has not occurred and

the City desires to use the additional funds to prepare infrastructure that will allow for and encourage development in the portions of the project area where redevelopment has not occurred;

- There are still extraordinary infrastructure improvements that are needed at the northern end of the project area which has a steep grade off of Highway 89; this area also needs a road reconfiguration and better access if development is to occur; and

- The southern portion of the project area has scenic views that could attract good development but increment may be needed for developer incentives to accelerate the development of this area.

1. Urban Renewal Project Area Plan and Budget Extension Requirements §17C-2-110 and §17C-2-206

§17C-2-110 (3) – If a proposed amendment does not propose to enlarge an urban renewal project area, an agency board may adopt a resolution approving an amendment to an adopted project area plan after:

(a) the agency gives notice, as provided in Section 17C-2-502, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the agency board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is collected;

(ii) to permit the agency to receive a greater percentage of tax increment or to receive tax increment for a longer period of time, or both, than allowed under the adopted project area plan; or

(iii) for an amendment to a project area plan that was adopted before April 1, 1983, to expand the area from which tax increment is collected to exceed 100 acres of private property; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to receive

tax increment for a longer period of time, or both, than allowed under the adopted project area plan.

The requirements for amending the budget are included in Section 17C-2-206:

(1) An agency may by resolution amend an urban renewal project area budget as provided in this section.

(2) To amend an adopted urban renewal project area budget, the agency shall:

(a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

(b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;

(c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(d) adopt a resolution amending the project area budget.

2. Description of Project Area Boundaries (17C-2-103(1)(a))

No boundaries are changed as part of the extension of this project area. A map is included as Appendix A. The boundaries are generally described as follows:

- Northern Boundary: The northern boundary is 5000 South.
- Eastern Boundary: The eastern boundary begins at Adams Avenue and extends eastward to approximately 600 East at approximately 5250 South. The boundary then goes westward at about 5550 South, and returns back to Adams Avenue at 5600 South.
- Southern Boundary: The southern boundary is generally 5600 South, with a portion extending along Adams Avenue to approximately 5700 South.
- Western Boundary: The western boundary generally follows 150 East to Ridgeline Drive (5500 South). The boundary then follows Ridgeline Drive north to South Pointe Drive and continues to 5000 South, with portions west of Ridgeline Drive and South Pointe Drive included in the Project Area Boundaries.

3. General Statement of Land Uses, Layout of Principal Streets, Population Densities and Building Intensities and How they Will Be Affected by the Urban Renewal (17C-2-103(1)(b))

Land Uses

The primary land use in the Project Area is commercial. The existing commercial development varies from small manufacturing and light industrial to medical office to storage units and RV storage space. Ogden Regional Medical Center is in the Project Area and is accompanied by several medical office complexes, as well as other small office space. Public property includes the Washington Terrace City Hall, a Weber County Library, the Weber County School District Education Center. The Project Area also has residential uses, including single family detached and attached dwellings, condos, and apartments. Furthermore, the project area includes approximately 24 acres of vacant land. The Project Area is primarily zoned Commercial, with smaller areas zoned Hospital/Institution, Residential, Public Building, or Special Area Plan.

Table 1: Acreage and Taxable Value by Property Type

Property Type	Total Acres
Residential	37.45
Commercial/Industrial	67.66
Vacant	23.54
Public/Exempt	19.20
Total Based on Parcels	**147.85**
Total Acres in Project Area (including roads)	**172.34**

Principal Streets

5000 South partially borders but is not included in the Project Area. South Pointe Drive/Ridgeline Drive partially borders and is partially included in the Project Area. Adams Avenue partially borders and is included in the Project Area

Population Densities

Development within the Project Area is a mixture of commercial, public, and residential, with some vacant land. There are 211 residential parcels, for an estimated 271 dwellings. Based on an average household size of 2.52,[1] the estimated population for the Project Area is 683. With 172.3 acres in the Project Area, the project area is 0.269 square miles. Dividing the population by the square miles gives an existing population density of 2,536 people per square mile. The Plan does not currently propose any additional residential development. Proposed residential densities within the Project Area will therefore remain at 2,536 persons per square miles.

Building Intensities

The project area currently has 995,371 square feet of building space, resulting in an average density of 5,777 square feet per acre,[2] or a floor area ratio (FAR)[3] of 0.13.[4]

[1] 2013 ACS 5-year estimate for Washington Terrace.
[2] Calculated by dividing the 995,371 existing building square feet by the total acres for the area (172.3).
[3] Floor Area Ratio (FAR) is defined as the ratio of building square feet to total land area.
[4] Calculated by dividing the 995,371 building square feet by the number of square feet in one acre (43,560).

4. State the Standards that Will Guide the Urban Renewal (17C-2-103(1)(c))

Development within the Project Area will be held to high quality design and construction standards and will be subject to: (1) appropriate elements of the City's General Plan; (2) applicable City building codes and ordinances; (3) Planning Commission review and recommendation; and (4) the City's land use code.

Owners and developers will be allowed flexibility in the development of land located within the Project Area and are expected to obtain quality design and development. The development contemplated herein shall be of a design and shall use materials that are in harmony with adjoining areas and subject to design review and approval by the City. It is contemplated that these design objectives will be addressed in a development agreement with the Developer specifically addressing these points.

Coordinated and attractive landscaping shall also be provided as appropriate for the character of the Project Area. Materials and design paving, retaining walls, fences, curbs, benches, and other items shall have an attractive appearance, be easily maintained, and indicative of their purpose.

Parking areas shall be designed with careful regard to orderly arrangement, topography, relationship to view, ease of access, and as an integral part of the overall site design.

All development will be accompanied by site plans, development data, and other appropriate material clearly describing the development, including land coverage, setbacks, heights, and any other data required by the City's land use code, the applicable zoning designations, or as requested by the City or the Agency.

The general standards that will guide the urban renewal are as follows:

1. Encourage and assist urban renewal with the creation of a well-planned, vibrant business and educational center which will include space for retail, office, residential and educational uses.

2. Provide for the strengthening of the tax base and economic health of the entire community and the State of Utah.

3. Implement the tax increment financing provisions of the Act, which are incorporated herein by reference and made a part of this Plan.

4. Encourage economic use of and new construction upon the real property located within the Project Area.

5. Promote and market the Project Area for urban renewal that would be complementary to existing businesses and industries or would enhance the economic base of the City through diversification.

6. Provide for compatible relationships among land uses and quality standards for development, such that the area functions as a unified and viable center of community activity for the City.

7. Remove any impediments to land disposition and development through assembly of land into reasonably sized and shaped parcels served by adequate public utilities and infrastructure improvements.

8. Achieve an environment that reflects an appropriate level of concern for architectural, landscape and design principles, developed through encouragement, guidance, appropriate controls, and financial and professional assistance to owner participants and developers.

9. Provide for construction of public streets, utilities, curbs and sidewalks, other public rights-of-way, street lights, landscaped areas, public parking, water utilities, sewer utilities, storm drainage, open space, and other public improvements.

10. Provide improved public streets and road access to the area to facilitate better traffic circulation and reduce traffic hazards by assisting in the street alignments.

5. Show How the Purposes of This Title Will Be Attained by the Urban Renewal (17C-2-103(1)(d))

(a) "Urban renewal" as defined under 17C-1-102(51) means the development activities under a project area plan within an urban renewal project area, including:

(i) planning, design, development, demolition, clearance, construction, rehabilitation, environmental remediation, or any combination of these, of part or all of a project area;

(ii) the provision of residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to them;

(iii) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or any combination of these, existing structures in a project area;

(iv) providing open space, including streets and other public grounds and space around buildings;

(v) providing public or private buildings, infrastructure, structures and improvements; and

(vi) providing improvements of public or private recreation areas and other public grounds.

The timeframe extension of the project area will meet the purposes of this title through redevelopment of blighted properties and through the reconfiguration of infrastructure that is insufficient to serve the demands of commercial growth.

6. Be Consistent with the General Plan of the Community (17C-2-103(1)(e))

The General Plan Land Use map shows commercial development throughout the project area. The City desires to attract good commercial development that will strengthen the tax base. The City has limited properties that could be developed commercially and therefore feels it needs to maximize its opportunities along Washington Blvd. in order to ensure economic sustainability. The City's desires for this Project Area are consistent with the General Plan.

7. Describe How the Urban Renewal Will Reduce or Eliminate Blight in the Project Area (17C-2-103(1)(f))

The reconfiguration of roads near Washington Blvd. will provide greater access and visibility to these key commercial sites in the City. Blight will be eliminated through redevelopment of these parcels along Washington Blvd, facilitated by the road reconfiguration, that currently are partially vacant, are not maintained, house temporary inventory of storage sheds and trailers, and that give a poor appearance to this gateway into the City.

8. Describe Any Specific Project or Projects That are the Object of the Proposed Urban Renewal (17C-2-103(1)(g))

The Agency intends to reconfigure road access at the northern end of the Project Area, specifically at Washington Blvd. and 5000 South. Projects for the southern end of the Project Area also center around a roundabout at Adams Avenue.

Table 2: Estimated Projects and Costs

Location	Amount
Northern Projects	
South Pointe Drive Roadway Realignment & Re-signaling	$1,700,000
South pointe Drive Pedestrian Access Improvements	$300,000
South Pointe Drive Water System Service Improvements	$80,000
South Pointe Drive Storm Drainage Improvements	$450,000
South Pointe Drive Landscaping Improvements	$100,000
Property Acquisition	$250,000
Total Estimated Budget (Northern)	$2,880,000

Location	Amount
Southern Projects	
Adams Avenue Roundabout/City Gateway	$1,100,000
Roundabout Intersecton Stub for Adjacent Development	$250,000
Culinary Water Improvements (PRV, Loops, Fire Service)	$480,000
Sewer Service Improvements	$220,000
Storm Drainage Improvements	$300,000
Landscaping Improvements	$100,000
Property Acquisition	$450,000
Total Estimated Budget (Southern)	**$2,900,000**

9. Identify How Private Developers, If Any, Will Be Selected to Undertake the Urban Renewal and Identify Each Private Developer Currently Involved in the Urban Renewal Process (17C-2-103(1)(h))

The Agency contemplates that owners of real property within the Project Area will take advantage of the opportunity to develop their property, or sell their property to developers for the development of facilities within the Project Area. In the event that owners do not wish to participate in the urban renewal in compliance with the Plan, or in a manner acceptable to the Agency, or are unable or unwilling to appropriately participate, the Agency reserves the right pursuant to the provisions of the Act to acquire parcels, to encourage other owners to acquire other property within the Project Area, or to select non-owner developers by private negotiation, public advertisement, bidding or the solicitation of written proposals, or a combination of one or more of the above methods.

10. State the Reasons for the Selection of the Project Area (17C-2-103(1)(i))

The Project Area was selected as that area in Washington Terrace having the most infrastructure needs as well as the most potential to generate tax increment. The Agency has had good success in this area in the past, with the base taxable value increasing from $1,261,203 in 1987 to $67,237,266 in 2014. The hospital provides opportunities for additional medically-related businesses to locate in the area, the toll road (if tolls are eliminated) could substantially increase in traffic in the future, and the properties along Washington Terrace are prime commercial sites with significant infrastructure needs. The Agency desires ten additional years in order to complete what it has so successfully accomplished to date in this area.

11. State the Physical, Social and Economic Conditions Existing in the Project (17C-2-103(1)(j))

Physical Conditions
The proposed Project Area consists of approximately 172.3 acres within the total boundaries, with 147.85 acres attributable to non-street parcels. The Project Area, while mostly developed, has approximately 24 acres of vacant land, with additional underdeveloped storage lots. Developed property has primarily commercial, residential, and public uses.

Social Conditions
There are 211 residential parcels, for an estimated 271 dwellings. The Project Area has workers coming from other areas to work in already-existing commercial businesses. The Project Area Plan will increase the number of workers traveling to the Project Area. It is anticipated, therefore, that the proposed Project Area will grow the community's economy, quality of life, and reputation.

Economic Conditions
The project area is mostly developed with offices, with some commercial businesses and public buildings. Tenants include Ogden Regional Medical Center, numerous medical offices, the City of Washington Terrace, Weber School District, Weber County Library, and Maverick. The average improvement value per acre (for improved acres only) in the Project Area is $1,041,747 per acre.[5] In comparison, land values in the area average $181,335 per acre.[6] Land values per acre are as low as $1,904, indicating additional opportunity for development in the area.

12. Describe Any Tax Incentives Offered Private Entities for Facilities Located in the Project Area (17C-2-103(1)(k))

The Agency is requesting 50 percent of the tax increment for a period of ten years extending from 2016 through 2025. The total amount of increment expected to be received by the Agency is $5,789,130 over the ten years, with four percent of that amount (approximately ($231,565) allocated to administrative costs.

13. Benefits Analysis (17C-2-103(1)(l))

This section describes the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

a. <u>An Evaluation of the Reasonableness of the Costs of the Urban Renewal [17C-2-103(2)(a)(i)]</u>

   i. Assistance is needed in order to compensate for the poor configuration, grading and access at the northern end of the project area. This assistance is

[5] Calculated by taking the total improvement values in the project area ($98,766,416) and dividing by the 94.81 acres that show improvement values.
[6] Calculated by taking the total land values in the project area ($26,810,416) and dividing by the 147.85 total acres (not including acreage for roads).

necessary in order to "level the playing field" and to make the area competitive with other development locations.

ii. The Agency believes that the additional development will result in increased revenues to the City and other taxing entities through: 1) additional property tax valuation and revenue; and 2) through additional business growth and job creation that will generate increased income tax, corporate franchise tax and sales tax revenues to the State and local government.

iii. The cost of the public improvements to be constructed in the Project Area may need to be borne by developers, repayable in whole or in part with a portion of the Agency's share of the tax increment generated in the Project Area.

iv. The Agency believes that the cost estimates shown in the Project Area Budget are reasonable and provide the basis for the Agency to proceed with the proposed development as part of its Urban Renewal activities in the Project Area. The cost estimates reflect the Agency's current best estimates of current and future costs and revenues based upon estimates and projections that may change during the life of the Project Area Budget.

b. Efforts the Agency or Developer Has Made or Will Make to Maximize Private Investment [17C-2-103(2)(a)(ii)]

The Agency proposes to use tax increment as an incentive to private developers, to encourage and maximize private investment in the development of the Project Area. It is expected that through the use of tax increment in this manner, and through agreements with developers setting the developers' expected performance, private investment will be maximized to the extent reasonably possible. The Agency may request competitive bids for development of key sites with the Project Area. The competitive bid process itself will encourage private investment.

c. Rationale for Use of Tax Increment including Whether the Proposed Development Might Reasonably be Expected to Occur in the Foreseeable Future [17C-2-103(2)(a)(iii)]

Tax increment financing is a tool used for financing and stimulating urban economic development in areas where economic activity is stagnant or declining. In the Economic Strategic Plan completed by the City in December 2013, the report found that "given the potential for redevelopment in this area, the City should consider extending the timeframe of this RDA." While much has been accomplished in the past in this area, much more remains to be accomplished.

d. Estimate of the Total Amount of Tax Increment that will be Expended in Undertaking Urban Renewal and the Length of Time for which it will be Expended [17C-2-103(2)(a)(iv)]

Because no developers have currently stepped forward with plans for the Project Area, it is difficult to estimate the amount of tax increment that could be generated over a 10-year

period. Project Area costs are estimated to reach roughly $5.8 million for infrastructure improvements and economic incentives (including land write-downs) that will benefit the area.

Since the project area was formed and the base year established in 1987 with a taxable value of $1,261,203, the taxable value has increased to $67,237,266 in 2014. This amended project area plan and budget seek to keep the base year value of $1,261,203 in 1987 and extend the collection period for ten years. The Agency intends to reduce its share of tax increment received to 50 percent over the10-year period resulting in total Agency revenues of $5,789,130 over the 10-year period, with a net present value of an estimated $4,650,137.[7]

The following section describes the anticipated public benefit to be derived from the urban renewal, including:

a. The Beneficial Influences Upon the Tax Base of the Community 17C-2-103(2)(b)(i)]

The beneficial influences upon the tax base of the other taxing entities will include increased property tax revenues. This will occur due to the redevelopment of underutilized properties that can be converted to higher and better uses. These increased revenues will come from the property values associated with new construction in the area, as well as increased land values that may occur, over time, in the area generally. Property values include land, buildings and personal property (machines, equipment, etc.).

Retail development in the area will increase sales tax revenues to the County and the City from the local option point of sale tax revenues. Job growth in the Project Area will result in increased wages which will result in more local purchases which will benefit existing businesses in the area. Job growth will also result in increased income taxes paid. Business growth will generate corporate income taxes.

There will also be a beneficial impact on the community through increased construction activity in the area. Positive impacts will be felt through construction wages paid, as well as construction supplies purchased locally.

b. The Associated Business and Economic Activity Likely to be Stimulated [17C-2-103(2)(b)(ii)]

Other business and economic activity likely to be stimulated includes increased spending by residents and employees of the Project Area in the immediate Project Area and in surrounding areas. This includes both direct and indirect purchases that are stimulated by the direct spending of the additional residents and employees in the area.

Businesses will likely make purchases that may eventually result in increased employment opportunities in areas such as the following: office equipment, furniture and furnishings, office supplies, computer equipment, communication, security, transportation and delivery

[7] Discount rate of four percent.

services, maintenance, repair and janitorial services, packaging supplies, and office and printing services.

Employees may make some purchases in the local area, such as convenience shopping for personal services (haircuts, banking, dry cleaning, etc.) and for eating away from home such as fast food. The employees will not make all of their convenience or personal services purchases near their workplace and each employee's purchasing patterns will be different. However, it is reasonable to assume that a percentage of these annual purchases will occur within close proximity to the workplace (assuming the services are available).

Residents will likely make convenience purchases close to home, again assuming that desired goods and services are available. These purchases include items such as: food, convenience foods, personal services, etc.

c. Whether the Adoption of the Project Area Plan is Necessary and Appropriate to Reduce or Eliminate Blight [17C-2-103(2)(b)(iii)]

The area has generated significant development interest along Adams Avenue due to the redevelopment assistance offered in the area. However, the past few years of the URA have felt the effects of the nationwide economic recession and an extended timeframe is necessary in order add the infrastructure necessary to redevelop key sites in the project area – especially those properties along Washington Blvd. This extended plan is necessary in order to remove blighted properties and to improve infrastructure in the area in order to make it a competitive development site at a key location and to complete the very successful redevelopment process already in place in the area.

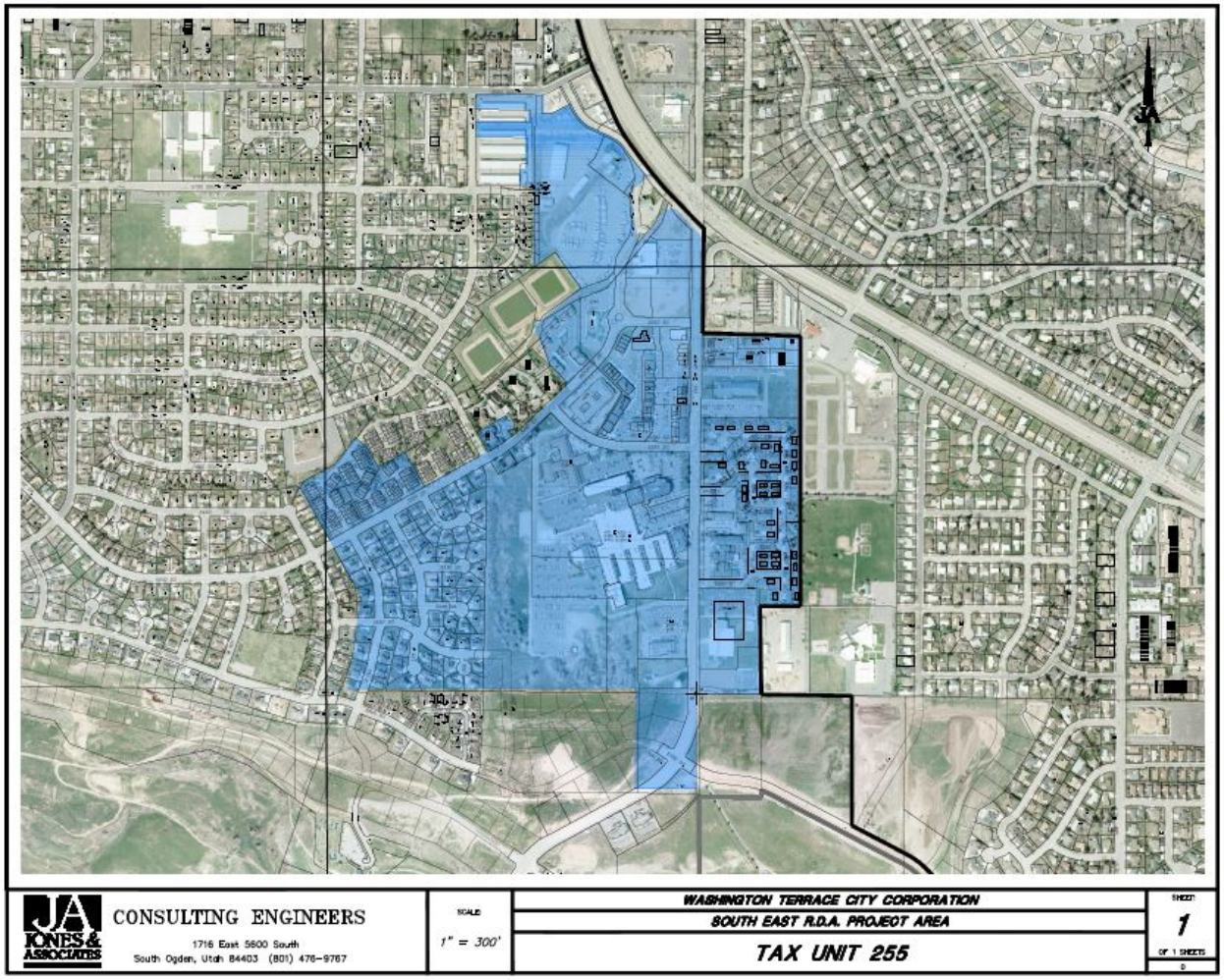
14. Historic Buildings in Project Area (17C-2-103(1)(m))

The Agency has not identified any buildings in the Project Area that are included in or eligible for inclusion in the National Register of Historic Places or the State Register. If such buildings are identified in the future, the Agency shall comply with Section 9-8-404 as though the Agency were a State Agency.

15. Include Other Information That the Agency Determines to be Necessary or Advisable (17C-2-103(1)(m))

Not applicable.

APPENDIX A – MAP OF SOUTHEAST PROJECT AREA



Years in Project Area	*10*												
Project Year	**TOTAL**	**NPV**		**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
Calendar Year			**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**
Base Year Taxable Value			$1,261,203	$1,261,203	$1,261,203	$1,261,203	$1,261,203	$1,261,203	$1,261,203	$1,261,203	$1,261,203	$1,261,203	$1,261,203
Total Taxable Value			$67,237,266	$69,254,384	$71,332,015	$73,471,976	$75,676,135	$77,946,419	$80,284,812	$82,693,356	$85,174,157	$87,729,382	$90,361,263
Marginal Value			$65,976,063	$67,993,181	$70,070,812	$72,210,773	$74,414,932	$76,685,216	$79,023,609	$81,432,153	$83,912,954	$86,468,179	$89,100,060
Incremental Value			*$32,988,032*	*$33,996,590*	*$35,035,406*	*$36,105,386*	*$37,207,466*	*$38,342,608*	*$39,511,804*	*$40,716,077*	*$41,956,477*	*$43,234,089*	*$44,550,030*
Base Year Revenues to Taxing Entities													
Weber County	$46,803	$37,962	$4,680	$4,680	$4,680	$4,680	$4,680	$4,680	$4,680	$4,680	$4,680	$4,680	$4,680
Weber County School District	$82,306	$66,758	$8,231	$8,231	$8,231	$8,231	$8,231	$8,231	$8,231	$8,231	$8,231	$8,231	$8,231
Washington Terrace	$39,110	$31,722	$3,911	$3,911	$3,911	$3,911	$3,911	$3,911	$3,911	$3,911	$3,911	$3,911	$3,911
Weber Basin Water Conservancy	$2,510	$2,036	$251	$251	$251	$251	$251	$251	$251	$251	$251	$251	$251
Central Weber Sewer	$10,569	$8,572	$1,057	$1,057	$1,057	$1,057	$1,057	$1,057	$1,057	$1,057	$1,057	$1,057	$1,057
Weber County Mosquito Abatement	$1,778	$1,442	$178	$178	$178	$178	$178	$178	$178	$178	$178	$178	$178
Weber Area Dispatch 911	$3,821	$3,100	$382	$382	$382	$382	$382	$382	$382	$382	$382	$382	$382
TOTAL	**$186,898**	**$151,591**	**$18,690**	**$18,690**	**$18,690**	**$18,690**	**$18,690**	**$18,690**	**$18,690**	**$18,690**	**$18,690**	**$18,690**	**$18,690**
Total Increment Generated - 100%													
Weber County	$2,899,448	$2,328,991	$244,837	$252,323	$260,033	$267,974	$276,154	$284,579	$293,257	$302,195	$311,401	$320,883	$330,650
Weber County School District	$5,098,841	$4,095,661	$430,560	$443,723	$457,282	$471,248	$485,632	$500,448	$515,708	$531,426	$547,616	$564,291	$581,467
Washington Terrace	$2,422,848	$1,946,160	$204,592	$210,847	$217,290	$223,926	$230,761	$237,801	$245,052	$252,521	$260,214	$268,138	$276,299
Weber Basin Water Conservancy	$155,481	$124,891	$13,129	$13,531	$13,944	$14,370	$14,809	$15,260	$15,726	$16,205	$16,699	$17,207	$17,731
Central Weber Sewer	$654,739	$525,921	$55,288	$56,978	$58,719	$60,513	$62,360	$64,262	$66,222	$68,240	$70,319	$72,460	$74,666
Weber County Mosquito Abatement	$110,165	$88,490	$9,303	$9,587	$9,880	$10,182	$10,493	$10,813	$11,142	$11,482	$11,832	$12,192	$12,563
Weber Area Dispatch 911	$236,737	$190,160	$19,991	$20,602	$21,231	$21,880	$22,548	$23,236	$23,944	$24,674	$25,426	$26,200	$26,997
TOTAL	**$11,578,261**	**$9,300,275**	**$977,699**	**$1,007,591**	**$1,038,379**	**$1,070,091**	**$1,102,755**	**$1,136,398**	**$1,171,051**	**$1,206,743**	**$1,243,506**	**$1,281,372**	**$1,320,374**
Percent to Agency	***Tax Rate***												
Weber County	*0.003711*		*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*
Weber County School District	*0.006526*		*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*
Washington Terrace	*0.003101*		*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*
Weber Basin Water Conservancy	*0.000199*		*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*
Central Weber Sewer	*0.000838*		*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*
Weber County Mosquito Abatement	*0.000141*		*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*
Weber Area Dispatch 911	*0.000303*		*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*	*50%*
Incremental Amount to Taxing Entities													
Weber County	$1,449,724	$1,164,496	$122,419	$126,161	$130,016	$133,987	$138,077	$142,289	$146,628	$151,097	$155,700	$160,442	$165,325
Weber County School District	$2,549,421	$2,047,830	$215,280	$221,862	$228,641	$235,624	$242,816	$250,224	$257,854	$265,713	$273,808	$282,146	$290,733
Washington Terrace	$1,211,424	$973,080	$102,296	$105,423	$108,645	$111,963	$115,380	$118,900	$122,526	$126,261	$130,107	$134,069	$138,150
Weber Basin Water Conservancy	$77,741	$62,445	$6,565	$6,765	$6,972	$7,185	$7,404	$7,630	$7,863	$8,102	$8,349	$8,604	$8,865
Central Weber Sewer	$327,370	$262,961	$27,644	$28,489	$29,360	$30,256	$31,180	$32,131	$33,111	$34,120	$35,160	$36,230	$37,333
Weber County Mosquito Abatement	$55,082	$44,245	$4,651	$4,794	$4,940	$5,091	$5,246	$5,406	$5,571	$5,741	$5,916	$6,096	$6,282
Weber Area Dispatch 911	$118,369	$95,080	$9,995	$10,301	$10,616	$10,940	$11,274	$11,618	$11,972	$12,337	$12,713	$13,100	$13,499
Total	**$5,789,130**	**$4,650,137**	**$488,850**	**$503,795**	**$519,190**	**$535,046**	**$551,377**	**$568,199**	**$585,525**	**$603,372**	**$621,753**	**$640,686**	**$660,187**
Incremental Amount to Agency													
Weber County	$1,449,724	$1,164,496	$122,419	$126,161	$130,016	$133,987	$138,077	$142,289	$146,628	$151,097	$155,700	$160,442	$165,325
Weber County School District	$2,549,421	$2,047,830	$215,280	$221,862	$228,641	$235,624	$242,816	$250,224	$257,854	$265,713	$273,808	$282,146	$290,733
Washington Terrace	$1,211,424	$973,080	$102,296	$105,423	$108,645	$111,963	$115,380	$118,900	$122,526	$126,261	$130,107	$134,069	$138,150
Weber Basin Water Conservancy	$77,741	$62,445	$6,565	$6,765	$6,972	$7,185	$7,404	$7,630	$7,863	$8,102	$8,349	$8,604	$8,865
Central Weber Sewer	$327,370	$262,961	$27,644	$28,489	$29,360	$30,256	$31,180	$32,131	$33,111	$34,120	$35,160	$36,230	$37,333
Weber County Mosquito Abatement	$55,082	$44,245	$4,651	$4,794	$4,940	$5,091	$5,246	$5,406	$5,571	$5,741	$5,916	$6,096	$6,282
Weber Area Dispatch 911	$118,369	$95,080	$9,995	$10,301	$10,616	$10,940	$11,274	$11,618	$11,972	$12,337	$12,713	$13,100	$13,499
Total	**$5,789,130**	**$4,650,137**	**$488,850**	**$503,795**	**$519,190**	**$535,046**	**$551,377**	**$568,199**	**$585,525**	**$603,372**	**$621,753**	**$640,686**	**$660,187**

AGENCY REVENUES													
Weber County	$1,449,724	$1,164,496	$122,419	$126,161	$130,016	$133,987	$138,077	$142,289	$146,628	$151,097	$155,700	$160,442	$165,325
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Total	$5,789,130	$4,650,137	$488,850	$503,795	$519,190	$535,046	$551,377	$568,199	$585,525	$603,372	$621,753	$640,686	$660,187
Administrative Expenses			*4%*	*4%*	*4%*	*4%*	*4%*	*4%*	*4%*	*4%*	*4%*	*4%*	*4%*
Administration	($231,565)	($186,005)	($19,554)	($20,152)	($20,768)	($21,402)	($22,055)	($22,728)	($23,421)	($24,135)	($24,870)	($25,627)	($26,407)
Housing at 20%	($1,157,826)	($930,027)	($97,770)	($100,759)	($103,838)	($107,009)	($110,275)	($113,640)	($117,105)	($120,674)	($124,351)	($128,137)	($132,037)
Remaining Increment for Projects	$4,399,739	$3,534,104	$371,526	$382,885	$394,584	$406,635	$419,047	$431,831	$444,999	$458,562	$472,532	$486,921	$501,742

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Understanding of and Potential Use of AIR Funds and SFY 16 Budget Amendments

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Background:
Continued review of the State Fiscal Year (SFY) 16 budget is necessary.

Key Points:
Proceeds or funds from the line item appropriation for testing (SAGE) and question development were (are) used to fund positions within USOE for SFY 16.

The Finance Committee met in July and reviewed the SAGE appropriation and other items for possible funding from the SFY 16 budget.

Anticipated Action:
The Finance Committee will forward recommendations regarding amendments to the SFY 16 budget for Board approval.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

Utah STATE OFFICE of Education

Leadership...Service...Accountability

TO: Utah State Board of Education

FROM: Scott Jones, Associate Superintendent for Business and Operations, Utah State Office of Education

THRU: Brad C. Smith, Chief Executive Officer, Utah State Office of Education

DATE: August 7, 2015

SUBJECT: Increased Funding Request in Current Budget Year (SFY 16) by Utah State Office of Education (USOE) (Budget Amendment)

The purpose of this request is to obtain a decision by the Utah State Board of Education on whether or not to increase (update) the State Fiscal Year 16 funding for five specific requirements by way of permission to use funding from other, existing programs. These five requirements increase the agency's capability and capacity to meet laws, rules and/or policies on fiscal responsibility, budget formulation, funds control and management, internal controls, federal grant compliance, and indirect cost pool formulation and accuracy, for effective cost management and decision making. These are all identified areas of weakness by recent external and internal audits.

The five requirements are:

1) Three Managerial Accounting staff (three additional on-going FTEs) to provide ongoing joint review of internal accounting for USOE Divisions and, if designated, joint review activities with school districts/charter schools

2) One Federal Grant Compliance Officer/Director (additional FTE)

3) An outside accounting, law, or auditing firm to ensure indirect cost pool reliability and accuracy and to effectively, "set the rates/percentages."

4) Two Administrative type assistants. One for the Internal Auditors section and one for the School Finance section.

5) One Division Director for the newly established Student Services section.

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Phone: (801) 538-7500 Fax: (801) 538-7769
Brad C. Smith, State Superintendent of Public Instruction

Funding Requirements:
The total funding required is: $910,000.00.

1) The amount of funding required for the three Managerial Accounting Staff is: **$400,000.00** ($132,800 X 3 then rounded).

2) The amount of funding required for the one Federal Grant Compliance Officer/Director is: **$180,000.00.**

3) The required amount of funding for the indirect cost pool establishment and validation is: **$50,000.00.** 250 hours is required by a Subject Matter Expert to validate that the indirect cost pool is accurate and reliable. Market analysis is a rate of $200 per hour. ($200X250 (hours))=$50,000.00. *This is one time funding.*

4) The required amount of funding for the two Administrative Type Assistants is: **$120,000.00**

5) The required amount of funding for the Student Services Director is: **$160,000.00**

TOTAL: $910,000.00

<u>Expected Deliverables/Outcomes:</u>

For requirement #1 (Additional FTEs-Three Managerial Accountants)

The expected outcome of increased staff specifically for managerial accounting duties and joint reviews with internal accountants and districts if necessary is that all commitments, obligations, orders, earnings, disbursements, collections, accounts payable and accounts receivable are properly recorded, in an active status and the amounts reported are correct and in agreement with substantiating documents. Substantiating documents are available for audit requirement and are in good order, and properly support transactions recorded in the accounting system. These positions report directly to the Associate Superintendent for Business and Operations.

For requirement #2 (Additional FTEs-One Federal Grant Compliance Director)

Under the direct supervision of the Associate Superintendent for Business and Operations, monitors the agency and school district compliance with general and specific grant requirements contained in the various Federal, State, and local grants awarded to the agency. Interprets regulations and policies for the USOE sections and School Districts; monitors funded projects to prevent over-expenditure of funds, audits disallowance, and ensures awards are fully expended; and performs related duties as assigned.

For requirement #3 (Indirect Cost Pool training and validation)

Qualified third party Subject Matter Expert (SME) training on how to establish an indirect cost pool. Validation that the indirect cost pool calculations and percentages are accurate and reliable and comply with Federal requirements.

For requirement #4 (Administrative Assistants)

Workload increases in both the Internal Auditor and School Finance sections necessitate increased manpower to assist both Directors in the performance of Administrative duties. The additional FTEs will assist these respective Section Directors in meeting their workload commitments.

For requirement #5 (Student Services Director)

The newly established Student Services section requires an Educational Director to lead select staff in the delivery of services. The Student Services section is designed to assist in Student Achievement and School Success.

Finance Committee members directed an internal review of vacant positions as potential funding sources for these requirements. The USOE Superintendents met and discussed this option and arrived at the recommendation that all of these requirements except for the outside review, analysis, and compliance of the Indirect Cost Pool are sourced from the AIR funds this SFY (16). All USOE Superintendents acknowledge the below potential risk of using this funding this SFY. There were very few vacant positions that are funded with state funds to use as an alternative to the use of the AIR funds. The vacant positions funded by state funds are also Mission Critical to the respective USOE sections.

The information that analysis was done on the potential use of vacant position and that they are not viable sources of funding for these requirements was presented to the Finance Committee members on July 9, 2015.

Decision Points:

Further discussion and analysis by the Finance Committee and USOE Associate Superintendent for Business and Operations at the July 9, 2015 meeting led to the following Decision Points for Board Review and Action:

1) The $50,000.00 requirement for the outside review, analysis, and compliance statement of the Indirect Cost Pool formulation and application is funded by using risk-mitigation funds. The funds are on-going but this requirement is a *one-time only requirement.*

2) The remaining requirements for the amount of **$860,000.00** is funded using current State Appropriations from HB 15 (2012 legislative session) that were allotted originally for CRT testing but then evolved into the current SAGE testing programs/processes. This will effectively reduce the SFY 16 appropriation of $6.7M by the required **$860,000.00** for these positions.

3) If approved by the Board USOE will seek Increased Funding for SFY 17 and beyond for all of these positions as on-going.

Risks:

There is risk that the legislature will not approve on-going funding for some or all of these beginning in SFY 17. Therefore, it is essential that Board Members are aware of this risk associated with a decision to use the AIR appropriation this SFY. If on-going funding is not approved for some or all of these positions beginning in SFY 17 other decisions are necessary at that time. We may have to determine what source of one-time funding we will use to continue funding the positions in SFY 17 or, in the worst case, conduct a Reduction In force (RIF) of the positions.

Conversely, there is risk that if the Board Members do not approve the use of the AIR contract funds for hiring of these positions in SFY 16 (current budget year) identified detrimental issues to our fiscal position by both external and internal Auditors will continue. For example, not hiring the three Managerial Accountants this SFY and the Federal Grants Compliance Officer deters and delays USOE from taking recommended actions to ensure reliability in its reporting of Status of Funds in the near term. USOE simply lacks the manpower to resolve all of the issues identified by the audits. Not funding these positions makes achieving proper funds control and management in the near term (SFY 16) virtually impossible then. Not having these capabilities may also impact the ability for the agency to convert or transition towards FINET.

Not funding the two Administrative type assistant positions reduces the capacities and capabilities of the Internal Audit and School Finance Divisions to sustain or increase the levels of expected output. Not funding the Student Services Director position further delays that section's ability to become Fully Operational (FO) further delaying the expected deliverables of the section.

There is risk that the use of the AIR funds to meet the $860,000.00 requirement this SFY will reduce the ability of the Assessments section to meet its requirements. It is recommended that Board Members receive input from the Assessments Section Director and Associate Superintendent Nye prior to making a decision on whether or not to use their funds for these purposes this SFY (16).

Please direct questions to Associate Superintendent Scott Jones at 801-538-7415 or scott.jones@schools.utah.gov

2016 Current Vacant Positions

Position Title	Curr Bdgt/Bene	Salary	Vacancy	Div	Funding	Director	FTE	
Instructional Services Teaching and Learning								
Contract Grant Analyst I	$82,927.37	$39,090.40	23 mos	0661	State	Diana Suddreth	Reclassification from Office Spec II (PreviuoslyJamie Ney) will be filled on July 20th with Noralee Gree	
Education Specialist	$54,009.13	$28,346.30	5 mos	0661	FML	Diana Suddreth	40%	
Education Specialist	$131,953.90	$70,865.76	4 mos	0661	State	Diana Suddreth	100%	
Licensing Non-Fee								
Program Specialist I	$65,846.88	$36,433.72		0666	State	Diana Suddreth	100%	
Licensing Fee								
Education Specialist	$131,953.90	$70,865.76	12 mos	0667	Fees	Travis Rawlings	100%	
Office Specialist II	$67,650.49	$31,083.68	.5 mo	0667	Fees	Travis Rawlings	100%	
Career Technical and Adult Education								
Education Specialist	$149,909.97	$80,633.12	3.3 mos	0662	Fed Adult Ed	Thalea Longhurst	89%	Hired Stephanie Patton to begin working on August 3, 2015.
Education Specialist				0662	Fed Carl Perkins	Thalea Longhurst	11%	replacing Brian Olmstead that was promoted to Coordinator
Child Nutrition Program								
Currently has no vacancies.				2501/2502				
Assessment & Accountability								
Education Specialist	$130,661.29	$74,491.84		0760	Federal	JoEllen Shaeffer	100%	Will be Julie Benson's position after she moves into Kurt Farnsworth position which will be Educational Coordinator
Charter School Board								
Financial Manager II	$121,930.23	$62,880.00	2 mos	2701	State	Marlies Burns	100%	interviews next week
Training Coordinator	$139,112.10	$73,360.00		2701	State	Marlies Burns	100%	new position not yet posted
Title I								
Administrative Secretary	$75,222.98	$37,728.00	2 mos	0668	Federal	Ann White	100%	Jacqueline Perkins will start working in this position 7/14/15
SPED								
Educational Coordinator w/Doctorate	$140,597.82	$82,687.20	7 mos	0780	Federal	Glenna Gallo	100%	Not sure is they are filling this position - checking with Glenna
Office Specialist II	$49,092.59	$28,924.80	1 mo	0780	Federal	Glenna Gallo	100%	P2 approved by Supt. Smith 6/18/15
Indirect Cost Pool								
Financial Analyst III	$70,940.81	$39,614.40	3 weeks	0102		Brian Ipson	100%	position filled, Margaret Lautaimi will start 7/20/2015
Board								
Currently has no vacancies				0221				
Information Technology								
Currently has no vacancies				0443				
	$1,411,809.46				**$541,770.48**			

School Finance Vacancy will be filled by Brian ipson who will be replace by Janica Gines on July 20.

Noralee Green is currently in Assessment and will be moving to Teaching and Learning, her current position is expected to be filled.

Funding of Adaptive Assessment:

There have always been two funding streams for this assessment.
$6.7 M was appropriated from the state legislature, this is an annual appropriation for SAGE assessment.
We also receive $4.7 M Federal (approx.) each year for that used for this assessment and other assessments. These federal dollars were previously used to pay for the CRTs. When the CRTs were replaced by the computer adaptive assessment, the funding was shifted from CRTs to SAGE. The original AIR contract did not require the use of all of the combined state and federal funds so there was funding available for the needed amendments during the five year contract. These amendments were anticipated for test development and technology enhancements. Federal funding also pays for the other contracts such as WIDA, Utah Compose, U-Tips, K-3, salaries of development staff and other assessment costs.

2011-12 $6.7 M Legislature
2012-13 $6.7 M Legislature
2013-14 $6.7 M Legislature $1,985,301 State additional funding
2014-15 $6.7 M Legislature $3,918,444 Federal added to SAGE contract

School Year	Invoice Number	Invoice Amount	SAGE License Fee Offset	Net Invoice Paid by Utah
2012-2013	03358-001	$ 1,376,686.00	$ -	$ 1,376,686.00
2012-2013	03358-002	$ 2,583,438.00	$ -	$ 2,583,438.00
2012-2013	03358-003	$ 2,718,843.00	$ -	$ 2,718,843.00
2013-2014	03358-004	$ 464,581.00	$ -	$ 464,581.00
2013-2014	03358-005	$ 1,321,980.00	$ -	$ 1,321,980.00
2013-2014	03358-006	$ 1,399,491.00	$ -	$ 1,399,491.00
2013-2014	03358-007	$ 4,962,045.00	$ -	$ 4,962,045.00
2013-2014	03358-008	$ 3,392,235.00	$ -	$ 3,392,235.00
2013-2014	03358-012	$ 270,000.00	$ -	$ 270,000.00
2013-2014	03358-013	$ 25,000.00	$ -	$ 25,000.00
2014-2015	03358-009	$ 1,970,844.00	$ -	$ 1,970,844.00
2014-2015	03358-010	$ 1,305,734.00	$ -	$ 1,305,734.00
2014-2015	03358-011	$ 3,535,724.00	$ 3,535,724.00	$ -
2014-2015	03358-014	$ 3,111,811.00	$ 3,111,811.00	$ -
2014-2015	03358-015*	$ 958,504.00	$ 423,952.50	$ 534,551.50
		$ 29,396,916.00	$ 7,071,487.50	$ 22,325,428.50

*Invoice 03358-015 not yet paid

To: State Board of Education

From: Christopher A. Lacombe, Assistant Attorney General

Subj: Contract between State of Utah and American Institute for Research

Date: May 15, 2015

A. Introduction

In December 2012, the State of Utah and American Institute for Research ("AIR") entered a $39,303,646 contract, over a 5 year period, to develop, as mandated by Utah's Legislature, the Utah Statewide Computer Adaptive Assessment. Since the adoption of the original AIR contract, this contract has been amended three times which has increased the contract amount to $47,272,504. Furthermore, since June 2014, Utah and AIR have executed three License Agreements to allow Florida, Arizona and Tennessee use Utah's SAGE Test Items for a License Fee which is projected to be as high as $9,963,000 per year.

At the May 2015 meeting, the State Board of Education ("Board") did not approve a fourth proposed amendment to the AIR contract. Furthermore, substantial discussion ensued regarding: 1) AIR payments of Utah educators to prepare SAGE Test Items; and 2) Use of the Proceeds Derived from the License Agreements.

Prior to this meeting, Counsel were requested to provide an analysis of the following legal issues with the AIR contract. Those legal issues were: a) The impact of the incorporation by reference into the 10 page AIR contract of AIR's 365-page proposal; b) the AIR contract's compliance with federal and state student privacy laws such as FERPA; and c) suggested revisions for the Board to consider in future amendments to the AIR contract.

At the conclusion of the Board May 2015 meeting discussion on the AIR contract, the contract was going to be distributed to Board members for review. Attached to this memorandum are the 10-page AIR contract and the August 2013, March 2014 and July 2014 amendments. Given the length of both the RFP Solicitation (77-pages) and the AIR proposal (365-pages), they have not been attached to this memorandum**.** However, they are available on the USOE website.

This memorandum provides the background information and legal analysis on the AIR contract, the three amendments, and the License Agreement. This information and legal analysis is presented in the following manner:

A. Legislative Background and Chronology of AIR Contract
B. The Terms of the Original AIR Contract
    1. AIR's 365-page proposal has been incorporated by referenced into the 10 page contract.
    2. The Other Contract Provisions Identifying AIR's Contractual Obligations under Section V of Its Proposal.
        a. Return and Destruction of Items and Data
        b. Timetables
        c. Quality Assurance Requirements
        d. Program Management Requirements
        e. Technical Manuals
        f. Contract Finalization or Transition from AIR to USOE

C. License Agreements with AIR for Tennessee, Arizona and Florida to use of SAGE Assessment Items.
D. The AIR Contract's Compliance with the Family Educational Privacy Rights and the privacy Principles Set Forth in Utah Code Ann. §53A-1-710 (3) (e)
E. AIR's Contractual Right to Recruit and Compensate Utah Educators for Their Services in Developing Items for Utah's Assessment.
F. Suggested Revisions or Amendments to the AIR contract.

B. Legislative Background and Chronology of AIR Contract

During the 2012 Legislative session, HB 15 was approved which amended Utah Code Ann. §53A-1-603 and Utah Code Ann. §53A-1-611. This statute provides that "beginning with the 2014-15 school year, the State Board of Education shall annual require each school district and charter school. . . to administer a computer adaptive assessment system that adopted by the State Board of Education; and aligned with Utah's Common Core. Furthermore, HB 15 authorized an initial appropriation of $6.7 million dollars for this assessment system.

On August 20, 2012, the State of Utah published Utah RFP Solicitation PR13015, a 77-page document, entitled Utah Statewide Computer Adaptive Assessment System. On September 30, 2012, American Institute for Research ("AIR") submitted a 365-page solicitation proposal, in response to Utah's RFP, to develop the Utah Statewide Computer Adaptive Assessment System.

On December 21, 2012, the State of Utah and AIR entered a State of Utah Contract for the development and administration of the Utah Statewide Computer Adaptive Assessment. This contract's period was from February 1, 2013 until January 31, 2018. The contract amount was $39,303,646. Since the execution of this AIR contract, it has been amended three times. The date, amount and nature of these contract amendments are as follows:

Amendment #	Date	Amount	Nature of Amendment
Original Contract	December 12, 2012	$39,303,646	N.A.
#1	August 15, 2013	$ 706, 947	*Braille Translation *February 2014 early testing. *Early release of secure browser.
#2	March 2014	$ 0	Data Security and Privacy Language
#3	July 2014	$ 7.261,911	*Sign Language Translation *Development of Stimuli Translation *Human validation of 20% of machine scored writing items. *Addition of Lexiles (metric for measuring reading ability) *Item Development
Total		**$47,272,504**	

C. The Terms of the Original AIR Contract

1. AIR's 365 page proposal has been incorporated by referenced into the 10-page contract.

The Original AIR Contract is 10 pages in length. However, this contract incorporates by reference the following documents: "Utah RFP Solicitation PR13015 and CONTRACTOR'S response thereto dated 09/30/2012." The RFP Solicitation is 77 pages and the Contractor's response or "proposal" is 365-pages. Furthermore, paragraph 28 of the contract states, in part, as follows: "Entire Agreement: This

agreement, including all attachments, and documents incorporated hereunder, and the related State Solicitation constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, where oral or written."

The legal effect of both this incorporation by reference language and paragraph 28 merger clause is that the 365 page AIR proposal is part of the contract.

2. The Other Contract Provisions Identifying AIR's Contractual Obligations under Section V of Its Proposal.

Most of the AIR 365-page proposal attempts to inform and educate Utah officials regarding its proposal and is not presented in terms of contractual responsibilities or obligations. However, Section V, which is 45 pages in length, is entitled "Other Contract Provisions". In this section, it addresses contractual provisions in six different areas which are as follows: 1) Return and Destruction of Items and Data; 2) Timetables; 3) Quality Assurance; 4) Project Management; 5) Technical Manuals; and 6) Contract Finalization Plan.

A. Return and Destruction of Items and Data

In its proposal, "AIR acknowledges that any test items developed under this contract or transferred to us or existing in Utah's test item banks are and will remain the exclusive property of the State of Utah and may not be used for any other purposes (except by express written permission from USOE). [AIR] will deliver the full item bank in the agreed-upon format at the conclusion of the contract and annually at USOE request. AIR will purge [its] systems of any Utah-owned items, including those developed under this contract, at the conclusion of the contract." **(Proposal-p. IV-1)**

B. Timetables (P. at IV-3 to IV-4)

In its proposal, AIR states the following: "AIR will deliver the testing system as specified on the desired timelines." The items in the "Goals" column identify the performance objectives and time deadlines for AIR throughout the course of the contract.

Phase	Academic Year	Payment	Goals
1	Year 1-Award to August 2013	$ 6,678,967	*Import and align all existing USOE items by April 2013. *Identify and incorporate all items shared by other states under the proposed item sharing agreement by May 2013. *Develop approximately 4,000 new items by July 2013. *Ensure all new items are reviewed and approved by the USOE and committees during summer 2013, when teachers are available.
1	Year 2-September 2013 to August 2014	$10,467,400	*Launch the Learning Point Navigator Formative Assessment system with UTIPS aligned items and AIR resources by September 1, 2013 *Deploy the interim/summative testing sys- tem by February 2014, including delivering training *Conduct the operational interim/summative field test in spring 2014, with the final dates to be mutually agreed by USOE and AIR to meet reporting requirements *Complete all scoring, standard setting, and reporting activities to allow for accountability reporting based on spring 2014 operational field test. *Incorporate approximately 1,350 new and shared items for embedded field-testing and ensure all items are reviewed and approved by USOE and committees by August 30.

Phase	Academic Year	Payment	Goals
2	Year 3-September 2014 to August 2015	$7,349,683	*Operational formative, interim, and summative testing, with immediate reporting. *Complete all scoring, standard setting, and reporting activities to allow for accountability reporting based on spring 2014 operational field test. *Incorporate approximately 1,350 new and shared items for embedded field-testing and ensure all items are reviewed and approved by USOE and committees by August 30
2	Year 4-September 2015 to August 2016	$7,276,826	*Operational . . . testing, with immediate reporting *Complete all scoring, standard setting, and reporting activities to allow for accountability reporting based on 2014 field test. *Incorporate approximately 1,350 new and shared items for embedded field-testing and ensure all items are reviewed and approved by USOE and committees by August 30
2	Year 5-September 2016 to August 2017	$7,530,770	*Operational formative, interim, and summative testing, with immediate reporting *Complete all scoring, standard setting, and reporting activities to allow for accountability reporting based on spring 2014 Operational field test. *Incorporate approximately 1,350 new and shares items for embedded field-testing and ensure all items are reviewed and approved by USOE and committees by August 30

C. Quality Assurance Requirements (P. IV-7 to IV-14)

In its proposal, AIR states: "Quality assurance processes are integrated into everything that we do, and many of them are described in detail in the description of our plan to complete the work above. Here, we summarize the quality assurance processes that will ensure error-free operation for Utah."

No.	Quality Assurance Area	Actions to Ensure Quality Assurance
1	Keys and scoring rubrics for the items	Several content experts review items, their keys, and machine-scored rubrics before publication.
2	Display of items	The final review before deployment includes web approval, which requires that the item be viewed as it will appear to the student.
3	Pre-deployment testing of the performance of the adaptive engine	We engage in a robust simulation process prior to the deployment of any test. During that process, we tune the parameters of the adaptive algorithm to optimize the performance of the engine for the particular item bank and blueprint.
4	Checks during configuration and deployment	The developers' configuration tool can also detect and highlight any differences between the configuration that they are building and any past configuration— a capability that helps us ensure that all the necessary revisions are made and no accidental revisions are made.
5	Continuous monitoring of the performance of the adaptive engine	Tests administered online are monitored in real time by our Quality Monitor (QM) system. Each completed test runs through QM as soon as the test is complete, where a variety of quality checks is conducted.
6	Human scoring	The entire scoring process is managed by DRC's electronic scoring system, which implements many programmatic controls to ensure that each item is double scored and discrepancies are appropriately resolved

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D. Program Management Requirements (P. IV-15 to IV-41)

In its proposal, AIR states, with regards to project management, that "in working with USOE to manage the day-to-day operations of the program, AIR will adhere to the principles set forth by the National Council on Measurement in Education in the Code of Professional Responsibilities in Educational Measurement and will work with USOE." Furthermore, AIR states that it understands that adhering to [these] standard processes and documentation is critical to the program's successful operation." In its proposal AIR sets forth the six following project management area and identifies the project management actions they will undertake.

No.	Project Management Area	Project Management Actions
1	Project Management (p. IV-18)	The Project Management team is responsible for orchestrating these resources to deliver and report on multiple assessments.
2	Computer and Statistical Sciences Center (CSSC) (p. IV-19)	CSSC is responsible for both our software infrastructure and our soft- ware products. CSSC takes as its mission the development of innovative products and systems that will keep AIR's Assessment Program at the forefront of our field. It is organized into groups supporting families of software systems: 1) Preproduction Systems; 2) Test Delivery and Reporting; and 3) Data Analysis.
3	Psychometrics and Statistics (p. IV-20-22)	AIR's Assessment Program offers psychometric and statistical services that stand alone in terms of quality and innovation. The integration of psychometrics with statistics and sampling sets AIR apart from the competition. The Psychometrics and Statistics team is responsible for the following tasks: -Sample design -Field-test design -Item analysis -Analysis of differential item f -Calibration, -Parallel form equating and vertical linking -Design and implementation of standard- setting sessions -Design and implementation of special studies, -Randomized field trials -Cross-form reliability studies -Program and initiative evaluations
4	Test Development Operations	Our test development staff has been developing and aligning existing items to Common Core State Standards. . . AIR Test Development staff are responsible for the following tasks: -Framework development -Test blueprint and item specification development -Item development and review -Development and review of scoring rubric -Curricular content development -Development of supporting materials for item release -Client committee support and liaison with range finding
5	Scoring Online Testing Systems (p. IV-22)	The AIR Operations and Scoring team includes seven full-time and more than 200 part-time professionals and is responsible for warehousing, distributing, collecting, security processing, scanning, editing, performance scoring, and preparing data files.
6	Online Reporting (p. IV-23)	AIR goes beyond simply reporting scores and other numbers to provide deep analyses of the data, reported in a way that is clear, appealing, and actionable.

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E. Technical Manuals (P. IV-41 to IV-44)

In its proposal, AIR states: "it will produce a technical manual for the Utah statewide assessments that consists of five volumes. . . .[and . . . USOE and its Technical Advisory Committee will review the annual technical manual prior to publication. . ." The technical manuals provided are as follows:

Volume	Title of Manual	Explanation
1	Annual Technical Report	The annual technical report will provide the basic information on the technical aspects of the Utah adaptive assessment program,
2	Test Development	This volume documents the procedures used to create the test and validate its alignment to the standards.
3	Test Administration	This is a standard setting volume which is created only once.
4	Evidence of Reliability and Validity	This will include reliability measures, content validity measures, alignment of test with Core Standards, etc.
5	Summary of Test Administration Procedures	This will include score reports, subgroup reporting and interpretation of reported scores.

F. Contract Finalization or Transition from AIR to USOE (P. IV-45 to IV-46)

In its proposal, AIR states: "the successful transition of a testing program entails transferring all required data, products, knowledge, and other state-owned assets. The transfer must be complete and correct, ensure that the tests remain accurately equated over time, and avoid disruption of services or support during the transition period." The transition services provided are as follows:

No	Transition Principles	Obligations
1	Transition Specification and Meetings	*Initial Planning Meeting *Vendor Meeting *Transition Meetings
2	Delivery of Materials and Knowledge	-Preparation of Transition Specification Document to guide the transition, keep track of progress, and plan for contingencies around what may or may not be available. -transition plan and final report,-return and/or purge data from our systems

G. Other AIR Responsibilities

In its proposal, under the Program Management Section, AIR sets forth a number of communications and project coordination responsibilities it has under the contract.

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No.	Responsibilities	Comment
1	Develop Communications Plan (P. IV-26)	Upon award of the contract, AIR will work with USOE. . . to develop a Communications Plan that specifies: *who needs to receive specific information; *when that information needs to be communicated (on a specific date or at regular intervals); *the person responsible for communicating the information; *the method used to communicate the information the processes for documentation that the information has been communicated and sign-offs have been received;
2	Production of Management Documents (P. IV-26-33)	*Schedules, *Planning Documents Tracking Documents Specification Documents
No.	**Responsibilities**	**Comment**
3	Weekly Meetings (P.IV-34)	*AIR will host the weekly USOE–AIR program update conference calls to discuss the period's progress and to identify upcoming deadlines.
4	Weekly Status Reports on Key Deliverables	*Led by the project director, AIR will host the weekly USOE–AIR program update conference calls to discuss the period's progress and to identify upcoming deadlines and possible challenges. *AIR will provide weekly status reports tracking progress against key deliverables.
5	Kickoff Meeting and Annual Planning Meeting	Although the RFP refers to a single kickoff meeting, AIR anticipates a few initial meetings in the early stages of the project to successfully transition to and launch the new assessment system. *Initial Planning Meeting *Vendor Meeting *Transition Meeting
6	Providing of Quarterly Invoicing (P. IV-40)	AIR will provide quarterly invoices (or more frequently as directed) for services rendered coinciding with USOE's fiscal year, which ends June 30, reflecting the budget presented in the proposal and finalized at contract signing. Invoices will itemize the work completed.
7	Workshop Management (P. IV-40)	AIR will be responsible for meeting space, materials, and associated cost requirements for workshops, conferences, and district meetings requested by USOE in the RFP. AIR staff will manage the committee meetings, training sessions, outreach, and project meetings over the length of the contract.

D. License Agreements with AIR for Tennessee, Arizona and Florida to Have Use of SAGE Assessment Items.

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Three License Agreements have been executed with AIR to "include two subject areas from the SAGE Assessment Items in the Florida, Arizona and Tennessee tests." In these License Agreements, the Board grants AIR "a limited, non-exclusive, non-assignable, non-transferrable license to include two subject area from the SAGE Assessment items" in these three states' tests. Under these License Agreements, AIR pays the Board an annual license fee which is "calculated by multiplying the number of Subject Areas included in the [each respective states] Test by $1.50 (i.e. number of students x number of Subject Areas x $1.50)" In the chart below, the "Projected First Year License Fee" column's data has been extracted from the respective license agreements. However, this amount may not continue for the duration of these License Agreements because AIR, while it expects continued use of the SAGE items, it cannot guarantee their use to the extent projected in the first year.

State	License Agreement Date	License Agreement Term	Projected First Year License Fee	Projected Number of Students Taking Test in First Year
Florida	June 4, 2014	6/1/2014-6/30/2017	$5,400,000	1,800,000
Arizona	Nov. 6, 2014	6/1/2014-6/30/2017	$2,223,000	741,000
Tennessee	Nov. 6, 2014	6/1/2015-6/30/2017	$2,340,000	780,000

In the case of both Florida and Arizona, "the Fee for the 2014-2015 school year is due and payable on or before June 30, 2015." As for Tennessee, the fee won't be due until June 30, 2016. Lastly, under the License Agreement, AIR may "offset the Fee on a dollar-per-dollar basis against amounts owed by the Board to AIR under the original [AIR] contract."

Under the original AIR contract, the Board is obligated to pay AIR the amount of $7,349.689 for services during 2014-15 school year. The projected amount due and owing to the Board, under the Florida and Arizona License Agreements is $7,623,000.

E. The AIR Contract's Compliance with the Family Educational Privacy Rights and the privacy Principles Set Forth in Utah Code Ann. §53A-1-710 (3) (e)

The contract provision which most clearly specifies USOE's student privacy and security expectation and the measures AIR will take to safeguard an protect student level data are set forth in Contract Amendment #2 which states as follows:

> "Data Security
>
> AIR shall protect all student level data in a manner that does not permit personal identification of students by anyone except those bound by this agreement and the USOE. AIR shall safeguard, protect, and maintain the confidentiality of any student level data of any kind which come into its possession in the performance of services under this agreement. AIR shall not disclose or re-disclose any such data without prior authorization from USOE, the parent or eligible student. AIR shall comply with FERPA and all other applicable state or federal privacy laws, and shall maintain any and all personally identifiable information in a manner consistent with such laws. At USOE's option, AIR shall return or securely destroy any such data upon the earlier of either the expiration of the termination of the contract. "

USBE's release of this type of student level data to AIR is authorized by the Family Education Rights and Privacy Act. 34 CFR §99.31 states "an educational agency may disclose personally identifiable information from an education record of a student, without the consent required by §99.30 if

the disclosure . . . is to organizations conducting studies, for, or on behalf of, educational agencies or institutions to: develop, validate or administer predictive tests . . ."

However, FERPA requires that when such a disclosure is made to develop, validate or administer predictive tests, that USOE must "enter into a written agreement with [AIR] that

(1) Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;

(2) Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;

(3) Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and

(4) Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

In reviewing Amendment #2, it is part of a contract whose purpose is to provide Utah Statewide Computer Adaptive Assessment System and related services from February 1, 2013 until January 31, 2018. Furthermore, Amendment #2 prohibits the disclosure of personally identifiable information "except [to] those bound by this agreement and the USOE" is compliant with subsection (2). In addition, Amendment #2 requirement that "AIR shall safeguard, protect and maintain the confidentiality of any services under the agreement is compliant with subsection (c). Lastly, Amendment #2's requirement that "AIR shall return or securely destroy any such data upon the earlier of either the expiration or termination of this contract is compliant with subsection (4).

Amendment #2's express terms are also consistent with 34 CFR §99.33 (1) : "an educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student. Amendment #2's expressly states that that "AIR shall not disclose or re-disclose any such data without prior authorization from USOE, the parent, or eligible student.

Besides parent and student privacy protections under FERPA, Utah recently enacted Utah Code Ann. §53A-1-710 which requires the State Board of Education to "develop a funding proposal and make recommendation to the Legislature on how the board and the Legislature can update student privacy in statute and board rule. The statute require to Board to consider the following issues as it develops this funding proposal and recommendations: "how to manage a contract with a third party service provider to ensure that a contract entered into between an education entity and third party provider includes:

(i) Provisions requiring the specific provisions on the use of student data;
(ii) Specific dates governing the destruction of student of student data given to a third party service provider;
(iii) Provision that prohibit a third party service provider from using personally identifiable information for a secondary use, including sales, marketing, or advertising;

(iv) Provisions limiting a third party service provider's use of student data strictly for the purpose of providing service to the educational entity; and

(v) Provisions requiring a third party service provider to maintain, secure and safeguard all student data by using industry best practices to maintain, secure and safeguard the student data;

While this statute, is in its infancy, Amendment #2 seems to incorporate most of the principles set forth in Utah Code Ann. §53A-1-710 (3) (e), Amendment #2 limits the date of the use of the records until the expiration of the contract which is January 31, 2018. (Subsection (ii)). Furthermore, this amendment, in prohibiting the disclosure or re-disclosure of such data without prior authorization form USOE, the parent or eligible student, seems to comply with the requirements of subsection (iii). In addition, the requirement that AIR shall safeguard, protect and maintain the confidentiality of any student level data of any kind which come into it possession in the performance of services under this agreement" is compliant with the principles set forth in subsections (i) and (iv). Amendment #2 does not include provision that AIR "maintain, secure and safeguard all student data by using industry best practices to maintain, secure and safeguard the student data" (Subsection v) However, in AIR's proposal, under Section I.C.4.b in discussing : 1) System Security; 2) Physical Security; 3) Network Security and 4) Software Security, AIR represents that its security "system adheres to strict, industry- standard security procedures" See p. I-96.

In conclusion, the security and privacy language in the AIR Contract, particularly Amendment #2 appears compliant with the provisions of the Family Employment Rights Procedure Act. Furthermore, the AIR Contract's language appears consistent with the principles espoused by Utah's legislature in recently enacted Utah Code Ann. §53A-1-710 (3) (e). It should be noted that while the AIR contract period is February 1, 2013 until January 1, 2018, that Amendment #2, which articulate Data Security, was not enacted until March 2014 which was more than one year into the contract term. Furthermore, while Amendment # 2 is sufficient to set forth privacy and security requirement, the language in the provision could be improved greatly.

F. AIR's Contractual Right to Recruit and Compensate Utah Educators for Their Services in Developing Items for Utah's Assessment.

Concern has been raised regarding AIR's recruitment and payments to Utah educator to develop items (test questions) for the Utah Statewide Computer Adaptive Assessment.

Utah RFP Solicitation PR 13015, which is incorporated into the contract, required AIR as part of its bid proposal to, as part of its proposed plan for "System Functionality" to "specify the sources of item (e.g. released or retired summative, teacher created, vendor provided)" RFP at p. 40.

The RFP stated, with respect to the use of new items developed for this proposal, the offeror "shall provide a detailed description of the item development process it will employ to develop new items, including at least the following information: . . . criteria and recruitment process for item writers and content reviewers. USOE values the inclusion of the Utah teacher in the item development process, but does not require items to be written by Utah teachers." RFP at p. 37.

In AIR's proposal, Section II.B.2 addresses "Item Development and Procurement". In the proposal, AIR represents that it will develop newly developed items for the Utah Assessment. P. II-56. In the writer recruitment and selection section, AIR states that it will "recruit external item writers from our current pool of experienced writers, as well as Utah educators." It further represents that AIR's "objective is to recruit Utah educators because of the breadth of their core knowledge of the Utah Core Standards and their genuine interest in the Utah summative and interim assessments." P. II-58.

In Amendment #3 to the AIR contract, AIR represented that the original cost associated with Item Development was $2,009,303. This original cost projects a total of 1,350 teacher-drafted items. Amendment #3 increased this Item Development cost by $301,238 to $2,310,541. It would appear that approximately $1,318,517 of the $2,310,541 was allocated for creating 54 passages, 45 listening stimuli and 1,350 teacher drafted items. Amendment #3 at p. 10.

The Board, while paying this amount to AIR, has as part of its contract terms an acknowledgement by AIR "that any test items developed under this contract or transferred to us during or existing in Utah's test item banks are and will remain the exclusive property of the State of Utah . . . (P. IV-11)

Given that AIR proposal dated September 30, 2012 is incorporated by reference into the contract, AIR's use of Utah educators to develop test items is authorized because AIR expressly stated that "its objective is to recruit Utah educators" as item writers. Furthermore, the proposed budget appended to it proposal includes a line item for Item Development. Finally, under this contract, following the July 2014 amendment, $1,318,517 is allocated for development of reading passages, listening stimuli and test items. *A simple calculation of this budget amount reflects that approximately $1,263 per reading passage, $2,338 per listening stimuli and $848 per teacher drafted item is projected respectively.*

G. Recommended Amendments to the AIR Contract

Paragraph 11 of the AIR Contract addresses contract modification. In this section, it states that: "this contract may be amended, modified, or supplemented only by written amendment to the contract, executed by authorized persons of the parties hereto, and attached to the original signed copy of the contract." Thus, in order to amend the contract, the amended provision will need to be in writing and signed by both parties. Taking into account this provision the following contract modifications, or revisions to the contract formation process, are suggested:

1. **The Incorporation by Reference Provision in paragraph 7 is not effective in identifying the legal responsibilities or duties of either AIR or the State of Utah. In the future a separate attachment should be provided which clearly identifies both AIR and the State of Utah's contractual duties.**

   Comment: AIR's 365-page proposal is a document which is intended to educate and persuade the Board to use their services. In the proposal, it is difficult to identify what AIR's responsibilities are under the contract. Effort should have been undertaken during the 2012 negotiation to extract, from the RFP and the proposal, the contractual duties and obligations of both parties, into an attachment which clearly sets forth the duties. Furthermore, a provision could have been added that "any conflicts between Attachment [ ] and the RFP will be resolved in favor of the Attachment. Given that 30+ months and over $15 million in payments remains on this contract, this should be done.

   As a practical matter, persuading AIR to agree to a substantial amendment or novation to this contract, which clearly defines both Utah and the company's contractual obligations may be difficult. However, some optimism exist in USOE that AIR will make this concession in return for the economic benefit of proposed Amendment #4.

2. **While a deliverable's log and secure document sharing site called "Knowledge Tree" apparently exists to keep track of compliance under the contract, consider amending the contract to add an express requirement that AIR provide, at no cost, a Quarterly**

Compliance Report to the Board which clearly and succinctly identifies tasks to be completed during the contract year, deadline dates and accomplishments or problems encountered.

Comment: Since project management and communication is an important part of the AIR proposal and at least 3 weekly conference calls are occurring between USOE and AIR staff, adding this Compliance Report may assist both the Board and USOE staff on the progress of this complicated project. In addition, in the RFP, at page 10, there is a liquidated damages clause which states:

> "It is understood and agreed by the offeror that time is of the essence in the delivery of tests, reports, and data of the content and quality specified in this RFP, its proposal document, and any resulting contract. In the event these specified tests, reports, and data are not available by the dates specified in a resulting contract, there will be deducted, not as a penalty but as liquidated damages, the sum of $40,000 per day;"

Through this Compliance report, and USOE staff's input, the Board can evaluate whether this liquidated damages clause is applicable.

3. **The $40,000 per day liquidated damage provision in Utah's RFP proposal may provide the Board with substantial leverage to secure concessions from AIR with respect to clarifying contract terms as well as developing contract terms which are more beneficial to Utah. An inquiry of USOR staff should be conducted to determine whether in the past AIR has failed to meet deliverable deadlines.**

   Comment: Based on discussions with USOE staff, some relatively small adjustments of the amounts due and owing to AIR have been made due to their failure to meet deadline, however, it does not appear that AIR has been subject to the $40,000 per day standard. Based on information provided, more substantial liquidated damages could likely be collected. There are potentially three problems with the use of this liquidated damages clause which are as follows: a) the lack of clearly defined deliverable dates may impede liability; b) Utah's agreement to modified delivery dates may be construed as a contract modification and waiver of the liquidated damages provision; and c) use of this provision may result in the deterioration of the USOE and AIR and nearly 30 months remains on this contract. *An inquiry of USOR staff should be conducted to determine whether in the past AIR has failed to meet deliverable deadlines.*

4. **The Limitation of Liability language in Condition #4 of Attachment "B" is overly broad, especially in light of the subsequent License Agreements with AIR to provide SAGE test items to Florida, Arizona and Tennessee.**

   Comment: This limitation of liability condition states ". . . in no event shall the Contractor (AIR) be liable for any special, indirect, incidental, economic, consequential or punitive damage, including but not limited to lost revenue or profits, loss of technology rights or services, loss of data or interruption or loss of use of software of any portion thereof regardless of the legal theory under which damages are sought. . . "Given that Utah's SAGE test items are going to be used by Florida, Arizona and Tennessee, Utah's right to collect from AIR, if there is improper distribution or redistribution of these items, is non-existent. Furthermore, the License Agreement, which contains similar, but not identical limited liability language, also restricts Utah's remedies against AIR. Finally, the liquidated damage clause in the RFP is only triggered by failure to comply with time deadlines.

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5. **AIR Contract Attachment D, which sets forth the contract's fixed price billing schedule may not sufficiently and clearly identify or breakdown Utah's obligation to make payments to AIR for its completion of projects, objections and goals. Revisions to this section should be considered.**

6. **The Data Security language in Amendment #2 could be revised to expressly re-state both Federal and state student data privacy laws, as opposed to paraphrasing the concepts in these laws.**

7. **Consideration should be given to requesting AIR to provide the terms of its agreement with Florida, Arizona and Tennessee. An alternative could be for Utah to submit a GRAMA request, or its equivalent to those states to obtain their agreement with AIR.**

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Increased Funding Requirements (this SFY 16)

- Three (3) Managerial Accountants-$400,000.00
- One (1) Federal Grants Compliance Officer-$180,000.00
- Outside law, accounting, audit agency to formulate, train on and validate indirect cost pool calculation-$50,000.00
- Total: **$630,000.00**
  - Can wait on all three of these until special session and/or SFY 17 Budget Request
  - No immediate funds available due to other carryover and discretionary funds requests (AIR revenue is a possibility)-need to close the Year out and then determine the availability of funds
  - However, not having the Managerial Accounting capabilities impedes ability to know just exactly what the Status of Funds (SOF) is at right now
  - Even when approved 3-9 month realization of the positions (announcements, interviews, start dates)
- Enterprise Business System-**$28,000,000.00**
  - Convert to FINET first?
  - Make this an SFY 17 request?
  - Not clear on how comprehensive this system is designed for-standardize the whole state?
  - Three options
- Student Services Director
  - Replacing Margaret in Teaching and Learning. They will not use her FTE. There is one coded to David Smith when he was a specialist that is still assigned to Teaching and Learning. (Two vacant positions to fund)

Risk Mitigation Narrative

The total risk mitigation funds appropriated in HB2 were $1,840,300, with an additional $264,700 in rent savings that were not taken from USOE and became part of the risk mitigation funds, for a total of $2,105,000. However, $1,145,400 of that was just a replacement of the legislative reduction in the base budget. Of the remaining $959,600, $200,000 was put into IT's budget for FY16 and $295,300 is one time money. That leaves $464,300 in ongoing risk mitigation funds for FY16.

These ongoing funds may be used to fund Angie's position, but funding her position was not part of the original risk mitigation plan that was presented to some individual understandings.

Risk Mitigation Amounts

Available Funding:							
HB 2 - $400,000 Ongoing							
HB 2 - $295,300 One-time							
Authorization to Use Rent Savings - $264,000 Ongoing							
Total Ongoing	$ 664,000						
Total One-time	$ 295,300						
Required Resources under Risk Mitigation Plan							
					Internally Funded		
Item Description			Ongoing	One-time		Ongoing	One-time	
USOE Compliance Officer (Federal & State)						$ 200,000		
Additional FTE due to LEA growth (1.8 FTE)			$ 180,000					
Pilot Software for Federal Compliance							$ 50,000	Determine
USOE Policy Director and Staff						$ 200,000		Additiona
USOE Data Security Officer			$ 216,000				$ 15,000	
IT Security Audit							$ 150,000	Discretion
Base to FINET Conversion (Base rewrite - 2 IT Analysts)			$ 202,000					
Minimum School Program Automation (1 IT Analyst)			$ 101,000					
			$ 699,000	$ -		$ 400,000	$ 215,000	
Resources Needed to be Reallocated from Existing Budgets			$ 35,000					
Available One-time Revenues				$ 295,300				

AIR Funding and Positions (IDR)

Issue: How to fund Associate Superintendent Nye's Position and the Three (3) Managerial Positions and One (1) Federal Grant Compliance Officer Position

Discussion: $6.7 M was appropriated from the state legislature. $4.7 M Federal funding was also targeted for the computer adaptive assessment. The federal dollars were previously used to pay for the CRTs. When the CRTs were replaced by the computer adaptive assessment, the funding was shifted from CRTs to SAGE. The original AIR contract did not require the use of all of the combined state and federal funds so there was funding available for the needed amendments. Requires additional discussion on the, "revenue producing licensing agreements."

Recommendations to consider:

1) **Move funding from Associate Superintendent Stalling's position to Associate Superintendent Nye's position (on-going). Fund Associate Superintendent Stalling's position with on-going risk mitigation funds (potential for legislative concerns). Request funding for an on-going FTE during the next legislative session so as not to rely on contract or federal funds to pay for positions. Or,**

2) **Use AIR revenue producing licensing agreements and then request additional funds from the legislature starting in SFY 17**

Concerns:

1) Are we clear on the amount of funding required for the future of this program? If not, the $6.7M could already be spent. Director Schaefer is working on a report.

2) Relying on one time or offsets to fund positions is not necessarily a good idea.

3) What is the plan for the offset gained from Arizona ($2.1M)? How much is of the $2.1M, "offset," is state money?

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

INFORMATION: Report on the Status of Additional Positions for State Fiscal Year (SFY) 16 Budget Adjustments

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Background: The Utah State Board of Education approved the use of current State Fiscal Year (SFY) 16 funds to fund the following positions:

- Three (3) Managerial Accountants
- One (1) Federal Grant(s) Compliance Officer
- Two (2) Office Technician/Administrative Assistant Positions
- One (1) Student Services Section Directors

Key Points: Utah State Office of Education superintendents first looked at using internal, funded and budgeted vacant positions. A thorough review took place and none of the vacant positions were suitable for use as, "bill payers," for any of the approved positions.

Funding for Associate Superintendent Stallings' position was moved to fund Associate Superintendent Nye's position. These are ongoing state funds. Funding for Associate Superintendent Stallings' position comes from ongoing risk mitigation funding.

Superintendent Smith directed use of the HB 15 CRT testing (now SAGE testing) appropriation to fund these positions ($950,000.00). Funding will be transferred from the Assessment Division to the respective sections upon announcement of the positions by Human Resources.

Funding for the positions is one-time funding. USOE will need to seek ongoing funding for all of these positions during the next legislative session. There is risk that ongoing funding may not be provided by the legislature for all of these positions, which will necessitate either: 1) Finding alternative, existing one-time or ongoing funding; or 2) a Reduction in Force (RIF).

Anticipated Action:
Information will be provided on the progress of filling these positions to date.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Budgetary Authority

Background:
Budget authority for proper control and management of funds is essential. Approval thresholds across a variety of budget processes and areas are necessary to ensure accuracy and reliability in reported information.

Key Points:
The Finance Committee met in July and considered the following:

1. What does a Board-approved budget represent?
2. What written policies should exist for the budgeting process?
3. How should such policies be created?
4. Should the policies be in Board administrative rule or in a policy handbook?
5. What authority do various staff levels have, if any, for amending the budget without the approval of the superintendency or the Board?
6. What kinds of consequences, if any, may occur for overspending?
7. What kind of signing/spending authority, if any, do directors have in their own name?
8. What procedures should be followed to request a budget carryover for delayed expenditures from one fiscal year to the next?
9. How should the budgeting process occur so as to not encourage "padding" during the budgeting process and unnecessary end of fiscal year spending, and so as to no discourage fiscal discipline generally?
10. How can the budget process/calendar accommodate the seasonal aspects of public education such as summertime hiring?

Anticipated Action:
The Finance Committee will forward recommendations regarding budget authority to the Board for approval.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

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Utah STATE OFFICE of Education

Leadership...Service...Accountability

TO: Utah State Board of Education

FROM: Scott Jones, Associate Superintendent for Business and Operations, Utah State Office of Education

THRU: Brad C. Smith, Superintendent of Public Instruction, Utah State Office of Education

DATE: August 7, 2015

SUBJECT: Budget Authority

Beginning SFY 16 (1 July 2015) the following budget or funding transfer level authority thresholds are in effect.

Contracts:

A new or base contract that is < or equal to $100,000.00 for the entire contract period the Superintendent for Public Instruction has approval authority. All approvals of contracts below this threshold are reported to the Utah State Board of Education at the next Board Meeting following approval/signature by the Superintendent of Public Instruction.

An amendment to a base or existing contract that is <$100,000.00 for the remainder of the contract period the Superintendent for Public Instruction has approval authority. All approval of contract amendments below this threshold are reported to the Utah State Board of Education at the next Board meeting following approval/signature by the Superintendent of Public Instruction.

A new or base contract that is > $100,000.00 for the entire contract period requires Utah State Board of Education review and approval.

An amendment to a base or existing contract that is > $100,000.00 for the remainder of the contract period requires Utah State Board of Education review and approval.

Discretionary Funds:

Discretionary Funds are established after Year End Close activities. The first $650,000.00 of Discretionary Funds is provided to the Superintendent of Public Instruction for use at his/her discretion. Funding of positons or FTEs is not authorized using these dollars.

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Brad C. Smith, State Superintendent of Public Instruction

The Utah State Board of Education is presented the remaining balance for Decision Making Purposes at the September Board Meeting each year. The Utah State Board of Education will establish a spend plan for the remaining balance of Discretionary Funds that is overseen and reported on a monthly basis by the Associate Superintendent of Business and Operations, Utah State Office of Education.

Minimum School Program Funding:

The Budgetary Procedures Act (63J-1-206), "the state superintendent may transfer money appropriated for the Minimum School Program (MSP) between line items of appropriation in accordance with Section 53A-17a-105."

< $100,000.00 of MSP specific funding transfers within a State Fiscal Year are authorized by the State Superintendent of Public Instruction or his/her designee All funding transfers of MSP specific funding authorized by the Superintendent of Public Instruction are reported to the State Board of Education's Finance Committee on a monthly basis.

>$100,000.00 of MSP specific funding transfers within a State Fiscal Year require review and approval by the State Board of Education.

Movement of Funds or Transfer of Funds within USOE Sections:

< $25,000.00 within a State Fiscal Year the USOE Section Director and USOE Internal Accounting Finance Director can authorize.

> $25,000.00 but < $100,000.00 within a State Fiscal Year the Associate Superintendent for Business and Operations can authorize. The Associate Superintendent for Business and Operations will update the Utah State Board of Education when USOE sections exceed the $25,000.00 threshold of aggregate transfers and provide updates of additional transfers.

>$100,000.00 with a State Fiscal Year requires Utah State Board of Education/Finance Committee approval.

Please direct questions to Associate Superintendent Scott Jones at 801-538-7415 or scott.jones@schools.utah.gov

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: State Fiscal Year (SFY) 17 Funding Requests in Addition to the Base Budget (formerly known as Building Blocks)

Background:
In accordance with the Budgetary Procedures Act, USOE sections will prepare requests for funding in addition to the base budget to be considered by the Board for forwarding to the Utah State Legislature for SFY 17. Board members have also been invited to submit requests.

Key Points:
Additional funding requests will be submitted by USOE section directors and Board members using the prescribed format. These requests will be reviewed by the Finance Committee during the August 2015 Board meeting.

The Board's budget request will be submitted to the Governor's Office of Management and Budget (GOMB) by October 14.

Anticipated Action:
The Finance Committee will forward to the Board recommendations for budget priorities for SFY 17.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

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Preliminary FY 2017 Budget Timeline

July – August	• Agencies have informal discussions with the assigned GOMB BRAPA analyst about potential budget change requests • The GOMB BRAPA analyst works with GOMB FOS and OE teams to understand existing internal capacity within individual agencies
August 20	• GOMB opens Fee Prep & Comp Prep • GOMB circulates an example of a model business case and final budget instructions, forms, etc.
Early September	• Budget kick-off meeting with Cabinet-level agencies (date to be determined—possibly during Cabinet meeting or directly afterwards)
September 16	• Fee Prep submissions completed by agencies • Budget Prep opened • GOMB circulates non-lapsing balance data (information provided as a point of reference for agencies to consider as the basis for a potential reallocation of savings back to the Governor or for funding new internal needs)
September 23	• Comp Prep submissions completed by agencies • GOMB invites selected agency budget change requests • Agencies provide GOMB with potential savings for reallocation to the Governor or submit reallocation plans to deal with new internal needs (such plans to be submitted outside the Budget Prep system)
October 1	• GOMB approves reallocation / savings for inclusion in the Budget Prep system • Agencies indicate to GOMB intent to submit any non-invited budget change requests, including brief description of item and amount
October 14	• Budget Prep base budget submissions completed by agencies • Business case funding requests due to GOMB
October 26 – 30	• GOMB community of interest meetings / agencies to formally present budget change requests
October – December	• GOMB evaluates budget change requests and works with Governor to prepare Governor's budget recommendations
Early December	• Governor releases budget

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Proposed Budget Reporting Schedule

Background: USOE will follow a predetermined schedule where USOE sections are scheduled to provide budget updates to the Utah State Board of Education Finance Committee.

Key Points: Section directors are responsible for providing the update to the Finance Committee. Internal Finance or Accounting staff that directly support the section are required to attend as well.

Section directors will provide written answers to the following questions as part of their presentation to the Finance Committee:

1. What programs in your section are mandated by federal code (laws and regs) and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?
2. What programs in your section are mandated by state statute and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?
3. What are the programs in your section mandated by State Board rule and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?
4. What programs in your section are done at the discretion of the section or the USOE superintendents and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?
5. Without respect to whether a program is mandated or not, what items would you cut first if faced with a budget shortfall?
6. What is your "wish list" of things you wish your section could do? (And would you cut things in #5 to be able to do particular things on your wish list?)

The update or report to the Finance Committee from the section director will include the latest Status of Funds (SOF) report in the prescribed format.

Anticipated Action: Approval of the attached Budget Reporting Schedule for SFY 16.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

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Utah STATE OFFICE of Education

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TO: Utah State Board of Education

FROM: Scott Jones, Associate Superintendent for Business and Operations, Utah State Office of Education

THRU: Brad C. Smith, Chief Executive Officer, Utah State Office of Education

DATE: August 7, 2015

SUBJECT: Proposed State Fiscal Year (SFY) 16 Budget Reporting Schedule by USOE Section, USOR and USDB, to the Utah State Board of Education (USBE) Finance Committee

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Effective SFY 16 (1 July 2015) USOE Section Directors, the USOR Finance Director, and the USDB Finance Director will provide budget updates (reports) to the USBE Finance Committee on a pre-determined and Board approved schedule. The entire Board will receive an overall USOE budget update as an on-going information agenda item throughout the SFY.

Month	**Divisions/Agencies**
August 2015	USOE, Child Nutrition Program
September 2015	USBE Internal Audit, USOE Information Technology, USOE School Law, USOE Educational Contracts, USOE ESEA and Special Programs
October 2015	USOR and USDB Quarterly Reports (July-September), USOE Administration (including Discretionary Funds), USOE Instructional Services Teaching and Learning, USOE Special Education
November 2015	Board of Education, USOE Fine Arts POPS, Charter School Board, Assessment and Accountability, USOE Minimum School Program
December 2015	USOE Internal Accounting, USOE School Finance, USOE District Computer Services, USOE Public Policy-Superintendent
January 2016	USDB and USOR Quarterly Reports (October-December), USOE Science, USOE Licensing and UPPAC Fees, USOE Charter School Finance Authority
February 2016	USOE Career and Technology Education, USOE School Finance, Board of Education, School Trust Lands
March 2016	USOE Child Nutrition Program, USOE Grants and Contracts, USOE Educational Equity, USOE ESEA and Special Program

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Brad C. Smith, State Superintendent of Public Instruction

April 2016	Board of Education, USOE Administration (including Discretionary Funds), USDB and USOR Quarterly Reports (January-March), USOE Special Education
May 2016	USOE Minimum School Program, USOE School Finance, USOE District Computer Services, USOE Career and Technology Education, USOE Internal Accounting, USOE Information Technology
June 2016	USBE Internal Auditors, USOE Student Services, USOE Instructional Services Teaching and Learning, USOE Career and Technology Education, School Trust Lands, USOE ESEA and Special Programs

USOE Section Directors and/or USOR/USDB Finance Directors will provide written answers to the following questions as part of their presentation to the Finance Committee:

1. What programs in your section/agency are mandated by federal code (laws and regs) and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?

2. What programs in your section/agency are mandated by state statute and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?

3. What are the programs in your section/agency are mandated by state board rule and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?

4. What programs in your section/agency are done at the discretion of the section or the Superintendents/Executive Directors and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?

5. Without respect to whether a program is mandated or not, what items would you cut first if faced with a budget shortfall?

6. What is your "wish list" of things you wish your section could do? (And would you cut things in #5 to be able to do particular things on your wish list?)

The update or report to the Finance Committee from the USOE Section Director/Finance Director is developed from the BASE system. USOE Section Directors and USOR and USDB Finance Directors are to coordinate with the USOE Internal Accounting Finance Director for budget report format and consistency in reporting prior to your scheduled update. The report

may or may not be inclusive of the prior month depending on when the systems runs/updates take place, the documents are required as, "backups," and when the Finance Committee actually convenes. Therefore, it is essential that USOE Section Directors establish an, "as of date," with USOE Internal Accounting so that all expenditures/encumbrances and budget category amounts reported are consistent. The USOR and USDB Finance Directors provide quarterly budget updates so the as of date is always the last day of the month ending the quarter.

USOE Section Directors and USOR and USDB Finance Directors will present what makes up the numbers in the respective budget categories. For example, the report will show how much is budgeted for salaries and benefits but it will not currently show what the amounts are made up of (i.e. state funds, federal funds, or a combination). Section Directors and Finance Directors are to make sure that the report from Internal Accounting, prior to the update to the Finance Committee, is developed and reviewed with Internal Accounting so as to effectively articulate to the Finance Committee members (again, going with the example of the budget categories Salaries and Benefits) what funds make up the budgeted amounts and who exactly by name and position the money is funding (FTE counts). Section Directors and Finance Directors apply the same approach to the other categories as well. As an additional example, whatever amount is budgeted for in the Purchased Services category Directors must demonstrate what exactly that money is going to pay for. For instance, the specific contracts or services that make up that budgeted amount.

Directors will clearly demonstrate any movement of funds between budget categories from the first report that was used and approved by the Board for the SFY 16 Budget. For example, if the budget the approved showed a budget of $500,000.00 (as an example) in the Salaries category and now shows $750,000 USOE Section Directors/USOR and USDB Finance Directors will present why the change occurred from the original base approved budget to the new amount.

All Directors are subject to receiving additional Requests for Information (RFIs) by Finance Committee members throughout the reporting period (SFY).

Please direct questions to Associate Superintendent Scott Jones at 801-538-7415 or scott.jones@schools.utah.gov

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Loan Recommendations from the Charter School Revolving Account Committee

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Background:
Statute (UCA 53A-1a-522) created a committee to review and make recommendations regarding loans to charter schools. The State Board of Education is charged with approving loans to charter schools specifically to pay for the costs of: (a) planning expenses; (b) constructing or renovating charter school buildings; (c) equipment and supplies; or (d) other start-up or expansion expenses. The Charter School Revolving Account developed the criteria and a loan application process. Loans may be distributed at a maximum of $2,000,000 per fiscal year.

Key Points:
The Charter School Revolving Account Committee recommends revolving loans to nine charter schools totaling $1,927,000. American Academy of Innovation ($217,300), Franklin Discovery Academy ($300,000), St. George Academy ($300,000), Wallace Stegner Academy ($300,000), and Wasatch Waldorf Charter School ($300,000) would receive their loans via a 3-tier distribution with 50 percent distributed 12 months prior to school opening, and 25 percent each distributed 6 months and 3 months prior to school opening, respectively. Freedom Preparatory Academy ($142,300), GreenWood Charter School ($130,000), The Early Light Academy ($75,000), and Vanguard Academy ($164,000) would receive a single distribution.

Anticipated Action:
The Finance Committee will consider approving Charter School Revolving Account Committee's loan recommendation. If approved by the Committee, the Board will consider issuing loans to the schools in the amounts listed above.

Contact: Dr. Marlies Burns, Executive Director, State Charter School Board, 801-538-7817

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

CHARTER SCHOOL REVOLVING LOAN FUND ACCOUNT Utah
State Board of Education

The State Board of Education is charged with approving loans to Charter Schools per Utah Code Annotated §53A-1a-522. Charter schools may use such funds to meet school building construction and renovation needs, and to pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Loans to new charter schools or charter schools with urgent facility needs may be given priority; "new school" means any charter school through the first day of its second year of operation with students, or a satellite school that requires a new location or campus. Schools not fitting this definition of "new" may use funds only for constructing or renovating charter school buildings.

This summary report shall be completed by the Committee and submitted to Bruce Williams, Associate Superintendent, Utah State Office of Education, two weeks prior to the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School American Academy of Innovation

2. Mailing Address 5806 West Copper Stone Dr Phone 801-201-5030

3. City South Jordan County Salt Lake

4. This is a school located in an area: ( ) Rural (X) Urban

5. Chief School Officer: German Lopez Phone 801-201-5030

6. The charter school is located in which school district? Jordan

7. Recommended loan amount? $ 217,800 (Loan Committee and State Charter School Board)

8. Purpose: (see detailed list below)

- Salary and Benefits $52,800
- Professional and Technical Services $48,200
- Property and Equipment $60,100
- Supplies and Materials $56,700

9. Authorized enrollment? 3 6 0

10. Summary description of Committee discussion on school?

The committee was informed the school is requesting the loan for expenses relating to planning expenses (consultants, initial staff), equipment and supplies (furniture, telephones) and curriculum costs (science, math, and language texts).

11. What specific conditions or concerns did the Committee place on the school in order to recommend full approval of this loan?

    The Committee recommended American Academy of Innovation receive the full amount requested in a 3-tier distribution.

12. Please provide a brief summary of other points the Committee would like the Utah State Board of Education to consider in making the decision to approve the loan.

    These funds will be used for salary and benefits, professional and technical services, property and equipment, and supplies and materials.

13. The Revolving Loan Fund Committee Members voted unanimously to recommend the State Charter School Board approve and recommend this charter school loan application. Voting members in attendance for the May 22, 2015 meeting: Gavin Hutchinson (Chair), Sterling Orton, and Phil Dean.

CHARTER SCHOOL REVOLVING LOAN FUND ACCOUNT Utah
State Board of Education

The State Board of Education is charged with approving loans to Charter Schools per Utah Code Annotated §53A-1a-522. Charter schools may use such funds to meet school building construction and renovation needs, and to pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Loans to new charter schools or charter schools with urgent facility needs may be given priority; "new school" means any charter school through the first day of its second year of operation with students, or a satellite school that requires a new location or campus. Schools not fitting this definition of "new" may use funds only for constructing or renovating charter school buildings.

This summary report shall be completed by the Committee and submitted to Bruce Williams, Associate Superintendent, Utah State Office of Education, two weeks prior to the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School Franklin Discovery Academy

2. Mailing Address 115 South 1370 East Phone 801-374-3500

3. City Lindon County Utah

4. This is a school located in an area: ( ) Rural (X) Urban

5. Chief School Officer: Jennifer Price Phone 801-374-3500

6. The charter school is located in which school district? Alpine

7. Recommended loan amount? $ 300,000 (Loan Committee and State Charter School Board)

8. Purpose: (see detailed list below)

- Salary and Benefits $116,520
- Professional and Technical Services $132,000
- Purchased Property Services $15,000
- Supplies and Materials $31,480
- Audit Costs - $5,000

9. Authorized enrollment? 5 0 0

10. Summary description of Committee discussion on school.

The committee was informed the school is requesting the loan to fund start-up year expenses to employ key personnel, purchase office equipment and supplies, develop and deploy their website and marketing plans, purchase curriculum licenses, and contract with a financial program consultant.

11. What specific conditions or concerns did the Committee place on the school in order to recommend full approval of this loan?

    The Committee recommended Franklin Discovery Academy receive the full amount requested in a 3-tier distribution.

12. Please provide a brief summary of other points the Committee would like the Utah State Board of Education to consider in making the decision to approve the loan.

13. The Revolving Loan Fund Committee Members voted unanimously to recommend the State Charter School Board approve and recommend this charter school loan application. Voting members in attendance for the May 22, 2015 meeting: Gavin Hutchinson (Chair), Sterling Orton, and Phil Dean.

CHARTER SCHOOL REVOLVING LOAN FUND ACCOUNT Utah
State Board of Education

The State Board of Education is charged with approving loans to Charter Schools per Utah Code Annotated §53A-1a-522. Charter schools may use such funds to meet school building construction and renovation needs, and to pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Loans to new charter schools or charter schools with urgent facility needs may be given priority; "new school" means any charter school through the first day of its second year of operation with students, or a satellite school that requires a new location or campus. Schools not fitting this definition of "new" may use funds only for constructing or renovating charter school buildings.

This summary report shall be completed by the Committee and submitted to Bruce Williams, Associate Superintendent, Utah State Office of Education, two weeks prior to the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School St. George Academy

2. Mailing Address 1995 Dove Circle Phone 435-625-1799

3. City Santa Clara County Washington

4. This is a school located in an area: ( ) Rural (X) Urban

5. Chief School Officer: Steve Wattles Phone 435-625-1799

6. The charter school is located in which school district? Washington

7. Recommended loan amount? $ 300,000 (Loan Committee and State Charter School Board)

8. Purpose: (see detailed list below)

- Salary and Benefits $88,960
- Professional and Technical Services $37,000
- Property and Equipment $47,500
- Supplies and Materials $126,540

The school's budget is over the $300,000 awarded....not sure where to make the changes. I made a stab at it.

9. Authorized enrollment? 5 5 0

10. Summary description of Committee discussion on school?

The committee was informed the school is requesting the loan for expenses related to planning expenses, constructing or renovating charter school buildings, equipment and supplies, and other

start-up or expansion expenses.

11. What specific conditions or concerns did the Committee place on the school in order to recommend full approval of this loan?

    The Committee recommended St. George Academy receive the full amount requested in a 3-tier distribution.

12. Please provide a brief summary of other points the Committee would like the Utah State Board of Education to consider in making the decision to approve the loan.

13. The Revolving Loan Fund Committee Members voted unanimously to recommend the State Charter School Board approve and recommend this charter school loan application. Voting members in attendance for the July 13, 2015 meeting: Gavin Hutchinson (Chair) and Sterling Orton.

CHARTER SCHOOL REVOLVING LOAN FUND ACCOUNT Utah
State Board of Education

The State Board of Education is charged with approving loans to Charter Schools per Utah Code Annotated §53A-1a-522. Charter schools may use such funds to meet school building construction and renovation needs, and to pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Loans to new charter schools or charter schools with urgent facility needs may be given priority; "new school" means any charter school through the first day of its second year of operation with students, or a satellite school that requires a new location or campus. Schools not fitting this definition of "new" may use funds only for constructing or renovating charter school buildings.

This summary report shall be completed by the Committee and submitted to Bruce Williams, Associate Superintendent, Utah State Office of Education, two weeks prior to the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School Wallace Stegner Academy

2. Mailing Address 342 Edith Avenue Phone 801-884-7950

3. City Salt Lake City County Salt Lake

4. This is a school located in an area: ( ) Rural (X) Urban

5. Chief School Officer: Anthony Sudweeks Phone 801-88407950

6. The charter school is located in which school district? Salt Lake City

7. Recommended loan amount? $ 300,000 (Loan Committee and State Charter School Board)

8. Purpose: (see detailed list below)

- Salary and Benefits $56,000
- Professional and Technical Services $23,800
- Property and Equipment $163,495
- Supplies and Materials $56,705

9. Authorized enrollment? 6 9 0

10. Summary description of Committee discussion on school?

To help with expenses during the school's planning year, as well as initial start-up costs for equipment and materials during the first year of operation.

11. What specific conditions or concerns did the Committee place on the school in order to recommend full approval of this loan?

The Committee recommended Wallace Stegner Academy receive the full amount requested in a 3-tier distribution.

12. Please provide a brief summary of other points the Committee would like the Utah State Board of Education to consider in making the decision to approve the loan.

13. The Revolving Loan Fund Committee Members voted unanimously to recommend the State Charter School Board approve and recommend this charter school loan application. Voting members in attendance for the May 22, 2015 meeting: Gavin Hutchinson (Chair), Sterling Orton, and Phil Dean.

CHARTER SCHOOL REVOLVING LOAN FUND ACCOUNT Utah
State Board of Education

The State Board of Education is charged with approving loans to Charter Schools per Utah Code Annotated §53A-1a-522. Charter schools may use such funds to meet school building construction and renovation needs, and to pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Loans to new charter schools or charter schools with urgent facility needs may be given priority; "new school" means any charter school through the first day of its second year of operation with students, or a satellite school that requires a new location or campus. Schools not fitting this definition of "new" may use funds only for constructing or renovating charter school buildings.

This summary report shall be completed by the Committee and submitted to Bruce Williams, Associate Superintendent, Utah State Office of Education, two weeks prior to the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School Wasatch Waldorf Charter School

2. Mailing Address 1800 East Harrison Avenue Phone 703-853-0987

3. City Salt Lake City County Salt Lake

4. This is a school located in an area: ( ) Rural (X) Urban

5. Chief School Officer: Emily Merchant Phone 703-853-0987

6. The charter school is located in which school district? Granite

7. Recommended loan amount? $ 300,000 (Loan Committee and State Charter School Board)

8. Purpose: (see detailed list below)

- Professional and Technical Services $174,500
- Other Purchased Services $6,000
- Supplies and Materials $9,500
- Property and Equipment $110,000

9. Authorized enrollment? 5 4 0

10. Summary description of Committee discussion on school?

The minutes of the meeting stated the following; however, the budget doesn't' indicate administrators.

The committee was informed the school is requesting funds to support start-up expenses. Specifically, $180,500 in planning expenses (including hiring part-time administrators, legal and auditing services, and professional development and training in Waldorf methods for all in-coming faculty) and $119,000 in equipment and supplies (including curriculum resources, classroom supplies, office supplies, furnishings and fixtures).

11. What specific conditions or concerns did the Committee place on the school in order to recommend full approval of this loan?

    The Committee recommended Wasatch Waldorf Academy receive the full amount requested in a 3-tier distribution.

12. Please provide a brief summary of other points the Committee would like the Utah State Board of Education to consider in making the decision to approve the loan.

13. The Revolving Loan Fund Committee Members voted unanimously to recommend the State Charter School Board approve and recommend this charter school loan application. Voting members in attendance for the May 22, 2015 meeting: Gavin Hutchinson (Chair), Sterling Orton, and Phil Dean.

CHARTER SCHOOL REVOLVING LOAN FUND ACCOUNT Utah
State Board of Education

The State Board of Education is charged with approving loans to Charter Schools per Utah Code Annotated §53A-1a-522. Charter schools may use such funds to meet school building construction and renovation needs, and to pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Loans to new charter schools or charter schools with urgent facility needs may be given priority; "new school" means any charter school through the first day of its second year of operation with students, or a satellite school that requires a new location or campus. Schools not fitting this definition of "new" may use funds only for constructing or renovating charter school buildings.

This summary report shall be completed by the Committee and submitted to Bruce Williams, Associate Superintendent, Utah State Office of Education, two weeks prior to the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School Freedom Preparatory Academy

2. Mailing Address 1190 West 900 North Phone 801-437-3100

3. City Provo County Utah

4. This is a school located in an area: ( ) Rural (X) Urban

5. Chief School Officer: Lynne Herring Phone 801-437-3100

6. The charter school is located in which school district? Provo

7. Recommended loan amount? $ 142,300 (Loan Committee and State Charter School Board)

8. Purpose: (see detailed list below)

   - Supplies and Materials $142,300

9. Authorized enrollment? 1 , 2 2 0

10. Summary description of Committee discussion on school?

    To help purchase their initial curriculum needs at their new Vineyard, Utah elementary school.

11. What specific conditions or concerns did the Committee place on the school in order to recommend full approval of this loan?

    The Committee recommended Freedom Preparatory Academy receive the full amount requested in a single distribution for March 1, 2016 (any time after October 1, 2015).

12. Please provide a brief summary of other points the Committee would like the Utah State Board of Education to consider in making the decision to approve the loan.

The committee recommended full funding for their request for supplies and materials.

13. The Revolving Loan Fund Committee Members voted unanimously to recommend the State Charter School Board approve and recommend this charter school loan application. Voting members in attendance for the May 22, 2105 meeting: Gavin Hutchinson (Chair), Sterling Orton, and Phil Dean.

CHARTER SCHOOL REVOLVING LOAN FUND ACCOUNT Utah
State Board of Education

The State Board of Education is charged with approving loans to Charter Schools per Utah Code Annotated §53A-1a-522. Charter schools may use such funds to meet school building construction and renovation needs, and to pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Loans to new charter schools or charter schools with urgent facility needs may be given priority; "new school" means any charter school through the first day of its second year of operation with students, or a satellite school that requires a new location or campus. Schools not fitting this definition of "new" may use funds only for constructing or renovating charter school buildings.

This summary report shall be completed by the Committee and submitted to Bruce Williams, Associate Superintendent, Utah State Office of Education, two weeks prior to the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School GreenWood Charter School

2. Mailing Address 1920 West 250 North Suite 17 Phone 801-388-3967

3. City Marriott-Slaterville County Weber

4. This is a school located in an area: ( ) Rural (X) Urban

5. Chief School Officer: Jessie Kidd Phone 801-388-3967

6. The charter school is located in which school district? Ogden City

7. Recommended loan amount? $ 130,000 (Loan Committee and State Charter School Board)

8. Purpose: (see detailed list below)

- Purchased Professional and Technical Services - $15,000
- Supplies and Materials - $52,000
- Property and Equipment $63,000

9. Authorized enrollment? 5 3 0

10. Summary description of Committee discussion on school?

    The committee was informed the school is requesting the loan for expenses related to planning expenses, constructing or renovating charter school buildings, equipment and supplies, and other start-up or expansion expenses.

11. What specific conditions or concerns did the Committee place on the school in order to recommend full approval of this loan?

The Committee recommended GreenWood Charter School receive the full amount requested in a single distribution.

12. Please provide a brief summary of other points the Committee would like the Utah State Board of Education to consider in making the decision to approve the loan.

    The committee recommended full funding for their request for purchased professional and technical service, supplies and materials and property and equipment.

13. The Revolving Loan Fund Committee Members voted unanimously to recommend the State Charter School Board approve and recommend this charter school loan application. Voting members in attendance for the May 22, 2015 meeting: Gavin Hutchinson (Chair), Sterling Orton, and Phil Dean.

CHARTER SCHOOL REVOLVING LOAN FUND ACCOUNT Utah
State Board of Education

The State Board of Education is charged with approving loans to Charter Schools per Utah Code Annotated §53A-1a-522. Charter schools may use such funds to meet school building construction and renovation needs, and to pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Loans to new charter schools or charter schools with urgent facility needs may be given priority; "new school" means any charter school through the first day of its second year of operation with students, or a satellite school that requires a new location or campus. Schools not fitting this definition of "new" may use funds only for constructing or renovating charter school buildings.

This summary report shall be completed by the Committee and submitted to Bruce Williams, Associate Superintendent, Utah State Office of Education, two weeks prior to the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School Early Light Academy

2. Mailing Address 11709 South Vadania Dr Phone 801-302-5988

3. City South Jordan County Salt Lake

4. This is a school located in an area: ( ) Rural (X) Urban

5. Chief School Officer: Sydney Young Phone 801-302-5988

6. The charter school is located in which school district? Jordan

7. Recommended loan amount? $75,000 (Loan Committee and State Charter School Board)

8. Purpose: (see detailed list below)

   - Property and Equipment $75,000

9. Authorized enrollment? 1,030

10. Summary description of Committee discussion on school?

    The committee was informed the school is requesting the loan because of an increase in enrollment the school faces several large purchases, including reading and math curriculum, computers for new teachers, computers for student use, and classroom furniture. Also to assist in purchasing mobile computer workstations, one in each building.

11. What specific conditions or concerns did the Committee place on the school in order to recommend full approval of this loan?

The Committee recommended Early Light Academy receive the full amount requested in a single distribution.

12. Please provide a brief summary of other points the Committee would like the Utah State Board of Education to consider in making the decision to approve the loan.

    The committee recommended full funding for their request for property and equipment.

13. The Revolving Loan Fund Committee Members voted unanimously to recommend the State Charter School Board approve and recommend this charter school loan application. Voting members in attendance for the May 22, 2015 meeting: Sterling Orton, and Phil Dean, Gavin Hutchinson (Chair) recused himself from the vote.

CHARTER SCHOOL REVOLVING LOAN FUND ACCOUNT Utah
State Board of Education

The State Board of Education is charged with approving loans to Charter Schools per Utah Code Annotated §53A-1a-522. Charter schools may use such funds to meet school building construction and renovation needs, and to pay for expenses related to the start-up of a new charter school or the expansion of an existing charter school. Loans to new charter schools or charter schools with urgent facility needs may be given priority; "new school" means any charter school through the first day of its second year of operation with students, or a satellite school that requires a new location or campus. Schools not fitting this definition of "new" may use funds only for constructing or renovating charter school buildings.

This summary report shall be completed by the Committee and submitted to Bruce Williams, Associate Superintendent, Utah State Office of Education, two weeks prior to the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School Vanguard Acdemy

2. Mailing Address 4560 Orleans Way Phone 801-512-1515

3. City West Valley City County Salt Lake

4. This is a school located in an area: ( ) Rural (X) Urban

5. Chief School Officer: Suzanne Owen Phone 801-512-1515

6. The charter school is located in which school district? Granite

7. Recommended loan amount? $ 164,000 (Loan Committee and State Charter School Board)

8. Purpose: (see detailed list below)

   - Property and Equipment $138,500

9. Authorized enrollment? 3 0 0

10. Summary description of Committee discussion on school?

    The committee was informed the loan funds were requested to pay for furniture and IT equipment.

11. What specific conditions or concerns did the Committee place on the school in order to recommend full approval of this loan?

    The Committee recommended Vanguard Academy receive the full amount requested in a single distribution.

12. Please provide a brief summary of other points the Committee would like the Utah State Board of Education to consider in making the decision to approve the loan.

The committee recommended full funding for their request for property and equipment.

13. The Revolving Loan Fund Committee Members voted unanimously to recommend the State Charter School Board approve and recommend this charter school loan application. Voting members in attendance for the May 22, 2015 meeting: Gavin Hutchinson (Chair), Sterling Orton, and Phil Dean.

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Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

INFORMATION: Charter School Student Enrollment Variances

Background:
Student enrollment projections are submitted each November to the Governor's office and legislative staff and used in the preparation for the fiscal year appropriations. A potential projected underestimation of 700-1,000 charter school students for FY 2016 has been identified by USOE staff. These variances are due to changes in circumstances at charter schools, projection under- and over-estimations, and increases in student enrollments by the State Charter School Board and an LEA authorizer which occurred after student projections were finalized for the 2016-2017 school year (FY16). Until actual October 1, 2015 headcounts are submitted, the 700-1,000 students are still estimations.

Key Points
In the June 2015 Board meeting, the Board authorized USOE School Finance staff to determine a payment methodology to provide K-12, local replacement, and administrative cost funding in proportion to what the identified charter schools would have received for the first four months of the year without adjusting projections statewide for the following schools: Athenian eAcademy, Hawthorn Academy, Mana Academy, Summit Academy, Syracuse Arts Academy, Terra Academy, Utah International School, and Utah Military Academy.

The School Finance staff will present the payment methodology it determined.

Action:
The Committee will review the payment methodology.

Contact: Scott Jones, Associate Superintendent, 801-538-7514
Natalie Grange, School Finance Director, 801-538-7668

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

Charter Enrollment Variance Funding Methodology

USOE Finance staff determined funding increases for K-12, local replacement, and administrative costs in the table below by identifying the enrollment increase and associated increases in funding based on statutory values. Because School Finance does not have a break out of the projected increases in students by grade, the K-12 WPUs were calculated based on a weighting of 1 for the increased projection amount only. This amount, per the identified programs, was then added to the initial LEA budget for FY2016. The identified LEAs will receive 1/12th of the total budget July-October 2016. After the USOE receives the actual October 1 enrollment counts, the funding formulas will be adjusted based on actual enrollments in November 2015.

FY16			K-12		Local Replacement Funds		Charter Admin	
			$3,092		$1,746		$100	
LEA#	LEA Name	Student Enrollment Increase	Increase enrollment * $3,092	1/12 Monthly Increase	Increase enrollment * $1,746	1/12 Monthly Increase	Increase enrollment * $100	1/12 Monthly Increase
1I	Utah International School	39	120,588	10,049	68,094	5,675	3,900	325
2K	Utah Military Academy	242	748,264	62,355	422,532	35,211	24,200	8,067
4D	Syracuse Arts Academy	76	234,992	19,583	132,696	11,058	7,600	2,533
4I	Mana Academy	175	541,100	45,092	305,550	25,463	17,500	5,833
4K	Athenian eAcademy	97	299,924	24,994	169,362	14,114	9,700	3,233
8F	Hawthorn Academy	111	343,212	28,601	193,806	16,151	11,100	3,700
8J	Terra Academy	97	299,924	24,994	169,362	14,114	9,700	3,233
A4	Summit Academy	150	463,800	38,650	261,900	21,825	15,000	5,000
	Total	987	3,051,804	254,317	1,723,302	143,611	98,700	31,925

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Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

INFORMATION: Correction of Prior Fiscal Year Minimum School Program (MSP) Payments

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Background:
School Finance staff was contacted by two different LEAs over the past three months to assist in resolving prior year funding calculation issues.

Key Points:

1. Ogden School District questioned the voted guarantee amount paid to the district in FY 2014.

2. Grand County School District auditors discovered that the Grand County Treasurer overstated the amount of basic levy taxes collected for 2014.

School Finance staff will present their findings and actions taken.

Anticipated Action:
Information only; no action is anticipated.

Contact: Scott Jones, Associate Superintendent, 801-538-7514
Natalie Grange, School Finance Director, 801-538-7668

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

Correction of Prior Year MSP Payments

Ogden School District's Voted Guarantee Payment from FY2014

Ogden School District (the District) contacted School Finance in March of 2015 inquiring about the voted guarantee amount paid to the District in FY2014. Upon examination of the calculation methodology and data inputs, School Finance has concluded that the calculation methodology for the District appeared incorrect.

The District held a special election to increase their voted local levy property tax rate in June of 2013, and that rate was applied to the 2013 calendar year taxes collected. Statute indicates that rates must be adopted by December of the year prior to implementation in order to be included in the voted guarantee. In order for the new rate to be used in the calculation, it needed to be voted on by December of 2012. Because the vote did not take place until June of 2013, the rate was not effective for the levy guarantee calculation until FY2015. When school finance calculated the value of the guarantee in FY2014, the lower rate was used. However, the higher rate was used in determining the local property tax collections for the voted local levy. Because the lower rate, required by statute, and the higher rate were compared against each other, the State funding allocated to the district was reduced. We believe calculating the state guarantee portion using the lower rate and the District's local proceeds using the higher rate is inaccurate.

Our review of the voted guarantee payments of the District from FY2010 to FY2015 seems to support this conclusion. The State contribution to the District increased from $949,000 in FY2010 to $1.8 million in FY2013, and then was reduced to $239,308 in FY2014 (not including carryover from 2013 which was also included in the total distribution). The District state contribution in FY2015 increased to $1.8 million.

School Finance recalculated the District's voted guarantee payment and noted that the revised calculation indicated that the District should have been paid $1.3 million in FY2014. Based on approval by Associate Superintendent Scott Jones, a payment was issued to the District in the amount of approximately $1.1 million on July 2, 2015 (net the $239,308 that was already paid to the District). This payment was issued from carryover funds in the voted and board guarantee program, which is an allowable use of these funds per statute.

We further examined the remainder of the LEA calculations in this program and did not note any other material anomalies that may need correction.

Grand County Treasurer Error in Basic Revenue Reporting:

While preparing the financial statements for the FY2014 year, the external auditors for Grand County School District (the District) discovered that the Grand County Treasurer overstated the amount of basic levy taxes collected for 2014. Overstatement of local revenue associated with the basic levy resulted in an understatement of state funds sent to the District to pay for the basic program. School Finance verified the external auditor's basic revenue amount with

the Grand County Treasurer and revised the amount of state funding owed to the District from the State for the basic program. This difference resulted in the State owing the District $28,107 for FY2014. After approval from Associate Superintendent Scott Jones, a check was processed for the District on July 21, 2015 in the amount of $28,107. This amount was paid from carryover funds in the 1-12 appropriation, which is an allowable costs. The District had contacted School Finance in 2014 when this error was noted. School Finance staff requested verification from the Treasurer, but the matter was not follow up on until the District contacted School Finance in July 2015.

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

INFORMATION: Report on Cost of Converting Information Technology and Finance Positions from Merit to Career Exempt positions

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Background:
The Information Technology Section claims that high turnover rates are linked to insufficient pay to compete with private industry Information Technology salaries. Career Exempt positions allow for an increase in salaries with the benefit to the employer of increasing the ability to select highly qualified individuals.

Finance Division/Internal Accounting positions are merit positions as well. Conversion of these positions to Career Exempt positions allows for recruiting of more highly qualified individuals and the ability to make changes whenever necessary to promote fiduciary responsibility.

Key Points:
The attached report details the costs of converting current Information Technology and Finance/Internal Accounting positions to Career Exempt positions.

Anticipated Action:
The Committee will receive information on the total cost of conversion.

Contact: Scott Jones, Associate Superintendent, 801-538-751

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

Moving Information Technology Positions to Career Exempt (Analysis)

	Range $20.50-3$35.27		
IT Analyst I	USOE	DTS	Total
Incumbants	3	11	19
Low	$ 4,191.66	$ 3,647.04	$ 3,647.04
High	$ 5,646.30	$ 5,206.08	$ 5,813.34
Mean	$ 4,749.62	$ 4,372.15	$ 4,613.47
		$ (377.47)	$ (440.22)

	Range $24.79-$39.32		
IT Analyst II	USOE	DTS	Total
Incumbants	25	164	191
Low	$ 4,410.90	$ 4,499.64	$ 4,410.90
High	$ 6,227.46	$ 7,779.54	$ 7,779.54
Mean	$ 5,260.72	$ 5,928.82	$ 5,838.35
		$ 668.10	**$ 1,552.08**

	Range $29.17-$46.27		
IT Analyst III	USOE	DTS	Total
Incumbants	8	115	126
Low	$ 5,712.42	$ 5,449.68	$ 5,449.68
High	$ 7,718.64	$ 8,974.92	$ 8,974.92
Mean	$ 6,825.80	$ 6,990.76	$ 7,000.13
		$ 164.96	**$ 1,256.28**

	Range $29.17-$46.27		
IT Mgr I	USOE	DTS	Total
Incumbants	2	15	17
Low	$ 6,855.60	$ 5,489.70	$ 5,489.70
High	$ 7,682.10	$ 8,974.92	$ 8,974.92
Mean	$ 7,268.85	$ 7,373.89	$ 7,361.53
		$ 105.04	**$ 1,292.82**

	Range $31.65-$50.19		
IT Mgr II	USOE	DTS	Total
Incumbants	2	35	37
Low	$ 7,645.56	$ 6,004.74	$ 6,004.74
High	$ 8,324.16	$ 9,474.30	$ 9,474.30
Mean	$ 7,984.86	$ 8,084.98	$ 8,079.57
		$ 100.12	**$ 1,150.14**

	Range $35.27-$55.94		
IT Dir	USOE	DTS	Total
Incumbants	1	14	15
Low	$ 9,206.34	$ 7,111.38	$ 7,111.38
High	$ 9,206.34	$ 10,850.64	$ 10,850.64
Mean	$ 9,206.34	$ 8,836.16	$ 8,841.16
		$ (370.18)	**$ 1,644.30**

	Range $17.89-$26.89		
Tech Support Spec I	USOE	DTS	Total
Incumbants	5	13	20
Low	$ 3,278.16	$ 3,182.46	$ 3,182.46
High	$ 4,268.22	$ 4,668.42	$ 4,668.42
Mean	$ 3,567.00	$ 3,552.41	$ 3,587.79
		$ (14.59)	**$ 400.20**

	Range $23.48-$36.25		
Tech Support Spec II	USOE	DTS	Total
Incumbants	24	121	151
Low	$ 4,085.52	$ 3,112.86	$ 3,112.86
High	$ 6,210.06	$ 6,845.16	$ 6,845.16
Mean	$ 4,627.10	$ 5,073.96	$ 4,996.06
		$ 446.86	**$ 635.10**

	Range $26.89-$39.32		
Tech Support Spec III	USOE	DTS	Total
Incumbants	6	61	69
Low	$ 5,188.68	$ 4,831.98	$ 4,831.98
High	$ 5,929.92	$ 8,734.80	$ 8,734.80
Mean	$ 5,585.11	$ 6,071.83	$ 6,057.32
		$ 486.72	**$ 2,804.88**

Monthly Salaies	*Mean*	$ 1,209.56	***$ 14,514.72***	additional on-going per year
	High	$ 10,295.58	***$ 123,546.96***	additional on-going per year

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

INFORMATION: FY2016 USOE/USOR Indirect Cost Pool Update

Background: The Internal Auditor for the Utah State Board of Education recommended that the Utah State Office of Education change the way the Indirect Cost Rates were calculated in an audit presented to the Audit Committee of the Utah State Board of Education on February 19, 2015. Historically, the Utah State Office of Education calculated the Indirect Cost Rates and entered into an agreement with the U.S. Department of Education using a restricted rate as prescribed by them.

For the 2016 indirect cost plan, USOE Internal Accounting has begun the process of developing one indirect cost pool and rate for the Utah State Office of Education and one for the Utah State Office of Rehabilitation. This is consistent with the recommendation from the Internal Auditor that USOE should use the multiple allocation base method. Initial discussions have begun with the U.S. Department of Education concerning this revision to the FY 16 Indirect Cost Plan.

Key Points: The Indirect Cost Rate Proposal update will be presented to the Finance Committee for discussion during the August Board Meeting.

Anticipated Action: No anticipated action; interim report.

Contact: Scott Jones, Associate Superintendent, 801-538-7514
Janica Gines, Internal Accounting Director, 801-538-7627

UTAH STATE BOARD OF EDUCATION
INDIRECT COST RATE FOR FISCAL YEAR ENDING JUNE 30, 2016 USING FY 2014 INFORMATION

Unrestricted Rate Calculation							Restricted Rate Calculation				
Col 1	Col 2	Col 3	Col 4	Col 5	Col 6	Col 7	Col 8	Col 9	Col 10	Col 11	Col 12
Division	Total Expenditures	Excluded (Capital and Flow-Through)	Unallowable	Indirect	Salary & Benefits	Net Remaining Costs (Col 1-(Cols 2-6))	Total Expenditures (Col 1)	Excluded (Col 2)	Unallowable	Indirect (Col 5)	Direct (Col 8-(Cols 9-11))
Board of Education	2,485,776	325,613			1,052,823	1,107,340	2,485,776	325,613			2,160,163
Business and Operations	1,958,861	367,169			1,505,472	86,220	1,958,861	367,169			1,591,692
Instructional Services	153,767,838	142,232,790			7,376,033	4,159,015	153,767,838	142,232,790			11,535,048
Student Services and Federal Programs	128,885,738	106,108,763			7,442,826	15,334,149	128,885,738	106,108,763			22,776,975
Law, Legislation and Education Services	6,357,993	4,873,445			1,278,260	206,288	6,357,993	4,873,445			1,484,548
Subtotals USOE	**293,456,206**										
Grants and Initiatives	15,434,318	835,254			243,691	14,355,373	15,434,318	835,254			14,599,064
Licensure	1,829,211	184,209			838,892	806,110	1,829,211	184,209			1,645,002
Charter School Board	2,674,201	2,224,130			385,696	64,375	2,674,201	2,224,130			450,071
Child Nutrition Programs	184,106,743	181,671,247			1,580,572	854,924	184,106,743	181,671,247			2,435,496
Commodities	18,247,525	18,247,525			-	-	18,247,525	18,247,525			-
						-	-	-			-
Minimum School Program Basic	1,791,567,185	1,791,567,185			-	-	1,791,567,185	1,791,567,185			-
Minimum School Program Related to Basic	685,453,990	685,453,990			-	-	685,453,990	685,453,990			-
Minimum School Program Voted and Board Leeway	93,679,410	93,679,410			-	-	93,679,410	93,679,410			-
Minimum School Program Capital Outlay	14,499,700	14,499,700			-	-	14,499,700	14,499,700			-
											-
Fine Arts	3,259,117	3,259,117				-	3,259,117	3,259,117			-
Science Outreach	2,600,000	2,600,000				-	2,600,000	2,600,000			-
Educational Contracts	2,961,747	2,961,747				-	2,961,747	2,961,747			-
Subtotal USOE et al.	**3,109,769,353**	**3,051,091,294**	**-**	**-**	**21,704,265**	**36,973,794**	**3,109,769,353**	**3,051,091,294**	**-**	**-**	**58,678,059**
Rehabilitation Services	55,382,759	32,682,972			19,437,811	3,261,976	55,382,759	32,682,972			22,699,787
Disability Determination Services	12,032,268	4,148,562			6,647,243	1,236,463	12,032,268	4,148,562			7,883,706
Service to the Hearing Impaired	2,787,880	84,971			2,137,095	565,814	2,787,880	84,971			2,702,909
Services to the Blind/Visually Impaired	5,838,456	1,105,739			3,655,138	1,077,579	5,838,456	1,105,739			4,732,717
Administration	3,064,767	414,633			2,068,098	582,036	3,064,767	414,633			2,650,134
							-	-			-
Subtotals USOR	**79,106,130**	**38,436,877**	**-**	**-**	**33,945,385**	**6,723,868**	**79,106,130**	**38,436,877**	**-**	**-**	**40,669,253**
State Superintendent	454,615		-	454,615		-	454,615	-	-		454,615
Associate Superintendent	283,936		-	283,936		-	283,936	-	-		283,936
Human Resources (see Note 1)	473,432	-		31,032		442,400	473,432	-		31,032	442,400
Support Services	68,616			68,616		-	68,616	-		68,616	-
Internal Accounting	1,369,482			1,369,482		-	1,369,482	-		1,369,482	-
Internal Computer Services	1,929,187	49,178		1,880,009		-	1,929,187	49,178		1,880,009	-
Public Information	254,989			254,989		-	254,989	-		254,989	-
Print Services	79,066			79,066		-	79,066	-		79,066	-
Subtotals Indirect Costs	**4,913,323**	**49,178**	**-**	**4,421,745**	**-**	**442,400**	**4,913,323**	**49,178**	**-**	**3,683,194**	**1,180,951**
Total Department and Base	**3,193,788,806**	**3,089,577,349**	**-**	**4,421,745**	**55,649,650**	**44,140,062**	**3,193,788,806**	**3,089,577,349**	**-**	**3,683,194**	**100,528,263**
Equipment Depreciation (1,150,740)	176,471			176,471			176,471			176,471	
State Wide Costs (SWCAP)	242,264			242,264			242,264			242,264	
Total Dept/Base-Equipment-SWCAP	3,194,207,541	3,089,577,349	-	4,840,480	55,649,650	44,140,062	3,194,207,541	3,089,577,349	-	4,101,929	100,528,263
Total Allowable Costs	3,194,207,541	3,089,577,349	-	4,840,480	55,649,650	44,140,062	3,194,207,541	3,089,577,349	-	4,101,929	100,528,263
Unrestricted Rate- From Carryforward Worksheet	5.1%										

Restricted Rate Based on all Costs — USOE >>> 19.0% USOR >>> 5.0%

Restricted Rate based on Personnel Costs on MISC Calcs sheet — Not adjusted for Carryforward 10.5%

For the 1 Year Period Ending June 30, 2010, the rates are 10.8% Restricted and 13.4% Unrestricted
For the 1 Year Period Ending June 30, 2011, the rates are 9.3% Restricted and 12.9% Unrestricted
For the 1 Year Period Ending June 30, 2012, the rates are 8.0% Restricted and 12.8% Unrestricted
For the 1 Year Period Ending June 30, 2013, the rates are 9.4% Restricted and 12.3% Unrestricted
For the 1 Year Period Ending June 30, 2014, the rates are 10.1% Restricted and 13.4% Unrestricted
For the 1 Year Period Ending June 30, 2015, the rates are 7.6% Restricted and 13.5% Unrestricted
Note 1-- Human Resources is an ISF now, it is being changed to direct charge most costs with approval from ICG during the FY 15 year so changes have to be reflected with an adjustment for FY 14 data, future years will reflect the adjustments.

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-119 *Discretionary Funds* (Amendment)

Background:
R277-119 is amended to change the number and title of the rule, and provide technical and conforming changes as necessary.

Key Points:
The amendments change the number of the rule from "R277-119" to "R277-120," and the title of the rule from "Discretionary Funds" to "Budgetary Procedures." The amendments also provide minor technical and conforming changes.

Anticipated Action:
It is proposed that the Finance Committee consider approving R277-119, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-119, as amended, on second reading.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

R277. Education, Administration.

R277-[~~119~~]120. [~~Discretionary Funds~~]Budgetary Procedures.

R277-[~~119-2~~]120-1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

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

(b) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities;

(c) Subsection 59-21-2(2)(e), in which the Legislature appropriates 2.25 percent of all deposits made to Mineral Lease Account to the Board for use consistent with Subsection 53C-3-203(4)(b)(iii); and

(d) Subsection 53C-3-203(4)(b)(iii), in which the Legislature appropriates funds for the Board's use.

[~~B.~~](2) The purpose of this rule is to provide for Board review and approval of funds received by the Board for identified purposes.

R277-[~~119-1~~]120-2. Definitions.

[~~A. "Board" means the Utah State Board of Education.~~

~~B.~~]"Board discretionary funds" means:

(1) [~~L~~]land exchange funds[~~ are funds~~] appropriated to the Board from the account described in Section 53C-3-203;

(2) [~~M~~]mineral lease funds[~~ are funds~~] identified in Section 59-21-1 and directed to the Board in Subsection 53A-3-203(4)(b); and

(3) [~~S~~]state carryover funds[~~ are funds~~]:

(a) appropriated by the Legislature[~~,~~];

(b) maintained by the Board[~~,~~]; and

(c) carried over from one fiscal year to the next for discretionary use.

[~~C. "State Superintendent of Public Instruction (Superintendent)" means the executive officer of the Board and serves at the pleasure of the Board.~~]

R277-[~~119-3~~]120-3. Board Review and Use of Discretionary Funds.

[~~A.~~](1) The Superintendent shall present an annual projection of revenues and

expenditures of Board discretionary funds as part of the annual budget proposed to the Board.

[~~B.~~](2) The Superintendent shall submit to the Board for review a quarterly summary of actual versus projected expenditures from Board discretionary funds.

[~~C.~~](3) The Superintendent shall at least annually make a request to the Board for monies from carry-over funds for the Superintendent's sole discretion but may make additional requests.

[~~D.~~](4) The Superintendent may make requests to the Board to expend funds, consistent with purposes identified in state law, from the mineral lease or land exchange accounts.

KEY: State Board of Education, discretionary funds

Date of Enactment or Last Substantive Amendment: [~~May 8, 2014~~]2015

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

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Bylaws Additions for Board Budgeting Procedures

Background:
USOE is progressing towards sound budget practices with Funds Control and Management internal controls in place. Internal audits indicate a lack of written policies and procedures governing budget, funds control, and funds management

Key Points:
Written Board rules and bylaws provide direction to USOE personnel for budget procedures and processes that are essential for fiduciary responsibility and internal controls governing Funds Control and Management that meet the requirements of the Budgetary Procedures and Money Management Act

Anticipated Action:
The Finance Committee will determine what processes or procedures require written Board rules or bylaws.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

INFORMATION: Child Nutrition Programs Section SFY 16 Budget Update

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Background:
USOE will follow a predetermined schedule where USOE sections are scheduled to provide budget updates to the Utah State Board of Education Finance Committee. The first update to the Finance Committee will be by the Child Nutrition Program (CNP) Section.

Key Points:
Section directors are responsible for providing the update to the Finance Committee. Internal Finance or Accounting staff that directly support the section are required to attend as well.

Section directors will provide written answers to specific questions as part of their presentation to the Finance Committee.

Anticipated Action:
This item is informational only. No action is anticipated.

Contact: Kathleen Britton, Child Nutrition Program Director, 801-538-7513
Scott Jones, Associate Superintendent, 801-538-7514

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

Utah STATE OFFICE of Education

Child Nutrition Programs Budget Report
August 2014

1. What programs in your section are mandated by federal code (laws and regs) and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?

   These programs are not mandated by federal code, however, states which sign agreements with the federal government to administer these programs receive funding and are subject to federal regulations. When state matching funds are required in order to operate the federal programs, it is noted below.

   - National School Lunch Program (Seamless Summer Program, After School Snack Program), Title 7 Code of Federal Regulations (CFR) 210 & 7 CFR 245; federal entitlement, state funding (liquor tax) and state match funding; fully funded
   - Special Milk Program, Title 7 CFR 215; federal entitlement; fully funded
   - National School Breakfast Program, 7 CFR 220 & 7 CFR 245; federal entitlement; fully funded
   - Child and Adult Care Food Program (Child Care Centers Program, Family Day Care Home Program, After-school At-Risk Snack Program), 7 CFR 226; federal entitlement; fully funded
   - Summer Food Service Program, 7 CFR 225; federal entitlement; fully funded
   - Fresh Fruit & Vegetable Program, 7 CFR 211; federal block grant; fully funded
   - State Administrative Expense, 7 CFR 235; federal entitlement; state match funding; fully funded
   - The Emergency Food Assistance Program, 7 CFR 251; federal block grant; fully funded
   - Food Distribution Program, 7 CFR 250; federal entitlement; fully funded
   - Grants are offered through the programs listed above to fund specific purposes. Currently, we are administering grants to assist Local Educational Authorities who participate in the National School Lunch Program with equipment replacement and Farm to School funding; federal block grants; fully funded.

2. What programs in your section are mandated by state statute and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?

   These programs are not mandated by state statute, however, state funds are provided for the lunch program through liquor taxes (Utah Code Sections 32B-2-304, liquor tax funding of school lunches & 52A-19-201, control of school lunch revenue) and Administrative Expense matching funds are provided by the legislative appropriation.

3. What are the programs in your section mandated by state board rule and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?

   These programs are not mandated by state board rule, however, there are several board rules which govern program operations. No funding is associated with the board rules.

4. What programs in your section are done at the discretion of the section or the Superintendents and for each program, how is it funded (federal, state, local, indirect or combined funding) and at what level is it funded (unfunded, partially funded, fully funded)?

   Some of the grants we have received are at the discretion of the section director or the Superintendent, competitively applied for, and federally funded.

5. Without respect to whether a program is mandated or not, what items would you cut first if faced with a budget shortfall?

   Competitive grants would be cut first, as they are supplemental to program operation.

6. What is your "wish list" of things you wish your section could do? (And would you cut things in #5 to be able to do particular things on your wish list?)

   State funding for school breakfasts.

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Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Contracting Procedure Review

Background:
A yearly review of contracting procedures is necessary to ensure understanding of the process by new and existing Board members.

Key Points:
Contract or contract amendments above the $100,000 threshold require Board approval. The current process for review and approval involves a one-page summary of the contract that is loaded into the consent calendar. Future iterations of the contract review and approval process are discussed to ensure the best submission and review methodology for not only contracts requiring Board approval but contracts and contract amendments under $100,000 approved by the Superintendent.

Anticipated Action:
The Finance Committee will receive information on current processes and procedures with the potential of a decision on the best methodology for submission, review, and approval for contracts and contract amendments and whether or not the entire contract is reviewable.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

C-3

AMENDMENT #2

UTAH STATE OFFICE OF EDUCATION/UTAH OFFICE OF REHABILITATION

Contract INFORMATION

State No.	146049
Agency No.	5244

Contractor and Address	Utah Statewide Independent Living Council 150 South 600 East, Suite 5C Salt Lake City, UT 84102	Vendor Number	24165D
		Commodity Code	96102000000

Agency Monitor	R. Thomas England	Amount $	173,567.00	From	10/01/2015	To	09/30/2016

Schedule of Payments: Payments will be made by monthly reimbursement

Original amount	$159,653.00
Amendment #1	$180,062.00
Amendment #2	$173,567.00
Total contract amount	$513,282.00

Purpose of Contract:
To provide resources to the Independent Living Program in accordance with Title VII Part B and the State Plan for Independent Living.

Correlation with Board Goals:

		Yes	No
Greater Than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		x
	The proposals were reviewed by an in-agency committee, and the least-Costly and best-performance proposal was selected.	x	
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee, and the least-Costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	x	
	The employment goals of the affirmative action program were followed.	x	
	A conflict of interest involving USOR/USOR staff exists.		x
	The contract uses federal funds.	x	

Agency approval certifies that all parties herein receiving fees, stipends, or other payment in excess of approved travel and per diem reimbursement will revive no remuneration from another state agency, state institution, school district, or other political subdivision (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Project
2480	400	3177	PBC	7512	T625		17772000
	400	3177	PBC	7512	T925		17772000

Division Superintendent or Designee — Date

Accounting — Date

Superintendent/Executive Director or Designee — Date

Upon final approval by State Finance:
- Original: attach to documents
- Duplicate: division accountant
- Triplicate: division/unit
- Quadruplicate: Board agenda

C-3
Aug. 95

UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 5245

Contractor and Address	Evaluation and Training Institute 100 Corporate Pointe, Suite 387 Culver City, CA 90230	Vendor No VC0000144053	
		Commodity Code **91838**	

Agency Monitor Jennifer Throndsen Amount $ 947,760.00 From 08/15/2015 To 12/31/2019

Schedule of Payments: Payment upon final approval of contract

Purpose of Contract:

The purpose of this contract is to provide Independent External Evaluation of the UPSTART Program

Correlation with Board Goals:

		Yes	N
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) RX 400 52000000011	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Proje
2480	400	2805	PAB	6137	T016		8050100

Upon final approval by State Finance:
Original: attach to documents
Duplicate: division accountant
Triplicate: division/unit
Quadruplicate: Board agenda

Division Superintendent or Designee Date

Accounting Date

Prepared by: Noralee Green 538-7784

Superintendent/Executive Director or Designee Date

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Aug. 95

UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 5246

Contractor and Address	Snapp Studios, LLC 595 So. Riverwoods Pkwy, Ste. 100 Logan, Utah 84321	Vendor No VC0000194197 Commodity Code

Agency Monitor Linda Mayne Amount $ 1,237,518.00 From 09/1/2015 To 8/31/2020

Schedule of Payments: Payment upon final approval of contract

Purpose of Contract:

The purpose of this contract is to provide Drivers Education training software.

Correlation with Board Goals:

		Yes	N
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) SS# 16207	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Proje
2480	400	0666	PAH	6137	T016		6660200

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Original: attach to documents
Duplicate: division accountant
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Quadruplicate: Board agenda

Division Superintendent or Designee Date

Accounting Date

Prepared by: Noralee Green 538-7784

Superintendent/Executive Director or Designee Date

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Aug. 95

UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 5247

Contractor and Address	Multiple vendors to be determined based on RFP solicitation BC16001 process that closes July 16th.	Vendor No	
		Commodity Code	

Agency Monitor Joseph Borrack Amount $ 8,000,000.00 From 08/15/2015 To 8/14/2020

Schedule of Payments: Payment upon final approval of contract

Purpose of Contract:

The purpose of this contract is to provide a data analysis component (DAC) for the USOE's chosen diagnostic assessment system f reading for students in kindergarten through grade three.

Correlation with Board Goals:

The Utah Board of Education has adopted Dynamic Indicators of Basic Early Literacy Skills (DIBELS). Senate Bill 263 (2015) requires a DAC generate parent, teacher, school and LEA reports.

		Yes	N
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) BC16001	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Projec
2480	400	2811	PAJ	6137	T016		81101000

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Quadruplicate: Board agenda

Division Superintendent or Designee Date

Accounting Date

Prepared by: Noralee Green 538-7815

Superintendent/Executive Director or Designee Date

C-3
Aug. 95

UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 5248

Contractor and Address	Kimono, LLC Gary Johnson, gjohnson@utah.gov, 877-262-9143 ex 7013 35 West Broadway, Suite 103 Salt Lake City, UT 84101	Vendor No VC00001933 Commodity Code **92045**

Agency Monitor C. Derek Howard Amount $ $850,000 From 9/1/2015 To 9/1/2020

Schedule of Payments:
Yearly payment upon invoice for annual fee plus any optional work completed.

Purpose of Contract:
Student Locator Framework (SIFWorks SLF) and Zone Integration Server (SIFWorks ZIS) software for the Utah Transcript and Record Exch
(UTREx).
SLF and ZIS are separate products and may be individually terminated.

Correlation with Board Goals: To maintain the data submission process required by state legislation and federal requirements.

		Yes	
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) SS15384	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Proje
2480	400	0443	PAN	6137	T016		4431100

Upon final approval by State Finance:
Original: attach to documents
Duplicate: division accountant
Triplicate: division/unit
Quadruplicate: Board agenda

Division Superintendent or Designee Date

Accounting Date

Prepared by: Kellie Tyrrell 801-538-7900

Superintendent/Executive Director or Designee Date

C-3
Aug. 95

UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 3249

Contractor and Address	ESP Solutions Group, Inc. Jim Rife, jrife@espsg.com, 512-879-5355 8627 Mopace Expy, Suite 400 Austin, TX 78759	Vendor No VC00001933 Commodity Code

Agency Monitor C. Derek Howard Amount $ $441,150 From 9/1/2015 To 8/31/2020

Schedule of Payments:
Yearly payment upon invoice for annual fee plus and optional work completed.

Purpose of Contract:
To license the Vertical Reporting Framework (VRF) software for the Utah Transcript and Record Exchange (UTREx).

Correlation with Board Goals:
To maintain reports process required by state legislation and federal requirements.

		Yes	
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) SS15383	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Proje
2480	400	0443	PAN	6137	T016		4431100

Upon final approval by State Finance:
Original: attach to documents
Duplicate: division accountant
Triplicate: division/unit
Quadruplicate: Board agenda

Division Superintendent or Designee Date

Accounting Date

Prepared by: Kellie Tyrrell 801-538-7900

Superintendent/Executive Director or Designee Date

Contracts approved by State Superintendent or USOR Director (less than					
Agency Contract #	**Section**	**Vendor**	**Current Amendment Amount**	**Original plus amendments to date**	**Total Contract Amount**
146144	SARS	Ohio State University	$10,000.00	$20,000.00	$30,000.00

$100,000)	
Expiration Date	**Contract Purpose**
09/30/15	IDEA community school model eval

Contract Number	Vendor Name	Section	Contract Monitor	Contract Begin Date	Contract End Date	Status	Comments
146238	GCS Service Inc. DBA Ecolab Inc	DRS/BEP	Donna Wells	1/2/2014	1/1/2016	maintenance for IRS café equip Amendment #2	BEP notified

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

INFORMATION: Finance Committee Requests for Data/Information

Background:
As an ongoing monthly item for the Finance Committee, an item will be included on the agenda for members of the committee to be able to request staff to provide data or analysis of financial issues under the oversight of the Board.

Key Points:
The Finance Committee will have the opportunity to discuss requests for data and analysis as well as realistic timelines for prioritizing and completing such requests.

Anticipated Action:
The Committee will take action to provide data requests to Associate Superintendent Jones for review in future committee meetings.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

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Law and Licensing Committee
North Board Room

Time for public comment may be provided prior to each item

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ACTION: R277-494 *Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities* (Amendment and Continuation)	Tab 4-BB

Utah State Board of Education
Law and Licensing Committee

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Paraeducator to Teacher Scholarships (PETTS) Program

Background:
The Paraeducator to Teacher Scholarship (PETTS) program is for the purpose of providing funds by the Board directly to a Utah institution of higher education on behalf of the paraeducator to pay only for the actual and documented costs for tuition toward an associate's or a bachelor's degree program to become a licensed teacher.

Key Points:
The rule requires that the committee provide names of scholarship recipients to the Board for review and comment annually. In addition to the required information, the report includes committee membership, financial status, and data regarding received applications and total funded.

Anticipated Action:
It is proposed that the Law and Licensing Committee review and provide comment to the Board's Special Education staff regarding the PETTS Scholarship process and committee decisions.

Contact: Sydnee Dickson, 801-538-7515
Glenna Gallo, 801-538-7757

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Paraeducator to Teacher Scholarship (PETTS)
Utah State Board of Education Report

"The Committee shall provide names of scholarship recipients to the Board for review and comment by August 1, annually." (R277-526-5.D)

"The Paraeducator to Teacher Scholarship (PETTS) is for the purpose of providing funds by the Board directly to a Utah institution of higher education on behalf of the paraeducator to pay only for the actual and documented costs for tuition toward an associate's or a bachelor's degree program to become a licensed teacher." (R277-526-5.E)

This report is for the purpose of notifying the Board of the scholarship recipients for the 2015-2016 school year. Also included in the report are the names of the final selection committee, some of the information gathered on financial status, the application process, and the names of the recipients for the 2015-2016 school year. (See attached.)

The recipients of the scholarship will receive $2,000.00 and have a three year period to spend those dollars. The colleges and universities send an invoice to USOE for tuition and fees, and we reimburse the college or university. The participant's never see the money.

Total from the Legislature 2015	$ 24,500.00
Total from Carryover 2014-15	$ 7,905.00
Total Available 2016 School Year	$ 32,405.00

Total Applications Received	86
Qualified to be Considered	46
Continuing Applications	4
Not Qualified to be Considered	36
2015-16 Paraeducators Receiving Scholarships	**16**

We wish to thank the Board for their help and support with this scholarship selection committee process.

Respectfully,

Utah State Office of Education
Paraeducator to Teacher Scholarship (PETTS)
Education Specialist

PETTS SCHOLARSHIP RECIPIENTS 2015-2016

NEW
CONTINUING

Last Name	First Name	Current Assignment	LEA	College or University
Boulton	**Gina**	Eastlake Elem	Jordan	Salt Lake Community College
Cloyd	**Crystal**	Granite School District	Granite	Salt Lake Community College
Eddy	**Cortney**	Tuacahn High School	Washington	Western Governors University
Eyre	**Becky**	Spectrum Academy	Davis	Weber State University
Gritts	**Tabitha**	Moab Charter	Grand	Utah State University
King	**Abigail**	Lakeview Academy	Alpine	Salt Lake Community College
Larkin	**Abigail**	Horizonte	Salt Lake City	Salt Lake Community College
Leiva	**Valentina**	West Jordan High	Jordan	Salt Lake Community College
Meacham	**Kailey**	Highland Elementary	Alpine	Utah Valley University
Palfreyman	**Aubrey**	American Leadership Acad	Nebo	Utah Valley University
Pearce	**Katrina**	Canyon View Jr. High	Weber	Weber State University
Puga	**Fernando**	Mountain View Elem	Salt Lake City	Salt Lake Community College
Bouwer	**Shaylyn**	Rocky Mountain Jr. High	Weber	Weber State University
Garcia	**Daniel**	Pioneer Elementary	Granite	Salt Lake Community College
Giovannoni	**Melissa**	Canyon Grove Academy	Alpine	Utah Valley University
Smuin	**Lisa**	CEC	Uintah	Utah State University

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Charter Amendment Request from Weilenmann School of Discovery

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Background:
Weilenmann School of Discovery opened in fall 2010 serving 550 students in grades K-8. The school's charter agreement was amended to expand to serving 616 students. Due to changes in Park City School District grade configuration, Weilenmann School of Discovery requests to add 21 students beginning in 2015-2016 bringing the total authorized enrollment to 637. The State Charter School Board has reviewed and approved the amendment to the school's charter agreement and forwards it to the State Board of Education for consideration.

Key Points:
Park City School District made changes to its grade configuration in May 2015, which changed the needs of Weilenmann School of Discovery specific to student enrollment. Board Rule R277-482 requires a charter school to have an enrollment increase approved by the Utah State Board of Education no later than May 1. As such, in addition to the 21 students, Weilenmann School of Discovery requests a waiver from the timeline found in this Rule. The executive summary report is included and additional information submitted by the school can be found at http://schools.utah.gov/charterschools/State-Charter-School-Board/2015-Board-Meetings/July-2015.aspx

Anticipated Action:
The Law and Licensing Committee will consider approving Weilenmann School of Discovery governing board's request as outlined in the amendment documentation and waiving the timeline portion of R277-482. If approved by the Committee, the Board will consider approving the request and waiving the timeline.

Contact: Dr. Marlies Burns, Executive Director, State Charter School Board, 801-538-781

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

AMENDMENT

Utah State Board of Education
Charter School Board Executive Summary Report

The Utah State Charter School Board (SCSB) is charged with authorizing, monitoring, evaluating, and dismissing charters of public schools in Utah. Its work is under the direct supervision of the Utah State Board of Education (USBE) per Utah Code 53A-1a-501.5.

This summary report shall be completed by the SCSB and submitted to Brad C. Smith, State Superintendent of Public Instruction, Utah State Office of Education, two weeks ahead of the regularly scheduled USBE meetings for approval and inclusion in the board's agenda materials. Only that which is in writing, and included in the agenda materials, as ratified for recommendation by the SCSB, shall be considered by the USBE in its final approval process. Attachments, by way of clarification, or elaboration, may be included.

1. Charter School Weilenmann School of Discovery

2. Website www.wsdpc.org

   Board Chair: Douglas Ogilvy Email douglasogilvy@wsdpc.org

   School Administrator: Cynthia Phillips Email cindyphillips@wsdpc.org

3. The Charter school is located in which school district? Park City

4. Requested amendment to charter (summary – full report can be found on State Charter School Board website at http://schools.utah.gov/charterschools/State-Charter-School-Board/2015-Board-Meetings/July-2015.aspx):

   Weilenmann School of Discovery's governing board requests approval to add 21 students beginning in the 2015-2016 school year due to recent changes in Park City School District student grade configuration. This requires a waiver from the timeline in R277-482.

5. Charter school mission and purpose(s):

   The Weilenmann School of Discovery welcomes all students and promotes engaged, active and effective learning that will prepare them for the 21st century by:
   - Hiring and developing Master Teachers who design and enact inquire-based instruction that exceeds core standards;
   - Integrating technologies, media, science, and visual and performing arts into the core curriculum;
   - Utilizing the awe and wonder of nature to enhance the educational experience; and
   - Systematically and rigorously assessing performance of students and teachers with respect to the achievement of these goals.

6. Charter school student demographics (2014-2015 data):

- 580 students in grades K - 8
- 9.1% ethnic/racial minority
- 5.0% students are economically disadvantaged
- 0.3% students are learning English
- 10.2% students with disabilities

Park City School District student demographics (2014-2015 data):

- 4,630 students in grades K – 12
- 22.9% ethnic/racial minority
- 19.3% students are economically disadvantaged
- 7.9% students learning English
- 6.7% students with disabilities

7. What is the position of the local district regarding the amendment request? Who was the contact at the local district? (Attachment of letters, if necessary)

The school submitted the entire amendment request to Superintendent Ember Conley of the Park City School District on June 15, 2015. Todd Hauber, representative from Park City School District, spoke in favor of the request.

8. Please provide a summary of the Utah State Charter School Board discussion pertaining to this amendment request, including points it would like the Utah State Board of Education to consider when making the decision to approve the amendment.

Weilenmann School of Discovery governing board is an active board with a long-term strategic plan. The request, while later in the year than preferred, came after a late change in the Park City School District student grade configuration. The school acted swiftly to respond to the changing educational environment.

9. Votes of the SCSB in approving the charter school application:

(Listing of charter board members' vote)

Robert Enger, DeLaina Tonks Kristin Elinkowski, Bruce Davis Howard Headlee, Tim Beagley	Recommended full approval
Dean Brockbank	Not present for vote

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Utah Statute, Board Rules and Policies in Regard to the Statewide Online Education Program

---

Background: Utah Code 53A-11-102.5 and 53A-15-1202 through 1217, reference language specific to public education students (SEOP, LEA of enrollment, etc.). Beginning July 1, 2013 private and home school students may enroll in the Statewide Online Education Program (SEOP) for up to three credits per year. Public education enrolled students may enroll or increase their enrollment in the SOEP for up to three credits per year. This change resulted in several issues that are not clearly resolved in the statutes. Rules related to the SOEP may also need to be amended in response to H.B. 282 *Online Education Program Amendments*.

Key Points: The statutes referenced above have resulted in unresolved issues related to an LEA or SOEP provider's responsibility to provide special education services related to the program. Additional clarity, policies and/or changes to Board rules need to be considered to resolve issues such as to determine whether the SOEP is a public education program and if a primary LEA of enrollment is necessary for home and private school students to participate in the SOEP.

Anticipated Action: The Law and Licensing Committee will discuss the issues, determine policy clarifications and direct staff to revise Board rules to clarify the issues.

Contact: Angie Stallings, 801-538-7550
Glenna Gallo, 801-538-7757
Natalie Grange, 801-538-7668
Cory Kanth, 801-538-7660

Utah STATE OFFICE of Education

Leadership...Service...Accountability

MEMORANDUM

TO: Members, Utah State Board of Education
Brad C. Smith, Chief Executive Officer

FROM: Angie Stallings, Glenna Gallo, Natalie Grange, and Cory Kanth

DATE: August 6, 2015

ACTION: Policy Direction regarding necessary revisions to R277-726 **"**Statewide Online Education Program"

Utah Code 53A-15-1201 created the Statewide Online Education Program (SOEP) in 2011 to ensure students have access to coursework needed for college and career readiness, in addition to more flexible options, expanded curricular programs, and alternatives that meet their unique learning styles and needs. On July 1, 2013, student eligibility standards (UCA 53A-15-1202) widened to encompass home or private school students. During the 2015 Legislative session, statute was additionally amended to expand the range of Providers to public institutions of higher education. Modification of administrative rule is needed to accommodate expansions in eligible students and eligible Providers, and to address issues related to Special Education, 504 accommodations, the nature of a Primary School of Enrollment, Fee Waivers, and other issues.

Policy Options for the Board's Consideration:

§53A-15-1206(1) requires that Providers are compensated uniformly regardless of ELL or Poverty status, Disability and other factors which might generate additional funding for a student in regular membership. The SOEP funding structure allows a student to access courses outside of their Primary LEA in which they generate membership hours and access additional services including graduation, counseling services, IEP formation/management and dispute resolution. The Primary LEA provides facilities, sports and extracurricular participation, additionally. The student is enrolled *course-wise* in an external Online Course Provider LEA, for purposes of accessing supplemental courses, often in STEM, AP or advanced languages. In most other states having course access programs, Concurrent Enrollment makes up an additional and large component of enrollment. Utah is one of only three states to have both a course access program and a state virtual school (EHS); SOEP courses, unlike EHS courses, are used almost exclusively for purposes of original credit.

§53A-15-1204(2) allows students to earn five of eight credits through SOEP participation, during the 2014-15 school year, and six of eight credits yearly thereafter. Home and Private School students may access these courses, without enrollment in a Primary LEA.

SOEP participation as an Online Course Provider allows interested LEAs to supply curricular and instructional services to students of another LEA, online, under the assumption that the Primary LEA of Enrollment will continue to provide all other services necessary for that student's success. A student's Counselor at the Primary LEA must approve the course enrollment, as well as the student's College and Career Ready Plan more generally. A Provider LEA cannot graduate a student which is not in regular membership without jeopardizing its accreditation status as an online provider with AdvanceEd, and this status allows the Provider to receive authorization to function as an Online Course Provider. An Online Course Provider extends Special Education services to a student enrolling through the SOEP without membership-based funding "add-ons" for Special Education services. 53A-15-1208(3)(j)) requires that, if a student has an Individual Education Plan (IEP) or 504 Accommodations, the Primary LEA of enrollment shall forward the IEP or description of 504 Accommodations to the Online Course Provider, wherein the Online Course Provider then ensures that reasonable accommodations are made.

ISSUES TO BE ADDRESSED IN RULE:

1) Section 504 Accommodations under the Americans with Disabilities Act:

Board Rule states that Provider LEAs shall provide services to students consistent with requirements of Section 504 (R277-726-7(R)(5)).

Staff Recommendations for Inclusion in Board Rule:

It is the recommendation of staff that 504 accommodations for SOEP courses should always be the responsibility of the SOEP Course Provider. Points for the Board to consider:

a) If the student is regularly membered in a Primary LEA, an existing 504 plan may exist, and existing law provides that the Primary LEA is responsible to provide an existing 504 plans to the Online Course Provider within 72 hours of notification of the student's enrollment in SOEP (53A-15-1208(3)(j).
b) If the student is not regularly membered in a Primary LEA, as in the case of Home and Private School students accessing SOEP coursework, such students may request accommodations or a 504 assessment directly through the SOEP Online Course Provider, which will make reasonable accommodations required for the eligible student with a disability to perform essential functions in the online environment, or in the context of that individual course.

Unresolved Issues and Potential Solutions:

None

2) Responsibilities under IDEA and associated funding concerns regarding SOEP students:

SOEP statute and Board Rule may not provide sufficient guidance regarding the responsibility for Free and Appropriate Public Education (FAPE), meaning Special

Education and related services provided in conformity with an Individualized Education Program (IEP) (§300.17). It was the opinion of the Utah State Attorney General's office that all students enrolled in the SOEP are entitled to FAPE, where students have disabilities.

Federal law appears to indicate that it is the responsibility of a school district of residence (or choice, if the student is currently enrolled in the public education system) to evaluate a student, and provide services. As a public agency under the definitions of federal law (§300.33), LEAs are responsible for FAPE to children with disabilities. Federal law requires that students not enrolled in a public LEA are located, identified, and evaluated, including all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA (§300.131). Federal law assigns these "Child Find" responsibilities to each LEA where students are enrolled by their parents in private schools located (§300.131).

Board Rule states that Provider LEAs shall provide services to students consistent with requirements of the IDEA (R277-726-7(R)(5), however Board Rule appears to assume that the student has an existing IEP. It is likely that Home and Private School students may not have an existing IEP, and Special Education services can only be rendered as directed by an existing IEP. Unless Home or Private School students wish to be guided through the process of accessing services by their boundary school or another school within their LEA of Residence, there is not a separate mechanism for funding Special Education services, including formation of an IEP, for students not otherwise regularly membered within the public education system. A funding mechanism may be established through membership at a boundary school, within an LEA of Residence.

Staff Recommendations for Inclusion in Board Rule:

Staff recommends the following for students enrolled in a Primary LEA, and requests policy direction from the Board:

a) The Primary LEA is responsible for IEP services, Child Find, and to ensure that students with disabilities receive FAPE. The Primary LEA will continue to claim Special Education students in their Special Education membership (SCRAM membership).
b) A Home and Private School student may enroll in a boundary school for assistance with accessing Special Education services. The Primary LEA will claim Special Education students in their Special Education membership (SCRAM membership).
c) May Home and Private school students be allowed to waive rights to Special Education services when enrolling in the SOEP? This would require the parent or student to sign a document and return this to the USOE each year a student enrolls in the SOEP program. SOEP Enrollment could not be finalized without this document. If Home and Private school students wish to access Special Education services, these may be accessed through enrollment in a boundary school within their LEA of residence, parallel to all other SOEP students. The student would then

acquire a Primary LEA, which would then be required to provide services, and allowed to claim membership hours and days through the already established process.

d) The Primary LEA shall monitor the SOEP Provider for compliance with the student's IEP, and conduct dispute resolution.

Possible Legislative and Policy Options:

The Board may recommend that the Legislature develop a Special Education services "add on" amount specifically for Home and Private school students enrolling in the SOEP and requesting Special Education services. This add on would be paid to the SOEP Provider LEA and responsibility for FAPE would be assigned to the Provider LEA. Funding sources for this new "add on" come from:

a) The existing ongoing appropriation for Home and Private school students, managed by the USOE, that is currently only used to pay Providers course fees. Existing statute does not name Special Education services as an allowable use, but also does not specifically spell out what allowable uses are. Clarification should be sought from legal counsel to determine if the existing appropriation could be utilized for this purpose. To fully fund both the course fees and a new Special Education services, add on additional funds would need to be appropriated to ensure that services are not reduced to eligible recipients. The amount needed to fully fund the program cannot be determined until the amount of an '"add on" is determined.

b) A new appropriation may be requested to fund the additional Home and Private school add on amount for SOEP student.

3) Responsibilities of IHEs regarding SOEP students:

In the most recent legislative session, HB 282 expanded Providers from LEAs, to public institutions of Higher Education. It appears that Institutions of Higher Education (IHE) are not required to follow federal regulations regarding Special Education (§34 CFR 300.300 (3)(ii)(b)). However, it remains the responsibility of the state to ensure that students in need of services are identified, and a free and appropriate public education is rendered in line with those needs. IHE Providers do not, however, have the (clear) legal mandate, or the expertise to ensure that FAPE is provided.

Staff Recommendations:

Staff recommends the following and requests policy direction:

a) The Primary LEA is responsible for IEP services, Child Find, and to ensure that students with disabilities receive FAPE.

b) If the online course student has an individual education plan (IEP) or 504 Accommodations, the Primary LEA of enrollment shall forward the IEP or description of 504 Accommodations to the Online Course Provider within 72 business hours after the Primary LEA of enrollment receives notice that the Online Course Provider accepted the course credit acknowledgement (53A-15-1208(3)(j)).

c) The Primary LEA will continue to claim Special Education students in their Special Education membership (SCRAM membership).
d) The Primary LEA shall monitor the SOEP Provider for compliance with the student's IEP.

Unresolved Issues and Potential Solutions:

a) It appears that Institutes of Higher Education (IHE) are not required to follow federal regulations regarding Special Education (§34 CFR 300.300 (3)(ii)(b)).
b) Is a Primary LEA or USOE required to ensure that FAPE is extended in all course-specific interactions with K-12 students, regardless of the nature of the Provider as an IHE?
c) Who will be responsible for generalized (non-course-specific) Special Education services including IEP formation and management, and FAPE generally, for Home and Private School students?
d) Is it feasible for Home and Private School students to access to Special Education services without the aid of a Primary LEA?
e) Is it feasible for Home and Private School students to access to Special Education services without the aid of a Primary LEA, under direction of USOE?
f) What funding mechanism is appropriate, or should be developed, to cover costs of IEP services provided for Home and Private School students, or those using IHE Providers, if students are not required to enroll with their boundary school within an LEA of residence?
g) If students are not required to enroll with their boundary school within an LEA of residence, who should pay the costs for services required to be provided for Home and Private School students?
h) Capacity of IHEs to offer Special Education services, as noted above.
i) IHE's are not accredited and as such cannot award graduation credit. What policies surround this issue to ensure students are awarded credit that will be accepted for purposes of high school graduation?

4) Definition of Primary School of Enrollment in Rule:

During the 2015-16 school year, students are able to take up to five of eight credits (with eight credits being considered to be full-time enrollment), through the Statewide Online Education Program. During the 2016-17 school year and thereafter, students will be able to take up to six of eight credits online, outside of their Primary school of enrollment. This provision of law is in conflict with language in R277-726-1(M) and R277-419-1(X) defining "Primary School of enrollment" and "School of enrollment," respectively, as that school where a student takes a "majority" of their classes.

Neither rule nor statute clarifies Primary LEA responsibility for students during periods of enrollment in SOEP online courses, which may be for a minority or a majority of a student's credit hours. A Primary LEA retains funding for centralized services. It is requested that the Board will clarify which services this will include. It is suggested that access to facilities, counseling and graduation, extracurricular, co-curricular and sports activities are considered.

Staff Recommendations:

It is suggested that Primary school of enrollment, for purposes of R277-726, is defined as "a student's school of record, and the school that maintains the student's cumulative file, enrollment information and transcript for purposes of high school graduation." It is suggested that it is noted in Board Rule that the Primary LEA, and specifically the Primary School of Enrollment within that LEA where the student is in regular membership, remains responsible for centralized services including graduation, counseling, and access to facilities, sports, extra-curricular and co-curricular activities, and determination of fee waiver eligibility, regardless of the number of courses taken externally. Statute defines Primary LEA, in the context of SOEP participation, as "the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program" (53A-15-1202(5)).

Unresolved Issues and Potential Solutions:

Policy clarification in this area is necessary.

5) Fee Waiver-Eligible Materials

Online coursework may be interpreted to require a computer and internet access in order to allow a student "to participate fully and to have the opportunity to acquire all skills and knowledge required for full credit and highest grades" (R277-407-3)**,** in which case these materials would be subject to fee waiver provisions.

Staff Recommendations:

Policy clarification in this area is necessary.

6) Concurrent Enrollment

State Concurrent Enrollment (CE) Program defined in Utah Code Sections 53A-15-101 and 53A-17a-120.5, is distinct from the Statewide Online Education Program (SOEP) defined in Section 53A-15-1201 et seq. Section 53A-15-1206 provides for supplemental funding for online courses and ensures that a USHE institution may charge a concurrent enrollment student no more than $10-$15 per credit hour for the concurrent enrollment course for which the student receives college credit, while a USHE institution may charge a concurrent enrollment student who qualifies for free or reduced school lunch partial tuition of no more than $5 per credit hour for each concurrent enrollment course for which the student receives college credit. Concurrent courses taught through the Statewide Online Education Program are not subsumed within these provisions, and tuition and fees charged to students are not similarly limited because there is no definition or qualifier that links the generic "concurrent enrollment" in Section 53A-15-1206 to the more specific and statutorily-defined CE in Sections 53A-15-102 and 53A-17a-120.5. This has resulted in a lack of equity for students enrolling in concurrent coursework through SOEP. Students are required to pay regular tuition to higher education entities not required when students enroll through their Primary LEA.

Unresolved Issues and Potential Solutions:

Policy clarification in this area is necessary.

7) Procedure for Home and Private school appropriation

As the number of Home and Private school students participating in the SOEP program continues to increase, and the number of courses students can enroll in continues to increase, Staff requests policy direction in the event current year appropriations and prior year carryover are not sufficient to pay current year course fees. Options include:

a) Institute a priority or lottery system when the appropriation reaches a certain "level".
b) Enroll all students who qualify and ask for supplementation appropriations (although this could result in violation of the budgetary management law).
c) Limit the number of students or courses that can be obligated each school year to manage the appropriation.

Staff Recommendations:

Policy clarification in this area is necessary.

Anticipated Action:

The Law and Licensing Committee will provide policy direction and request staff begin drafting modifications and additions to R277-726.

UTAH STATE BOARD OF EDUCATION

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-477 *Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program* (Repeal/Reenact)

Background:
R277-477 governs the School Children's Trust Section and the School LAND Trust Program. The rule was updated and considered by the Board in June. The rule needs further revision to amend the distribution formula for School LAND Trust Program money for charter schools and to add wireless routers to the approved expenditures list, consistent with the statutory requirement that School LAND Trust Program funds "have a direct impact on the instruction of students and result in measurable increased student performance." Utah Code Ann. § 53A-16-101.5(5)(a).

Additionally, members of the education community have requested that the Board add computer servers and physical education equipment to the list of approved expenditures. Staff recommendation is to decline to add those items to the list of approved expenditures.

Key Points:
The revisions add to the list of approved expenditures.

Anticipated Action:
It is proposed that the Law and Licensing Committee consider repeal/reenact of R277-477 on second reading, and if approved by the Committee, the Board consider repeal/reenact of R277-477, as amended, on third and final reading.

Contact: Angie Stallings , 801-538-7550
Tim Donaldson, 801-538-7709
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R277. Education, Administration.

[~~**R277-477. Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program.**~~

~~**R277-477-1. Definitions.**~~

~~A. "Approving Entity" means the school district, University, or other legally authorized entity that approves or rejects plans for a district or charter school.~~

~~B. "Board" means the Utah State Board of Education. The Board is the primary beneficiary representative and advocate for beneficiaries of the School Trust corpus and the School LAND Trust Program.~~

~~C. "Chartering Entity" means the school district, Board, university, or other entity authorized to charter a charter school.~~

~~D. "Charter trust land council" means a council comprised of a two person majority of elected parents or guardians of students attending the charter school and may include other members, as determined by the board of the charter school. The governing board of a charter school may serve as a charter trust land council if the board membership includes at least two more parents or guardians of students currently enrolled at the school than all other members combined consistent with Section 53A-16-101.5. If not, the board of the charter school shall develop a school policy governing the election of a charter trust land council. R277-491 does not apply to charter trust land councils.~~

~~E. "Councils" means school community councils and charter trust lands councils.~~

~~F. "Fall enrollment report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report from the previous year.~~

~~G. "Funds" means interest and dividend income as defined under Section 53A-16-101.5(2).~~

~~H. "Interest and Dividends Account" means a restricted account within the Uniform School Fund created under Section 53A-16-101 established to collect interest and dividends from the permanent State School Fund until the end of the fiscal year. The USOE distributes funds to school districts, charter schools and the USDB through the School LAND Trust Program at the beginning of the next fiscal year.~~

~~I. "Local board of education" means the locally-elected board designated in Section 53A-3-101 that makes decisions and directs the actions of local school districts, and which approves School LAND Trust plans for schools under the local board's authority.~~

~~J. "Most critical academic needs" for purposes of this rule means academic needs identified in an individual school's improvement plan developed consistent with Section 53A-1a-108.5 or identified in the school charter.~~

~~K. "Principal" means an administrator licensed as a principal in the state of Utah and employed in that capacity at a school. For the purposes of this rule, "principal" includes the director of a charter school. "Principal" also includes a specific designee of the principal.~~

~~L. "School Children's Trust Director" means the Director appointed by the Board under Section 53A-16-101.6 to assist the Board in fulfilling its duties as primary beneficiary representative for trust lands and funds.~~

~~M. "School community council" means the council organized at each school district public school as established in Section 53A-1a-108 and R277-491. The council includes the principal, school employee members and parent members. There shall be at least a two parent member majority.~~

~~N. "State Charter School Board (SCSB)" means the board designated under Section~~

~~53A-1a-501.5 that has responsibility for making recommendations regarding the welfare of charter schools to the Board.~~

~~O. "State Superintendent of Public Instruction (Superintendent)" means the individual appointed by the Board as provided for in Section 53A-1-301(1) to administer all programs assigned to the Board in accordance with the policies and the standards established by the Board.~~

~~P. "Student" means a child in public school grades kindergarten through twelve counted on the audited October 1 Fall Enrollment Report of the school district, charter school, or USDB.~~

~~Q. "USDB" means the Utah Schools for the Deaf and the Blind.~~

~~R. "USOE" means the Utah State Office of Education.~~

~~R277-477-2. Authority and Purpose.~~

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which places general control and supervision of the public school system under the Board, by Section 53A-16-101.5(3)(c) which allows the Board to adopt rules regarding the time and manner in which the student count shall be made for allocation of school trust land funds, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to:~~

~~(1) provide financial resources to public schools to enhance or improve student academic achievement and implement an academic component of the school improvement plan;~~

~~(2) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school;~~

~~(3) provide direction in the distribution from the Interest and Dividends Account created in Section 53A-16-101 and funded in Section 53A-16-101.5(2);~~

~~(4) provide for appropriate and adequate oversight of the expenditure and use of School LAND Trust monies by designated local boards of education, chartering entities, and the Board;~~

~~(5) provide for:~~

~~(a) appropriate and timely distribution of School LAND Trust funds;~~

~~(b) accountability of councils for notice to school community members and appropriate use of funds;~~

~~(c) independent oversight of the agencies managing school trust lands and the permanent State School Fund to ensure those trust assets are managed prudently, profitably, and in the best interest of the beneficiaries;~~

~~(d) representation, advocacy, and information on school trust lands and permanent State School Fund issues to all interested parties including: the School and Institutional Trust Lands Administration, the School and Institutional Trust Lands Board of Trustees, the School and Institutional Trust Fund Office, the School and Institutional Trust Fund Board of Trustees, the Legislature, the Utah Attorney General's office, school community councils, and the general public;~~

~~(e) compliance by councils with requirements in statute and Board rule; and~~

~~(f) allocation of the monies as provided in Section 53A-16-101.5(3)(c) based on student count.~~

~~(6) define the roles, duties, and responsibilities of the School Children's Trust~~

~~Director within the USOE.~~

~~R277-477-3. Distribution of Funds - Local Board or Local Charter Board Approval of School LAND Trust Plans.~~

~~A. All public schools receiving School LAND Trust Program funds shall have a council as required by Sections 53A-1a-108 and R277-491, a charter school trust lands council as required in 53A-16-101.5(7), or have a local board approved exemption under R277-491-3E. District public schools and charter schools shall submit a Principal Assurance Form, as described in R277-491-5A.~~

~~B. All charter schools that elect to receive School LAND Trust funds shall have a charter trust lands council, develop an academic plan in accordance with the school charter, and report the date when the charter trust lands council and charter board approved the plan. The principal for each charter school that elects to receive School LAND Trust funds shall submit a plan on the School LAND Trust Program website no later than May 1; newly opening charter schools shall submit plans on the School LAND Trust Program website no later than October 1 in the school's first year.~~

~~C. An approving entity shall consider plans annually and may approve or disapprove a school plan. If the approving entity does not approve a plan, the approving entity shall provide a written explanation explaining why the plan was not approved and request that the school revise the plan, consistent with Section 53A-16-101.5.~~

~~D. The principal for each public school shall provide information on each school's plan to address most critical academic needs and complete the USOE-provided form via the School LAND Trust website.~~

~~(1) Along with each plan, the principal shall submit a record of the vote by the school community council or charter trust land council approving the school plan.~~

~~(2) The approval shall include the date of the vote, votes for, against, and absent, consistent with Section 53A-16-101.5.~~

~~E. To facilitate schools' submission of information, each local board of education shall establish a school district submission date for the school district schools not later than May 1 of each year. Timelines shall allow for school community council reconsideration and amendment of the school plans if the approving entity rejects a plan.~~

~~F. The USOE shall only distribute funds to schools with plans approved by the approving entity.~~

~~G. Approving entity responsibilities:~~

~~(1) Principals shall show at least one of the training DVDs available on the School LAND Trust website in at least one school faculty meeting annually. In the same meeting, the principal shall explain how the school is spending its School LAND Trust funds.~~

~~(2) Prior to approval of school plans, the approving entity shall ensure that plans include academic goals, specific steps to meet those goals, measurements to assess improvement and specific expenditures focused on student academic improvement.~~

~~(3) The USOE shall not distribute funds until a school has an approved plan to use funds to enhance or improve a school's academic excellence consistent with Section 53A-16-101.5 and R277-477.~~

~~(4) The School Children's Trust Director shall review and approve all charter school plans on behalf of the SCSB. The School Children's Trust Director shall also provide notice as necessary to the SCSB of changes required of charter schools for compliance with state law and Board rule.~~

~~**R277-477-4. Appropriate Use of School LAND Trust Program Funds.**~~

~~A. Examples of successful plans using School LAND Trust Program monies include programs focused on:~~

~~(1) credit recovery courses and programs;~~

~~(2) study skills classes;~~

~~(3) college entrance exam preparation classes;~~

~~(4) academic field trips;~~

~~(5) classroom equipment and materials such as flashcards, math manipulatives, calculators, microscopes, maps or books;~~

~~(6) teachers, teacher aides, and student tutors;~~

~~(7) professional development directly tied to school academic goals;~~

~~(8) student focused educational technology, including hardware and software, computer carts and work stations;~~

~~(9) books, textbooks, workbooks, library books, bookcases, and audio-visual materials;~~

~~(10) student planners; and~~

~~(11) nominal student incentives that are academic in nature or of marginal total cost.~~

~~B. Examples of plans ineligible for School LAND Trust Program funding include:~~

~~(1) security;~~

~~(2) phone, cell phone, electric, and other utility costs;~~

~~(3) sports and playground equipment;~~

~~(4) athletic or intermural programs;~~

~~(5) extra-curricular non-academic expenditures;~~

~~(6) audio-visual systems in non-classroom locations;~~

~~(7) non-academic field trips;~~

~~(8) food and drink for council meetings or parent nights;~~

~~(9) printing and mailing costs for notices to parents;~~

~~(10) accreditation, administrative, clerical, or secretarial costs;~~

~~(11) cash or cash equivalent incentives for students;~~

~~(12) other furniture;~~

~~(13) staff bonuses; and~~

~~(14) similar non-instructional items or programs.~~

~~C. Each school plan may budget and spend no more than the lesser of $5,000 or 20 percent of the annual allocation of School LAND Trust funds for in-school civic and character education including student leadership skills training and positive behavior intervention. A school may designate funds for these programs/activities only if the plan clearly describes how these activities/programs directly affect student academic achievement.~~

~~D. Schools that are specifically designated to serve students with disabilities may use funds as needed to directly influence and improve student performance according to the students' Individual Education Plans (IEPs).~~

~~E. The school trust is intended to benefit all of Utah's school children. The Board encourages councils to design and implement plans in a way that benefits all children at each school.~~

~~F. School districts and charter schools choosing to submit information to the School LAND Trust website through a comprehensive electronic plan shall satisfy standards for programming and data entry required by the USOE. They shall review School LAND Trust~~

~~plans on the USOE website prior to local board of education or chartering entity approval to ensure information consistent with the law has been downloaded by individual schools into the electronic plan visible on the School LAND Trust Program website.~~

~~G. Principals shall ensure that all council members have the opportunity to sign the form indicating their involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year. A principal shall upload the form to the database.~~

~~H. Prior to approval of the School LAND Trust plans, the president or chair of an approving entity shall ensure that the members of the approving entity receive annual training on the requirements of Section 53A-16-101.5.~~

~~I. When approving school plans on the School LAND Trust Program website, the approving entity shall report the meeting date(s) when the approving entity approved the plans.~~

~~R277-477-5. Distribution of Funds - Determination of Proportionate Share.~~

~~A. A designated amount appropriated by the Legislature from the Interest and Dividends Account shall fund the School Children's Trust Section, the administration of the program and other duties outlined in this rule and Sections 53A-16-101.5 and 53A-16-101.6. The USOE shall deposit any unused balance initially allocated for School LAND Trust Program administration in the Interest and Dividends Account for future distribution to schools through the School LAND Trust Program.~~

~~B. The USOE, through the School LAND Trust Program, shall distribute funds to school districts and charter schools as provided under Section 53A-16-101.5(3)(a). The USOE shall base the distribution on the state's total fall enrollment as reflected in the audited October 1 Fall Enrollment Report from the previous school year.~~

~~C. Each school district shall distribute funds received under R277-477-3A to each school within each school district on an equal per student basis.~~

~~D. Local boards of education shall adjust distributions, maintaining an equal per student distribution within a school district, for school openings and closures and for boundary changes occurring after the audited October 1 Fall Enrollment Report of the prior year.~~

~~E. The USOE shall fund charter schools on a per pupil basis, provided that each charter school, including newly opening charter schools, receives at least 0.4 percent of the total available to charter schools as a group. A newly opening charter school shall receive the greater of 0.4 percent of the total available to charter schools as a group or the per pupil amount based on the school's estimated enrollment. The USOE shall allocate the remainder of the distribution to charter schools on a per pupil basis to all charter schools that receive an amount greater than the base 0.4 percent amount. The USOE shall increase or decrease a newly opening charter school's enrollment in the school's second year to reflect the school's actual initial October 1 enrollment.~~

~~F. If a school chooses not to apply for School LAND Trust Program funds or does not meet the requirements for receiving funds, the USOE shall retain the funds allocated for that school and include those funds in the statewide distribution for the following school year.~~

~~G. Local boards of education and school districts shall ensure timely notification to chairs and principals of the availability of the funds to schools with approved plans.~~

~~H. The School Children's Trust Director shall review and approve all plans submitted~~

~~by the USDB governing board as necessary.~~

~~R277-477-6. School LAND Trust Program: Implementation of Plans and Required Reporting.~~

~~A. Schools shall make full good faith efforts to implement plans as approved.~~

~~B. The school community council or charter school trust land council may amend a current year plan when necessary. The council shall amend the plan by a majority vote of a quorum of the council. The principal shall amend the school plan on the School LAND Trust website. The approving entity shall consider the amendment for approval, and approve amendments before funds are spent according to the amendment.~~

~~C. A school may carryover funds not used in the school approved plan to the next school year and add those funds to the School LAND Trust Program funds available for expenditure in the school the following year.~~

~~D. Schools shall provide an explanation for any carry over that exceeds one-tenth of the school's allocation in a single year in the school plan or report. The USOE shall consider districts and schools with consistently large carryover balances over multiple years as not making adequate and appropriate progress on their approved plans. The USOE may direct compliance reviews and corrective action.~~

~~E. Approval of school plans on the School LAND Trust website affirms that the approving entity has reviewed the plans and that the plans meet the requirements of Section 53A-1a-105 and R277-477.~~

~~F. District and charter school business officials shall enter prior year audited expenditures by category on the School LAND Trust website on or before October 15th. The expenditure data shall appear in the final reports submitted online by principals for reporting to parents as required in Section 53A-1a-108.~~

~~G. Principals shall submit final reports on the School LAND Trust website by October 20 annually.~~

~~R277-477-7. School LAND Trust Program - School Children's Trust to Review Compliance.~~

~~A. The School Children's Trust Section staff shall review each school final report for consistency with the approved school plan.~~

~~B. The School Children's Trust Section staff shall create a list of all schools whose final reports indicate that funds from the School LAND Trust Program were expended inconsistent with the requirements and academic intent of the law, inconsistent with R277-477 or R277-491, or inconsistent with the local board of education/charter board approved plan. The School Children's Trust Section staff shall report this list of schools to the district contact, district superintendent, and local board of education or charter board president annually.~~

~~C. USOE staff may visit schools receiving funds from the School LAND Trust Program to discuss the program, receive information and suggestions, provide training, and answer questions.~~

~~D. The School Children's Trust Director shall supervise annual compliance reviews to review expenditure of funds relative to the approved plan and allowable expenses.~~

~~E. The School Children's Trust Director shall report annually to the Board Audit Committee on compliance review findings and other compliance issues. The Board Audit Committee shall make determinations regarding questioned costs and corrective action,~~

~~following review and consideration of compliance and financial reviews conducted by the School Children's Trust Section staff.~~

~~F. The Board Audit Committee may recommend to the Board that the Board reduce or eliminate funds if a school fails to comply with Utah law or Board rule. The Board may require that the school reimburse the School LAND Trust Program for any inappropriate expenditures.~~

~~R277-477-8. School Children's Trust Director - Other Provisions.~~

~~A. The Director shall have professional qualifications and expertise in the areas generating revenue to the trust, including economics, energy development, finance, investments, public education, real estate, renewable resources, risk management, and trust law, as provided in 53A-16-101.6(3)(b).~~

~~B. The Director shall report to the Board Audit Committee monthly. The Director shall report day to day to the Superintendent or Superintendent's designee and has responsibilities as outlined in Sections 53A-16-101.5 and 53A-16-101.6.~~

~~C. The employees of the section report to the Director, who shall carry out the policy direction of the Board under law and faithfully adhere to the Board-approved budget.~~

~~D. The School Children's Trust Director shall submit a draft section budget to the Board Audit Committee annually, consistent with Section 53A-16-101.6(5)(a).~~

~~E. The School Children's Trust Director shall include in the draft budget a proposed School LAND Trust Program and school community council training schedule, as described in Section 53A-16-101.6(11).~~

~~F. The Board Audit Committee may discuss or approve, or both, the School Children's Trust budget in an open portion of the Board Audit Committee meeting.~~

~~G. The Board, consistent with Section 53A-16-101.6(5)(b), shall propose an approved budget to the Legislature.~~]

R277-477. Distributions of Funds from the Interest and Dividends Account and Administration of the School LAND Trust Program.

R277-477-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which places general control and supervision of the public school system under the Board;

(b) Subsection 53A-16-101.5(4), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and

(c) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

(2) The Board is the primary beneficiary representative and advocate for the beneficiaries of the School Trust corpus and the School LAND Trust Program.

(3) The purpose of this rule is to:

(a) provide financial resources to a public school to implement a component of a school's improvement plan or charter document in order to enhance and improve student academic achievement;

(b) provide a means to involve a parent of a school’s student in decision-making regarding the expenditure of School LAND Trust Program funds allocated to the school;

(c) provide direction in the distribution of funds from the Interest and Dividends Account, as funded in Subsection 53A-16-101.5(3);

(d) provide for appropriate and adequate oversight of the expenditure and use of funds by a designated local board of education, an approving entity, and the Board;

(e) provide for proper allocation of funds as stated in Subsections 53A-16-101.5(3) and (4), and the appropriate and timely distribution of the funds;

(f) enforce compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and

(g) define the roles, duties, and responsibilities of the School Children's Trust Director within the USOE.

R277-477-2. Definitions.

(1) “Approving entity” means an LEA governing board, university, or other legally authorized entity that may approve or reject a plan for a district or charter school.

(2)(a) “Charter trust land council” means a council comprised of a two person majority of elected parents of students attending the charter school convened to act in lieu of the school community council for the charter school.

(b) “Charter trust land council” includes a charter school governing board if:

(i) the council meets the two-parent majority requirement; and

(ii) the charter school governing board chooses to serve as the charter trust land council.

(3) “Council” means a school community council or a charter trust land council.

(4) “Digital citizenship” means the same as that term is defined in Section 53A-1a-108.

(5) “Fall enrollment report” means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report of the previous year.

(6) “Funds” means interest and dividends income as defined in Subsection 53A-16-101.5(3).

(7) “Interest and Dividends Account” means the restricted account within the Uniform School Fund created under Subsection 53A-16-101(2).

(8) “Most critical academic need” means an academic need identified in a school's improvement plan or school’s charter.

(9)(a) “Principal” means an administrator licensed as a principal in the state and employed in that capacity at a school.

(b) “Principal” includes the director of a charter school.

(10) “School Children's Trust Director” means the Director appointed by the Board under Section 53A-16-101.6.

(11) “Student” means a child in public school grades kindergarten through 12 counted on the fall enrollment report of a school district, charter school, or USDB.

R277-477-3. Distribution of Funds - Local Board or Local Charter Board Approval of School LAND Trust Plans.

(1) A public school receiving School LAND Trust Program funds shall have:

(a) a school community council as required by Section 53A-1a-108 and Rule R277-491;

(b) a charter school trust land council as required by Subsection 53A-16-101.5(9); or

(c) an approved exemption under this rule.

(2) A public school receiving School LAND Trust Program funds shall submit a principal assurance form, as described in Section R277-491-5 and Subsection 53A-16-101.5(5)(c), prior to the public school receiving a distribution of School LAND Trust Program funds.

(3) A charter school that elects to receive School LAND Trust funds shall:

(a) have a charter trust land council;

(b) be subject to Section 53A-1a-108.1 if the charter trust land council is not a charter school governing board; and

(c) receive training about Section 53A-1a-108.1.

(4) A charter school that is a small or special school may receive an exemption from the charter land trust council composition requirements contained in Subsection 53A-16-101.5(9) upon application to the State Charter School Board if the small or special school demonstrates and documents a good faith effort to recruit members to the charter trust land council.

(5) The principal of a charter school that elects to receive School LAND Trust funds shall submit a plan to the School Children's Trust Section on the School LAND Trust website:

(a) no later than April 1; or

(b) for a newly opening charter school, no later than November 1 in the school's first year in order to receive funding in the year the newly opening charter school opens.

(6)(a) An approving entity:

(i) shall consider a plan annually; and

(ii) may approve or disapprove a school plan.

(b) If an approving entity does not approve a plan, the approving entity shall:

(i) provide a written explanation why the approving entity did not approve the plan; and

(ii) request that the school revise the plan, consistent with Section 53A-16-101.5.

(7)(a) To receive funds, the principal of a public school shall submit a School LAND Trust plan annually through the USOE-provided website using the form provided.

(b) The Board may grant an exemption from a school using the USOE-provided form, described in Subsection (7)(a), on a case-by-case basis.

(8) In addition to the requirements of Subsection (6), the School LAND Trust plan described in Subsection (7)(a) shall include the date the council voted to approve the plan.

(9)(a) A council member shall have the opportunity to provide a digital signature indicating the member's involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year.

(b) Entering the council member's name and email address into the Council Membership and Signature Form page on the School LAND Trust website and using that system to collect the digital signature shall suffice to meet the requirements of this Subsection (9).

(c) An LEA or district school, upon the permission of the LEA's governing board, may design the LEA or district school's own form to collect the information required by this Subsection (9).

(10)(a) An LEA governing board shall establish a timeline, including a deadline, for a school to submit the school's School LAND Trust plan.

(b) The deadline described in Subsection (10)(a) may be no later than May 1 of each year.

(c) Timelines set by an LEA governing board shall allow for council reconsideration and amendment of the School LAND Trust plan if the local board of education rejects a plan.

(11) The USOE shall only distribute funds to a school with an approved School LAND Trust plan and that meets all other requirements.

(12)(a) An approving entity shall require a principal to perform the following tasks annually, in a faculty meeting:

(i) explain how the school is spending the school's funds for that year; and

(ii) show at least one of the training DVDs/videos available on the School LAND Trust website.

(b) Prior to approving a plan, an approving entity shall review a School LAND Trust plan under the approving entity's purview to confirm that a School LAND Trust plan contains:

(i) academic goals;

(ii) specific steps to meet the academic goals described in Subsection (12)(b)(i);

(iii) measurements to assess improvement; and

(iv) specific expenditures focused on student academic improvement.

(c)(i) The Superintendent shall review a School LAND Trust plan for compliance with statute and rule.

(ii) The approving entity shall determine whether a School LAND Trust plan is consistent with the approving entity's pedagogy, programs, and curriculum.

(d) Prior to approving a School LAND Trust plan, the president or chair of the approving entity shall provide training annually on the requirements of Section 53A-16-101.5 to the members of the approving entity.

R277-477-4. Appropriate Use of School LAND Trust Program Funds.

(1) Acceptable uses of School LAND Trust Program funds include the following:

(a) a credit recovery course or program;

(b) a study skills class;

(c) a college entrance exam preparation class;

(d) an academic field trip;

(e) classroom equipment or materials, including flashcards, math manipulatives, a calculator, microscope, map, or book;

(f) a teacher, teacher aide, tutor, or other personnel if an employee paid out of School LAND Trust funds spends at least 75% of the employee's time interacting

159 with, instructing, or preparing to instruct a student in an approved academic area;
160 (g) professional development directly tied to a school's academic goals,
161 including a faculty meal, per diem, and travel required as a part of a professional
162 development program;
163 (h) student focused educational technology, including hardware and software,
164 a computer cart, work station, projector, and smart board.
165 (i) a book, textbook, workbook, library book, bookcase, magazine, and
166 audio-visual material;
167 (j) a student planner;
168 (k) a nominal student incentive that is academic in nature or of nominal total
169 cost;
170 (l) a stipend to a teacher for additional work to prepare and perform a duty
171 related to a program funded by a school's approved plan;
172 (m) costs to install, maintain, and repair an approved technology purchased
173 with School LAND Trust funds;
174 (n) a snack for a student if the snack is:
175 (i) of nominal total cost; and
176 (ii) provided as part of an after-school tutoring or other approved after-school
177 program;
178 (o) paper and ink for printing materials related to a program funded by the
179 School LAND Trust plan;[~~and~~]
180 (p) transportation costs for a student participating in an after-school tutoring
181 or other approved after-school program[.]; and
182 (q) a wireless internet access point.
183 (2) Expenditures ineligible for School LAND Trust Program funding include the
184 following:
185 (a) security costs;
186 (b) phone, cell phone, electric, HVAC, or other utility;
187 (c) a facility, building, or maintenance costs;
188 (d) sports and playground equipment;
189 (e) an athletic or intramural program;
190 (f) an extra-curricular non-academic expenditure;

(g) an audio-visual system in a non-classroom location;

(h) a non-academic field trip;

(i) an expense for a council meeting, parent night, orientation, training, or similar meeting or event;

(j) mailing costs;

(k) accreditation costs;

(l) administrative, clerical, or secretarial costs, technical support, or maintenance, including for repair of an item not purchased with School LAND Trust funds;

(m) cash or cash equivalent incentives, including a gift card of any type regardless of the recipient;

(n) furniture;

(o) a staff bonus;

(p) [~~a wireless internet access point or other~~] technological infrastructure other than a wireless internet access point;

(q) a subscription, registration, or similar cost for Advanced Placement, International Baccalaureate, or a similar program;

(r) a faculty retreat or team building exercise;

(s) a non-academic assembly;

(t) a student scholarship, including a scholarship for Sterling Scholar, AP/IB or similar test, or SAT/ACT or another similar college entrance exam;

(u) a printer or copier machine;

(v) clothing, costume, uniform, or similar item;

(w) a school counselor, except to implement a program approved under Section R277-477-4; and

(x) a similar non-instructional item or program.

(3)(a) A School LAND Trust plan may budget and spend no more than the lesser of $5,000 or 20% of the school's annual allocation of funds for in-school civic and character education, including student leadership skills training and positive behavior intervention.

(i) A school may designate funds for an in-school civic and character education program or activity if the plan clearly describes how the program or

activity will directly affect student academic achievement.

(ii) A school may use funds to provide digital citizenship training as described in Section 53A-1a-108.

(b) Notwithstanding other provisions in this rule, a school that is specifically designated to serve a student with a disability may use funds as needed to implement a student's IEP.

R277-477-5. Distribution of Funds - Determination of Proportionate Share.

(1) A local board of education shall adjust the distribution of funds received from the School LAND Trust Program as described in Section 53A-16-101.5, as necessary to maintain an equal per student distribution within a school district based on school openings and closings, boundary changes, and other enrollment changes occurring after the fall enrollment report.

(2)(a) For purposes of this Subsection (2) and Subsection (3), “qualifying charter school” means a charter school that:

(i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection (2)(c); and

(ii) is not a newly opening charter school as described in Subsection (3).

(b) The Superintendent shall distribute the funds allocated to charter schools as described in this Subsection (2).

(c) The Superintendent shall first distribute a base payment to each charter school that is equal to the product of:

(i) an amount equal to the total funds available for all charter schools; and

(ii) at least 0.4%.

(d) After the Superintendent distributes the amount described in Subsection (2)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.

(3)(a) ~~[In accordance with the timing described in Subsections (3)(b) and (c), t]~~The Superintendent shall distribute an amount of funds to a newly opening charter school that is equal to the greater of:

(i) the base payment described in Subsection (2)(c); or

(ii) a per pupil amount based on the newly opened charter school’s projected

254 October 1 enrollment count.

255 (b) The Superintendent shall increase or decrease a newly opening charter
256 school's first year distribution of funds in the school's second year to reflect the newly
257 opening charter school's actual first year October 1 enrollment.

258 [~~(b) The Superintendent shall first distribute an amount of funds equal to the~~
259 ~~base payment described in Subsection (2)(c) to a newly opening charter school at~~
260 ~~the same time all other charter schools receive a base payment described in~~
261 ~~Subsection (2)(c).~~

262 ~~(c) If the newly opening charter school qualifies for per pupil funding as~~
263 ~~described in Subsection (3)(a)(ii), once the newly opened charter school's October~~
264 ~~1 enrollment numbers for that year have been verified, the Superintendent shall~~
265 ~~distribute an amount to the newly opened charter school that is equal to the~~
266 ~~difference between:~~

267 ~~(i) the base payment already distributed to the newly opening charter school~~
268 ~~as described in Subsection (3)(b); and~~

269 ~~(ii) a per pupil amount based on the newly opened charter school's October~~
270 ~~1 enrollment count.~~]

271 (4) If a school chooses not to apply for funds or does not meet the
272 requirements for receiving funds, the USOE shall retain the funds allocated for that
273 school and include those funds in the statewide distribution for the following school
274 year.

275 **R277-477-6. School LAND Trust Program - Implementation of Plans and**
276 **Required Reporting.**

277 (1) A school shall implement a plan as approved.

278 (2)(a) The principal shall submit a plan amendment authorized by Subsection
279 53A-16-101.5(6)(d)(iii) through the School LAND Trust website for approval,
280 including the date the council approved the amendment and the number of votes for,
281 against, and absent.

282 (b) The approving entity shall:

283 (i) consider the amendment for approval; and

284 (ii) approve an amendment before the school uses funds according to the

amendment.

(c) The School Children's Trust Section shall review an amendment for compliance with statute and rule before the school uses funds according to the amendment.

(3)(a) A school shall provide an explanation for any carryover that exceeds one-tenth of the school's allocation in a given year in the School LAND Trust Plan or final report.

(b) The USOE shall consider a district or school with a consistently large carryover balance over multiple years as not making adequate and appropriate progress on an approved plan.

(c) The Board may take corrective action to remedy excessive carryover balances as outlined in Section R277-477-9.

(4) By approving a plan on the School LAND Trust website, the approving entity affirms that:

(a) the entity has reviewed the plan; and

(b) the plan meets the requirements of statute and rule.

(5)(a) A district or charter school business official shall enter prior year audited expenditures by specific category on the School LAND Trust website on or before October 1.

(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Section 53A-16-101.5.

(6) A principal shall submit a final report on the School LAND Trust website by October 20 annually.

R277-477-7. School LAND Trust Program - School Children's Trust Section to Review Compliance.

(1)(a) The School Children's Trust Section shall review each school's final report for consistency with the approved school plan.

(b) The School Children's Trust Section shall create a list of all schools whose final reports indicate that funds from the School LAND Trust Program were expended inconsistent with the statute, rule, or the school's approved plan.

(c) The School Children's Trust Section shall annually report a school

316 described in Subsection (1)(b) to the school district contact person, district
317 superintendent, and president of the local board of education or charter board, as
318 applicable.
319 (2) The School Children's Trust Section may visit a school receiving funds
320 from the School LAND Trust Program to discuss the program, receive information
321 and suggestions, provide training, and answer questions.
322 (3)(a) The School Children's Trust Director shall supervise annual compliance
323 reviews to review expenditure of funds consistent with the approved plan, allowable
324 expenses, and the law.
325 (b) The School Children's Trust Director shall report annually to the Board
326 Audit Committee on compliance review findings and other compliance issues.
327 (c) After receiving the report described in Subsection (3)(b) and any other
328 relevant information requested by the committee, the Board Audit Committee may
329 make a determination regarding questioned expenditures and corrective action as
330 outlined in Section R277-477-9.

331 **R277-477-8. School Children's Trust Director - Other Provisions.**
332 (1)(a) The School Children's Trust Director is an employee of the Board,
333 pursuant to Section 53A-16-101.6 and Board bylaws.
334 (b) The School Children's Trust Director shall report to the Board Audit
335 Committee monthly.
336 (c) The School Children's Trust Director shall report day-to-day to the
337 Superintendent or the Superintendent's designee.
338 (2)(a) The School Children's Trust Director shall submit a draft section budget
339 to the Board Audit Committee annually, consistent with Subsection
340 53A-16-101.6(5)(a).
341 (b) The School Children's Trust Director shall include in the draft budget a
342 proposed School LAND Trust Program and training schedule, as described in
343 Subsection 53A-16-101.6(13).
344 (3) In addition to the duties established in Section 53A-16-101.6, the School
345 Children's Trust Director shall:
346 (a) assist the Board as needed as its designee in fulfilling its duties as primary

347 beneficiary representative for school trust lands and funds;
348 (b) provide independent oversight of an agency managing school trust lands
349 and the permanent State School Fund to ensure the trust assets are managed
350 prudently, profitably, and in the best interest of the beneficiaries;
351 (c) review and approve a charter school plan on behalf of the State Charter
352 School Board;
353 (d) provide notice as necessary to the State Charter School Board of changes
354 required of charter schools for compliance with state statute and rule;
355 (e) review and approve a plan submitted by the USDB governing board as
356 necessary; and
357 (f) carry out the policy direction of the Board under law and faithfully adhere
358 to the Board-approved budget.
359 (4) The employees of the School Children's Trust Section report to the School
360 Children's Trust Director.

361 **R277-477-9. Failure to Comply with Rule.**
362 (1) If a local school board, school district, district or charter school, or council
363 fails to comply with the provisions of this rule, the School Children's Trust Director
364 may report the failure to the Audit Committee of the Board.
365 (2) If the Audit Committee of the Board finds that any local school board,
366 school district, district or charter school, or council failed to comply with statute or
367 rule, the Audit Committee may recommend that the Board take any or all of the
368 following actions:
369 (a) develop a corrective action plan for the local school board, school district,
370 district or charter school, or council;
371 (b) require the school to reimburse the School LAND Trust Program for any
372 inappropriate expenditures;
373 (c) reduce, eliminate, or withhold future funding; or
374 (d) any other necessary and appropriate corrective action.
375 (3) The Board may, by majority vote, take any of the actions outlined in
376 Subsection (2) to correct or remedy a violation of statute or rule by a local school
377 board, school district, district or charter school, or council.

378 **KEY: schools, trust lands funds**

379 **Date of Enactment or Last Substantive Amendment: [~~July 8, 2014~~]2015**

380 **Notice of Continuation: [~~June 10, 2013~~]2015**

381 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-16-**

382 **101.5(3)(c); 53A-1-401(3)**

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-491 *School Community Councils* (Repeal/Reenact)

Background:
R277-491 governs school community councils. The rule was updated and considered by the Board in June. The rule requires a principal of a school to provide a report to a school community council. The rule needs further revision to amend what is included in a principal's required report.

Key Points:
The revisions clarify what is required to be included in a principal's report to a school community council on the school's internet filtering, instructional practices, and internet safety training required in Utah Code.

Anticipated Action:
It is proposed that the Law and Licensing Committee consider repeal/reenact of R277-491 on second reading and, if approved by the Committee, the Board consider repeal/reenact of R277-491, as amended, on third and final reading.

Contact: Angie Stallings, 801-538-7550
Tim Donaldson, 801-538-7709
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R277. Education, Administration.

[~~**R277-491. School Community Councils.**~~

~~**R277-491-1. Definitions.**~~

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

~~B. "Candidate" means a parent or school employee who has filed for election to the school community council.~~

~~C. "Contested race" means the election of members to a school community council when there are more candidates than open positions.~~

~~D. "Days" means calendar days unless otherwise specifically designated.~~

~~E. "Educator" means a person employed by the school district where the person's child attends school and who holds a current educator license.~~

~~F. "Parent" means the parent or legal guardian of a student attending a school district public school.~~

~~G. "Parent or legal guardian member":~~

~~(1) means a member of a school community council who is a parent of a student who will be enrolled at the school at any time during the parent's or legal guardian's term of office; and~~

~~(2) may not include an educator that the school employs.~~

~~H. "School principal" means the principal of the school or designee as assigned by the principal.~~

~~I. "School community" means the geographic area the school district designates as the attendance area, with reasonable inclusion of the parents and legal guardians of additional students who currently attend the school.~~

~~J. "School community council" means the council organized at each school district public school consistent with Section 53A-1a-108 and R277-491. The council includes the principal, school employee members and parent members. Each council shall have at least a two parent member majority.~~

~~K. "School employee member" means a member of a school community council that the school or school district employs at a school, including the principal.~~

~~L. "Student" means a child in public school grades kindergarten through twelve counted on the audited October 1 Fall Enrollment Report.~~

~~M. "USDB" means the Utah Schools for the Deaf and the Blind.~~

~~N. "USOE" means the Utah State Office of Education.~~

~~**R277-491-2. Authority and Purpose.**~~

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, and by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.~~

~~B. Local boards of education are responsible for school community council operations, plan approval, oversight, and training.~~

~~C. The purpose of this rule is to:~~

~~(1) provide procedures and clarifying information to school community councils to assist them in fulfilling school community council responsibilities consistent with Section 53A-1a-108(3);~~

~~(2) provide direction to school districts and schools in establishing and maintaining school community councils whose primary focus is to develop, approve, and assist in implementing school plans, and advising school/school district administrators consistent~~

~~with Sections 53A-1a-108(3) and 53A-16-101.5;~~

~~(3) provide a framework and support for improved academic achievement of students that is locally driven from within individual schools, through critical review of assessments and other indicators of student success, by establishing meaningful, measurable goals and implementing research-based programs and processes to reach the goals;~~

~~(4) encourage increased participation of the parents, school employees and others that support the purposes of the school community councils;~~

~~(5) encourage compliance with the law; and~~

~~(6) increase public awareness of:~~

~~(a) school trust lands and related land policies;~~

~~(b) management of the permanent State School Fund established in Utah Constitution Article X, Section 5; and~~

~~(c) educational excellence.~~

~~R277-491-3. School Community Council Member Election Provisions.~~

~~A. Each school shall establish a timeline for the election of parent or legal guardian members of a school community council; the timeline shall remain consistent for at least a four-year period.~~

~~B. A school shall hold the election for the parent or legal guardian members of a school community council near the beginning of the school year or in the spring and completed before the last week of school.~~

~~C. If a school holds the election in the spring, the school community council shall attempt to notify parents of incoming students about the opportunity to run for the council, and provide those parents with the opportunity to vote in the election.~~

~~D. A school community council member's term lasts two years. A school community council shall stagger terms so that approximately half of the council positions are elected each year.~~

~~E. A public school that is a secure facility, juvenile detention facility, hospital program school, or other small special program may receive School LAND Trust Program funds without having a school community council if the school demonstrates and documents a good faith effort to recruit members, have meetings and publicize results. The local board of education shall make this determination.~~

~~F. Each school community council shall determine the size of the council by a majority vote of a quorum of council members, provided that the resulting council has at least one employee member, the principal, and a two person majority of parents.~~

~~G. The principal shall provide notice of the school community council elections to the school community at least 10 days prior to the elections. The principal shall include in the notice the dates, times, and location of the election, the positions up for election, and information about becoming a candidate.~~

~~H. Parents and guardians may stand for election as parent or guardian members of a school community council at a school consistent with the definition of parent member in R277-491-1G.~~

~~I. The USOE encourages school community councils to establish clear and written timelines and procedures for school community council elections that may include receiving information from applicants in a timely manner.~~

~~J. A school need only conduct an election if the school community council~~

~~position(s) are contested.~~

~~K. Parents may vote for the school community council parent members if their child(ren) are enrolled at the school, or to the extent possible consistent with R277-491-3C.~~

~~L. School community councils may establish procedures that allow for ballots to be clearly marked and mailed to the school in the case of distances that would otherwise discourage parent participation. Hand-delivered or mailed ballots shall meet the same timelines for voters voting in person.~~

~~M. Entire school districts or schools may allow parents to vote by electronic ballot. The school district or school shall clearly explain on its website the opportunity to vote by electronic means, if allowed by the school district or school.~~

~~N. Following the election, if those taking part in the election elect to the council more parent members who are educators in that district than parents who are not educators in that district, the parents on that council shall appoint additional parent members until the number of parent members who are not educators exceeds the number of parent educators in that district.~~

~~O. School community council members who were duly elected or appointed prior to a subsequent change in law or Board rule may complete the term for which they were elected. All school community council members shall satisfy requirements of Utah law and Board rule in subsequent terms.~~

~~R277-491-4. Local School Board and School District Responsibilities Relating to School Community Councils.~~

~~A. Local boards of education may ask school community councils to address local issues at the school community council level for discussion before bringing the issues to local boards of education. Local boards of education may ask school community councils for information to inform local board decisions.~~

~~B. A local school board, in compliance with Section 53A-1a-108, shall ensure that all council members receive annual training, including training for the chair and vice chair about their specific responsibilities, and about the school community council requirements of Sections 53A-1a-108, 53A-1a-108.1, 53A-16-108.5, and 53A-16-101.5.~~

~~C. A school or school district administrator shall not prohibit or discourage a school community council from discussing any issue or concern not prohibited by law and raised by any school community council member.~~

~~R277-491-5. School Community Council Principal Responsibilities.~~

~~A. Following the election, the principal shall enter and electronically sign on the School LAND Trust website a Principal's Assurance Form affirming the school community council's election, that vacancies were filled after the elections, as necessary, and that the school community council's bylaws or procedures comply with Section 53A-1a-108 and R277-477 and R277-491.~~

~~B. A principal may not serve as chair or vice-chair of the school community council.~~

~~C. Annually, on or before October 20, the principal shall provide the following information on the school website, in the school office, and if needed, through a method that the council decides is best for the parents at the school who do not have internet access, and as provided in Section 53A-1a-108 and 53A-1a-108.1:~~

~~(1) A list of the members of the school community council and each member's direct email or phone number, or both;~~

~~(2) The school community council meeting schedule; and~~

~~(3) A summary of the annual report describing how the school used the School LAND Trust Program funds consistent with Section 53A-1a-108.1(5)(b) and R277-477-4C.~~

~~D. Principals shall ensure that school websites fully communicate the opportunities provided to parents to serve on the school community council and how parents can directly influence the expenditure of the School LAND Trust Program funds. Principals shall include on the website each school's dollar amount received each year through the program.~~

~~R277-491-6. School Community Council Chair Responsibilities.~~

~~A. After the council is seated each year, the council shall elect a chair from the parent members and a vice-chair from the parent or school employee members.~~

~~B. The school community council chair or designee shall:~~

~~(1) post the school community council meeting information (time, place and date of meeting; meeting agenda; and previous meeting draft minutes) on the school's website at least one week prior to each meeting;~~

~~(2) set the agenda for every meeting;~~

~~(3) conduct every meeting;~~

~~(4) assure that written minutes are kept consistent with Section 53A-1a-108.1(8);~~

~~(5) inform council members on resources available on the School LAND Trust website;~~

~~(6) assure that the council adopts a set of rules of order and procedures, including procedures for electing the chair and vice-chair, that the chair follows to conduct each meeting. The principal shall post these rules on the school website and make them available at each meeting; and~~

~~(7) welcome and encourage public participation.~~

~~C. School community council responsibilities do not allow for closed meetings, consistent with Section 53A-1a-108.1.~~

~~R277-491-7. School Community Council Business.~~

~~A. School community councils shall report on plans, programs, and expenditures at least annually to local boards of education and cooperate with USOE monitoring and audits.~~

~~B. School community councils shall encourage participation on the school community council and may recruit potential applicants to apply for open positions on the council.~~

~~C. The USOE encourages:~~

~~(1) school community councils to establish clear and written procedures governing the removal from office of a member who moves away or consistently does not attend meetings, and additional clarifications to assist in the efficient operation of school community councils, consistent with the law and Board rules; and~~

~~(2) school principals to attend all school community council meetings.~~

~~R277-491-8. Development of Plans.~~

~~A. School community council members shall participate fully in the development of various school plans described in Section 53A-1a-108(3) including, at a minimum:~~

~~(1) The School Improvement Plan;~~

~~(2) The School LAND Trust Plan;~~
~~(3) The Reading Achievement Plan (for elementary schools); and~~
~~(4) The Professional Development Plan.~~
~~B. The USOE encourages school community councils to advise and inform elected local school board members and other interested community members regarding the uses of these funds.~~

~~R277-491-9. Failure to Comply with Rule.~~
~~A. If a school district, school, or school community council fails to comply with the provisions of this rule, the School Children's Trust Director appointed under Section 53A-16-101.6 may report such failure to the Audit Committee of the Utah State Board of Education.~~
~~B. The Audit Committee of the Utah State Board of Education may recommend to the Board a reduction or elimination of School LAND Trust funds for a school district or school if the Audit Committee finds that the school district, school, or school community council has failed to comply with Utah law or Board rule.~~]

R277-491. School Community Councils.

R277-491-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which places general control and supervision of the public school system under the Board; and

(b) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

(2) The purpose of this rule is to:

(a) provide procedures and clarifying information to a school community council to assist the council in fulfilling school community council responsibilities consistent with Sections 53A-1a-108 and 53A-1a-108.1;

(b) provide direction to a local board of education, school, and school district in establishing and maintaining a school community council;

(c) provide a framework and support for improved academic achievement of students that is locally driven from within an individual school;

(d) encourage increased participation of a parent, school employee, and others to support the mission of a school community council;

(e) increase public awareness of:

(i) school trust lands;

(ii) the permanent State School Fund; and

(iii) educational excellence; and

(f) enforce compliance with the laws governing a school community council.

R277-491-2. Definitions.

(1) “Local board of education” means the locally elected school board designated in Section 53A-3-101.

(2)(a) “Principal” means an administrator licensed as a principal in the state and employed in that capacity at a school.

(b) “Principal” includes a specific designee of the principal.

(3) “School community” means the geographic area a school district designates as the attendance area, with reasonable inclusion of a parent of a student who attends the school but lives outside the attendance area.

(4) “Student” means a child in a public school, grades kindergarten through 12, counted on the audited October 1 Fall Enrollment Report.

R277-491-3. School Community Council Member Election Provisions.

(1) If a school holds an election in the spring, the school community council shall:

(a) attempt to notify a parent of an incoming student about the opportunity to run for the council; and

(b) provide a parent of an incoming student with an opportunity to vote in the election.

(2) In addition to the election notice requirements of Subsection 53A-1a-108(5)(c), the principal shall provide notice of:

(a) the location where a ballot may be cast; and

(b) the means by which a ballot may be cast, whether in person, by mail, or by electronic transfer.

(3) A parent may vote for a school community council parent member if:

(a) the parent’s child is enrolled at the school; or

(b)(i) the school holds the election in the spring; and

(ii) the parent's child will be enrolled at the school in the following school year.

(4)(a) A school community council may establish a procedure that allows a parent to mail a ballot to the school in the event the distance between a parent and the voting location would otherwise discourage parental participation.

(b) A mailed or hand-delivered ballot shall meet the same timeline as for ballot voted in person.

(5)(a) A school, school district, or local board of education may allow a parent to vote by electronic ballot.

(b) If allowed, the school or school district shall clearly explain on its website the opportunity to vote by electronic means.

(6) In the event of a change in statute or rule affecting the composition of a school community council, a council member who is elected or appointed prior to the change may complete the term for which the member was elected.

(7)(a) A public school that is a secure facility, juvenile detention facility,

hospital program school, or other small or special school may receive School LAND Trust Program funds without having a school community council if the school demonstrates and documents a good faith effort to:

(i) recruit members;

(ii) have meetings;

(iii) publicize the opportunity to serve on the council; and

(iv) publish election results to the school community.

(b) The local board of education shall make the determination whether to grant the exemption.

R277-491-4. Local Board of Education and School District Relationship with School Community Councils.

(1) A local board of education may ask a school community council to address an issue pertaining to that school at the school community council level before bringing the issue to the local board of education.

(2) A local board of education may ask a school community council for information to help the local board of education make an informed decision.

R277-491-5. School Community Council Principal Responsibilities.

(1) Following an election, the principal shall enter and electronically sign on the School LAND Trust Program website a Principal's Assurance Form affirming:

(a) the school community council's election;

(b) that vacancies were filled by election if necessary; and

(c) that the school community council's bylaws or procedures comply with Section 53A-1a-108, Rule R277-477, and this rule.

(2) In addition to the requirements of Subsection 53A-1a-108.1(6), the principal shall post the following information on the school's website:

(a) an invitation to a parent to serve on the school community council that includes an explanation of how a parent can directly influence the expenditure of the School LAND Trust Program funds; and

(b) the dollar amount the school receives each year from the School LAND Trust Program.

93 **R277-491-6. School Community Council Chair Responsibilities.**

94 (1) After the school community council election, the school community council
95 shall annually elect at the council's first meeting a chair and vice chair in accordance
96 with Subsection 53A-1a-108(5)(j).

97 (2) The school community council chair shall:

98 (a) post the information required by Subsection 53A-1a-108.1(5);

99 (b) set the agenda for every meeting;

100 (c) conduct every meeting;

101 (d) keep written minutes of every meeting, consistent with Subsection
102 53A-1a-108.1(9);

103 (e) inform council members about resources available on the School LAND
104 Trust Program website; and

105 (f) welcome and encourage public participation in school community council
106 meetings.

107 (3) The chair may delegate the responsibilities established in this section as
108 appropriate at the chair's discretion.

109 **R277-491-7. School Community Council Business.**

110 (1)(a) The school community council shall adopt rules of order and procedure
111 to govern a council meeting in accordance with Subsection 53A-1a-108.1(10).

112 (b) The rules of order and procedure shall outline the process for:

113 (i) selecting a chair and vice chair; and

114 (ii) removing from office a member who moves away or fails to attend
115 meetings regularly.

116 (2) The school community council shall:

117 (a) report on a plan, program, or expenditure at least annually to the local
118 board of education; and

119 (b) encourage participation on the school community council by members of
120 the school community and recruit a potential candidate to run for an open position
121 on the council.

122 (3)(a) The principal shall provide an annual report to the school community
123 council [~~in the form requested by the council~~]that summarizes current practices used

124 by the school district and school to facilitate the school community council's
125 responsibilities under Subsection 53A-1a-108(3)(a).
126 (b) The report described in Subsection (3)(a) shall include:
127 (i) information concerning internet filtering protocols for school and district
128 devices that access the internet;
129 (ii) [~~a report of any breaches of the school's filtering system and corrective~~
130 ~~action taken~~]local instructional practices, monitoring, and reporting procedures; and
131 (iii) internet safety training required by Section 53A-1a-108.
132 (4) A school community council may advise and inform the local board of
133 education and other members of the school community regarding the uses of School
134 LAND Trust Program funds.

135 **R277-491-8. Inapplicable to Charter Schools.**
136 This rule does not apply to a charter school.

137 **R277-491-9. Failure to Comply with Rule.**
138 (1) If a local board of education, school district, school, or school community
139 council fails to comply with the provisions of this rule, the School Children's Trust
140 Director appointed under Section 53A-16-101.6 may report the failure to the Audit
141 Committee of the Board.
142 (2) The Audit Committee of the Board may recommend to the Board a
143 reduction or elimination of School LAND Trust funds for a school district or school
144 if the Audit Committee finds that the local board of education, school district, school,
145 or school community council has not complied with statute or rule.

146 **KEY: school community councils**
147 **Date of Enactment or Last Substantive Amendment: [~~July 8, 2014~~]2015**
148 **Notice of Continuation: [~~May 15, 2013~~]2015**
149 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3)**

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-533 *Educator Effectiveness Component Requirements* (New)

Background:
Districts are required to begin full implementation of the Educator Effectiveness program in the 2015-16 school year. The proposed rule gives districts the information needed to achieve full implementation as scheduled.

Key Points:
The proposed rule:

- Delineates the required activities and functions of the multiple components as outlined in R277-531 *Professional Performance, Student Growth, and Stakeholder Input*.
- Outlines the approved process for scoring each component and for computing the Annual Educator Effectiveness Summative Rating.
- Specifies the process by which the ratings will be reported for each educator and how additional data will be gathered as needed by USOE for program review, alignment, and evaluation.

Anticipated Action:
It is proposed that the Law and Licensing Committee consider approving R277-533 on first reading and, if approved by the Committee, the Board consider approving R277-533 on second reading.

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R277. Education, Administration.

R277-533. District Educator Evaluation Systems.

R277-533-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Title 53A, Chapter 8a, Part 4, Educator Evaluations, which requires the Board to make rules to establish a framework for the evaluation of educators and set policies and procedures related to educator evaluations; and

(c) Subsection 53A-1-401(3), which permits the Board to adopt rules in accordance with its responsibilities.

(2) The purpose of this rule is to:

(a) specify the requirements for district Educator Evaluation Systems Policies;

(b) describe the required components of district Educator Evaluation Systems; and

(c) establish requirements for how the Annual Summative Educator Evaluation Rating shall be computed and reported.

R277-533-2. Definitions.

(1) “Attribute” means the process of linking the results of student growth and learning to a specific educator or group of educators using the same SLO or SGP.

(2) “Evaluator” means a person who is responsible for an educator’s overall evaluation, including:

(a) professional;

(b) student growth;

(c) stakeholder input; and

(d) other indicators of professional improvement.

(3) “PEER Committee” means the Public Educator Evaluation Requirements Committee established by the Superintendent.

(4) “Rater” means a person who conducts an observation of an educator related to an educator’s evaluation.

(5) “Student learning objective” or “SLO” means a content and grade/course

specific measurable learning objective that can be used to document student learning over a defined period of time.

(6) “Student growth percentile” or “SGP” means an analytic approach (statistical method) for transforming student assessment results into an accountability metric.

(7) “System” means a school district’s educator evaluation system.

(8) “Tested subject” means a subject with an end of course examination in SAGE.

R277-533-3. School District Educator Evaluation Systems.

(1) A local school board shall adopt a district educator evaluation system in consultation with a joint committee established by the local school board as described in Section 53A-8a-403.

(2) A district educator evaluation system shall:

(a) include the components required in Section 53A-8a-405;

(b) include the following four differentiated levels of performance:

(i) highly effective;

(ii) effective;

(iii) emerging/minimally effective; and

(iv) not effective;

(c) use multiple lines of evidence in evaluation, including:

(i) professional performance, as described in Section R277-533-4;

(ii) student growth, as described in Section R277-533-5;

(iii) stakeholder input, as described in Section R277-533-5; and

(iv) other indicators of professional improvement as required by the school district;

(d) require regular conferences between an educator and an evaluator;

(e) provide a process for an educator to contribute additional information to inform the educator’s evaluation at several intervals throughout the process;

(f) measure an educator's professional performance wherever the educator is working in a professional capacity with students, parents, colleagues, or community members;

(g) provide a process for an educator to:

(i) analyze stakeholder input, including input from a parent, student, or teacher;

(ii) analyze data related to performance; and

(iii) develop appropriate responses to the information;

(h) provide a procedure to include an educator's response to stakeholder data in the rating calculation;

(i) include a process for an evaluator to give an educator specific, measurable, actionable, and written direction regarding an educator's needed improvement and recommended course of action;

(j) provide a process for an educator to request a review of the implementation of the educator's evaluation, as described in:

(i) Subsection 53A-8a-406(3); and

(ii) Section R277-533-8;

(k) include multiple observations as described in Section R277-533-4; and

(l) provide a description of the methods for gathering, using, and protecting educator data.

(3) To form the school district's system, a local school board may adopt:

(a) the Utah Model Educator Evaluator System established by the Board;

(b) an adapted system; or

(c) a school district-developed system approved by the PEER Committee, consistent with Rules R277-530, R277-531, and this rule.

(4) The PEER Committee, as described in Rule R277-531, shall review and approve a school district's educator effectiveness plan including:

(a) professional performance;

(b) rater-reliability;

(c) student growth; and

(d) stakeholder input.

(5) The PEER Committee shall approve a school district's system.

(6) An educator is responsible for:

(a) improving the educator's performance, using resources provided by the school district; and

(b) demonstrating acceptable levels of improvement in any designated area of deficiency.

R277-533-4. Evaluators and Standards for Education Observations.

(1) A school district's system shall include observations.

(2) The school district shall use observation tools that:

(a) are aligned with the Utah Effective Teaching Standards and the Educational Leadership Standards described in Rule R277-530 at the indicator level; and

(b) include multiple observations at appropriate intervals.

(3) A school district's evaluation system shall:

(a) include an orientation for all educators conducted by the principal or designee as required in Section 53A-8a-404;

(b) include multiple observation items;

(c) a final rating for each observation item described in Subsection (3)(b); and

(d) include an opportunity for an educator to contribute additional information to inform their rating at several intervals throughout the process.

(4) To ensure a valid evaluation system, a school district shall provide professional development opportunities to all raters and evaluators of licensed educators to:

(a) improve a rater or evaluator's abilities; and

(b) give the rater or evaluator an opportunity to demonstrate the rater's abilities to rate an educator in accordance with:

(i) the Utah Effective Teaching Standards described in Rule R277-530; and

(ii) the Utah Educational Leadership Standards described in Rule R277-530.

(5) A school district shall establish a school district rater reliability plan.

(6) A school district rater reliability plan shall:

(a) require school district to compare a rater's decisions to standardized ratings established by a committee of expert raters;

(b) require a school district to measure a rater's skills and reassess the rater's skills at appropriate intervals to maintain system quality;

(c) assure that an educator is rated by a certified rater;

126 (d) require a school district to offer a rater opportunities to improve the rater's
127 skills through instruction and practice; and
128 (e) maintain high standards of rater accuracy.

129 **R277-533-5. Student Growth Calculations and Stakeholder Input.**
130 (1) A Utah educator's contribution to a student's growth and learning shall be
131 delineated into one of the following sets of measures:
132 (a) SGPs;
133 (b) SLOs; or
134 (c) a combination of SGPs and SLOs.
135 (2) A school district may attribute an SLO to an educator as part of an
136 educator's evaluation in accordance with the school district's system policies.
137 (3) If a school district attributes an SLO to an educator, the school district
138 shall:
139 (a) ensure that the SLO includes:
140 (i) three required components:
141 (A) learning goals;
142 (B) assessments; and
143 (C) targets; and
144 (ii) learning goals for an educator linked to the appropriate specific content
145 knowledge and skills from the Utah Core Standards;
146 (b) provide professional development to an educator for the educator to gain
147 the knowledge and skills necessary to sustain wide-scale implementation of an SLO
148 process;
149 (c) establish a local review process to assist the school district in developing
150 comparability and consistency of SLOs at each grade level or span;
151 (d) design a structure and process for providing professional development to
152 the school district's educators and administrators;
153 (4) A school district may attribute an SGP to:
154 (a) an educator as part of the educator's evaluation if the educator teaches
155 a tested subject; and
156 (b) an administrator.

(5)(a) A school district's system shall include a component for stakeholder input for educators, principals, and administrators, which includes annual input from students and parents.

(b) In addition to the stakeholder input described in Subsection (5)(a), stakeholder input for principals and other administrators shall include input from teachers and support professionals.

(c) A school district may attribute stakeholder input to an educator, principal, or other administrator if the data gathered for the stakeholder input is gathered using:

(i) appropriate methods of gathering data as described in the school district's system plan; and

(ii) quality practices.

R277-533-6. Computing the Annual Summative Rating.

(1) A school district shall base an educator's component ratings on:

(a) actual observations of the educator's performance; and

(b) educator, evaluator, or other stakeholder data gathered, calculated, or observed that is aligned with standards and rubrics.

(2) A school district shall combine an educator's component ratings using the following formula:

(a) 70 percent for professional performance;

(b) 20 percent for student growth; and

(c) ten percent for stakeholder input.

(3) A school district shall round component outcomes to the nearest whole number prior to calculating the summative score.

(4) A school district shall report summative scores annually for all educators using the following approved terminology for reporting:

(d) highly Effective 3;

(c) effective 2;

(b) minimal/emerging effective 1; and

(a) not effective 0.

R277-533-7. Minimal or Emerging Effective Category.

If an evaluator rates an educator's performance within the minimal or emerging effective category, the rater shall:

(1) designate an educator as emerging effective if:

(a) the educator:

(i) holds a Level 1 educator license; or

(ii) is being served by the school district's Entry Years Enhancement (EYE) program described in Rule R277-522; or

(b) the educator:

(i) received a new or different teaching or leadership assignment within the last school year; or

(ii) is developing in that area; or

(2) designate an educator as minimally effective if the educator:

(a) holds a Level 2 educator license; and

(b) is teaching or leading in a familiar assignment.

R277-533-8. Evaluation Reviews.

(1) An educator who is not satisfied with a summative evaluation may request a review in writing of the summative evaluation within 15 calendar days after receiving the written summative evaluation.

(2) A school district shall conduct a review of an educator's summative evaluation:

(a) as described in this section; and

(b) the requirements of Section 53A-8a-406.

(3) A review described in Subsection (2) shall be conducted:

(a) by a certified rater:

(i) with experience evaluating educators; and

(ii) not employed by the school district; and

(b) in accordance with the Utah Effective Teacher and Educational Leadership Standards described in Rule R277-531.

(4) A certified rater described in Subsection (3) shall review:

(a) the school district's educator evaluation policies and procedures;

(b) the evaluation process conducted for the educator; and

(c) the evaluation data from the professional performance, student growth, and stakeholder input components.

(5) The school district shall determine if the initial educator evaluation was issued in accordance with:

(a) the school district's educator evaluation policies;

(b) the requirements of the performance standards;

(c) Title 53A, Chapter 8a, Public Education Human Resource Management Act;

(d) Rule R277-531; and

(e) this rule.

(6) A certified rater described in Subsection (3) shall report the certified rater's recommendations in writing to the school district's superintendent for action.

R277-533-9. Educator Evaluation Data.

(1) A school district shall report to the Board annually on or before June 30, an annual summative rating for each educator delineated by one of the four rating categories listed in Subsection R277-533-6(4).

(2) A school district shall maintain confidential records of the educator effectiveness component data of individual educators in accordance with:

(a) Rule R277-487; and

(b) state law.

(3) A school district's system may be monitored by the Board.

KEY: educator, evaluation

Date of Enactment of Last Substantive Amendment: 2015

Authorizing, Implemented, or Interpreted Law: Art X Sec 3; 53A-1-401(3)

UTAH STATE BOARD OF EDUCATION

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-100 *Rulemaking Policy* (Continuation and Amendment)

Background:

1. R277-100 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 November 10, 2015. Staff have reviewed R277-100 and determined that the rule continues to be necessary.
2. R277-100 is amended to provide technical and conforming changes to the rule.

Key Points:

1. R277-100 continues to be necessary because it provides rulemaking procedures for the Board as required under the Utah Administrative Rulemaking Act.
2. The amendments provide changes to numbering and terminology throughout the rule.

Anticipated Action:

1. It is proposed that the Law and Licensing Committee consider approving R277-100 for continuation on first reading and, if approved by the Committee, the Board consider approving R277-100 for continuation on second reading.
2. It is proposed that the Law and Licensing Committee consider approving R277-100, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-100, as amended, on second reading.

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R277. Education, Administration.

R277-100. Rulemaking Policy.

R277-100-[~~2~~]1. Authority and Purpose.

[~~A.~~](1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests [~~the~~]general control and supervision of public education in the Board[~~,~~];

(b) [~~by Section~~]Title 63G[~~-3-101 et seq., the~~], Chapter 3, the Utah Administrative Rulemaking Act, which specifies procedures for a state agenc[~~ies~~]y to follow in making rules[~~,~~]; and

(c) [~~by~~]Subsection 53A-1-401(3), which authorizes the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is to conform the rulemaking procedures of the Board and divisions supervised by the Board to those required under the Utah Administrative Rulemaking Act.

R277-100-[~~1~~]2. Definitions.

[~~A. "Board" means the Utah State Board of Education.~~]

[~~B.~~](1) "Bulletin" means the Utah State Bulletin.

[~~C.~~](2) "DAR" means the[~~ State~~] Division of Administrative Rules created in Section 63G-3-401.

[~~D.~~](3) "Effective date" means the date on which a proposed rule becomes enforceable.

[~~E.~~](4) "Hearing" means an administrative rulemaking hearing.

[~~F.~~](5) "LEA" or "local education agency" [~~means a local education agency, including local school boards/public school districts, charter schools, and, ~~]for purposes of this rule[~~,~~] includes the Utah Schools for the Deaf and the Blind.

[~~G.~~](6) "Leadership Committee" means the Executive Committee of the Board as defined in Board Bylaws.

[~~H.~~](7) "Publication date" means the date of the Bulletin in which the rule or summary of the rule is printed.

[~~I. "Rule"~~

~~(1) means a statement made by the Board that~~]

(8)(a) “Rule” means a statement by the Board that:

(i) applies to a general class of persons, rather than specific persons; and:

([~~a~~]ii)(A) implements or interprets a statutory policy;

([~~b~~]B) prescribes the policy of the Board[~~ in policy~~] consistent with Subsection 53A-1-401(3);[~~ or~~]

([~~c~~]C) prescribes the administration of [~~the~~]a Board[~~'s~~] function[~~s~~]; or

(D) describes [~~its~~]the Board’s organization, a procedure[~~s~~], or an[~~d~~] operation[~~s~~].

([~~2~~]b) “Rule” does not include a declaratory order[~~s~~] under Section 63G-4-503.

[~~J.~~](9) “Standing committee” means a committee consisting of Board members appointed by the[~~ Board~~] Leadership Committee.

[~~K. “Superintendent” means the State Superintendent of Public Instruction or the Superintendent's designee.~~

~~L. “USOE” means the Utah State Office of Education.~~

~~M. “USOR” means the Utah State Office of Rehabilitation.~~]

R277-100-3. Initiation, Amendment, or Repeal of a Rule.

[~~A.~~](1) The Board may make, amend, or repeal a rule[~~s~~].

([~~1~~]2)(a) [~~Rulemaking is required by the Board when~~]The Board shall make a rule if:

([~~a~~]i) explicitly or implicitly required by statutory or federal mandate; and [~~either~~]

([~~b~~]ii)(A) a Board action affects a class of persons; or

([~~c~~]B) a Board action affects the operation[~~s~~] of another agency, except as provided in Subsection [~~R277-100-3A(2)(c)~~](2)(b)(iii).

([~~2~~]b) [~~Rulemaking~~]The Board is not required [~~by the Board when~~]to make a rule if:

([~~a~~]i) a procedure or standard is already described in statute;

([~~b~~]ii) a Board action affects an individual person, not a class of persons;

([~~c~~]iii) a Board action concerns only the internal management of the Board, USOR, or USOE;

([~~d~~]iv) the Board or Agency action is a grammatical or other insignificant

revision that does not affect policy or the application of Board decisions; or

([~~e~~]v) the Board or Agency action meets the standards of Subsection 63G-3-201(4).

[~~B. Public Petition~~]

([~~1~~]3)(a)(i) A[~~ny~~] person may petition the Board to make, amend, or repeal a rule.

(ii) The petition shall contain:

(A) the name and address of the person submitting the rule[~~,~~];

(B) a written copy of the proposal[~~,~~];

(C) a statement concerning the Board's legal authority to act[~~,~~]; and

(D) the reasons for the proposal.

(iii) A person shall submit [~~T~~]the petition[~~ is submitted~~] to the Superintendent.

([~~2~~]b) The Superintendent shall review[~~s~~] a petition[~~s~~] prior to consideration by the Board.

(c) Within 30 days after receiving a petition, the Superintendent shall do[~~es~~] one of the following:

([~~a~~]i) [~~N~~]notif[~~ies~~]y the petitioner that the petition has been denied and give[~~s~~] a reason[~~s~~] for the denial; or

([~~b~~]ii) [~~N~~]notif[~~ies~~]y the petitioner that the petition has been accepted, and specif[~~ies~~]y a date on which the Board will initiate rulemaking procedures[~~ will be initiated~~].

(d) The Superintendent shall include in the notice any [~~C~~]changes in the petitioner's proposal suggested by the Superintendent[~~ are included in the notice~~].

([~~3~~]e)(i) A petitioner may appeal a decision by the Superintendent by sending a signed request for consideration of the appeal, including a copy of the original proposal and copies of correspondence with the Superintendent, if any, to the Chair of the Board.

(ii) The Chair shall present[~~s~~] the appeal to the Board.

(iii) If the Board votes to review the proposal, [~~it is~~]the Board shall schedule[~~d~~] the petition for a future meeting of the Board.

(iv) The decision of the Board is final.

R277-100-4. Procedures for Making, Amending, or Repealing a Rule.

[~~A. Regular Rules~~]

(1)(a) Prior to submitting a proposed rule to the Board, the Superintendent shall [~~ensure that~~]make a reasonable effort[~~s have been made~~] to solicit information from LEA officials, professional associations, and other affected parties concerning the need for, and content of, the proposed rule.

([~~2~~]b) Upon receiving notice of a proposed rule, the Leadership Committee [~~of the Board~~] shall assign[~~s~~] the proposed rule to a standing committee or to the entire Board.

([~~3~~]c) If a[~~ Board~~] standing committee reads a proposed rule initially, the Board shall read the proposed rule[~~ shall be read~~] a second time before the entire Board and the second reading shall include discussion of the standing committee report[~~; and~~].

([~~4~~]d) After the entire Board reads a proposed rule, the Board may[~~ choose to~~]:

([~~a~~]i) consider the rule again at a future meeting with revisions incorporating Board suggestions, by directing the Superintendent to change the proposed rule;

([~~b~~]ii) receive notice of the proposed rule in its final form on the next Board agenda, by directing the Superintendent to put the rule with its effective date on the consent calendar for the Board's next meeting;

([~~c~~]iii) allow the rule to become effective no fewer than 30 days nor more than 90 days after publication in the[~~ State~~] Bulletin if the proposed rule is not rewritten to incorporate public comments or suggestions, by directing the Superintendent to send DAR notice of an effective date for the proposed rule[~~. The date shall be no fewer than 30 days nor more than 90 days after the publication date of the proposed rule~~]; or

([~~d~~]iv) direct the Superintendent to take no further action on the rule.

([~~5~~]e) Following the Board's approval of a proposed rule, the Board shall direct[~~s~~] the Superintendent to prepare a rule analysis form and file the form and a copy of the proposed rule with DAR.

(f) The Superintendent shall also send a copy of the proposed rule or make the rule available electronically to:

([~~a~~]i) a person[~~s~~] who ha[~~ve~~]s filed a timely request with the Superintendent;

([~~b~~]ii) school district superintendents and charter school directors;

([~~c~~]iii) a person[~~s~~] who must be given notice by statutory or federal mandate; and

([~~d~~]iv) another person[~~s~~] who, in the judgment of the Superintendent, should receive notice.

([~~6~~]g) The Board shall allow[~~s~~] at least 30 days after publication in the Bulletin for public comment on the proposed rule.

([~~a~~]h)(i) The Superintendent shall:

(A) maintain[~~s~~] a file containing a copy of the proposed rule and the rule analysis form[~~,~~]; and

(B) make[~~s~~] the file available to the public during the regular business hours of the USOE upon request.

(ii) The Superintendent shall keep the following in the file:

(A) a [~~W~~]written comment[~~s,~~];

(B) a note[~~s~~] on a verbal comment[~~s,~~];

(C) information received electronically[~~,~~]; and

(D) a hearing record[~~s~~], if any[~~, are kept in the file~~].

[~~(b) Hearings may be held by the Board as described in Section R277-100-6.~~]

([~~c~~]iii) The Board may follow Subsections [~~R277-100-4B or R277-100-4C~~](2) and (3) to amend a rule after reviewing public comment.

([~~d~~]iv)(A) During the 30-day comment period, the Board may direct the Superintendent to take no further action on a rule.

(B) [~~The~~]A proposed rule automatically expires 90 days after [~~its~~]the publication date.

[~~B. Nonsubstantive Changes in a Rule~~]

([~~1~~]2)(a) The Superintendent may make a [~~N~~]nonsubstantive change[~~s may be made in~~] to a rule under this section both before and after the effective date[~~ of the rule~~].

([~~2~~]b) A change is nonsubstantive if, in the opinion of the Superintendent, [~~it~~]the change does not affect Board policy, application of the rule, or results of Board action under the rule.

([~~3~~]c) To enact a nonsubstantive change, the Superintendent shall prepare[~~s~~] a copy of the new version of the rule and file[~~s~~] it with the DAR.[~~ The new version is effective upon filing.~~]

[~~C. Substantive Changes in a Proposed Rule~~]

(3)(a) The Board may make a change in a previously published proposed rule prior to its effective date.

(b) The Board shall direct[~~s~~] the Superintendent to:

([~~1~~]i) prepare a new rule analysis form describing the change[~~, and~~];

(ii) file [~~it~~]the form and a copy of the revised propos[~~al~~]ed rule with DAR; and

([~~2~~]iii)(A) notify DAR of the effective date of the revised rule[~~. T~~]; or

(B) allow the rule [~~will~~]to automatically become effective 30 days after its new publication date[~~ if no other date is specified~~].

[~~D. Emergency Rules~~]

([~~1~~]4)(a) An emergency rule may be adopted under this section if the Superintendent finds that delay resulting from following normal procedures will:

([~~a~~]i) result in imminent peril to the public health, safety, or welfare;

([~~b~~]ii) cause an imminent budget reduction because of budget restraints or federal requirements; or

([~~c~~]iii) place the Board in violation of federal or state law.

([~~2~~]b) The Superintendent shall notif[~~ies~~]y the Board Chair of the need to enact an emergency rule.

([~~3~~]c) If the Board Chair concurs in the recommendation, the Superintendent shall:

([~~a~~]i) prepare[~~s~~] and file[~~s~~] a copy of the proposed emergency rule and the rule analysis form with DAR, stating the specific reason[~~s~~] for the adoption of the rule;

([~~b~~]ii) notif[~~ies~~]y DAR of the effective date and the lapsing date for the proposed emergency rule[~~. If no effective date is specified, the proposed emergency rule becomes effective on the filing date. If no lapsing date is specified, the proposed emergency rule lapses 120 days after the filing date. No emergency rule may remain in effect for more than 120 days~~]; and

([~~c~~]iii) mail[~~s~~] a copy of the rule analysis form to the members of the Board

and to persons specified in Subsection [~~R277-100-4A(5)~~](1)(f).

(d)(i) If no effective date is specified, the proposed emergency rule becomes effective on the filing date.

(ii) If no lapsing date is specified, the proposed emergency rule lapses 120 days after the filing date.

(iii) An emergency rule may not remain in effect for more than 120 days.

R277-100-5. Formal Adoption by the Board of Procedures, Handbooks, and Manuals, and Reference to those Documents in Rules.

[~~A.~~](1)(a) Under Board direction, a division[~~s~~] under the supervision of the Board[~~,~~] may periodically develop or amend [~~various~~]a policy manual[~~s~~] or policy handbook[~~s which may~~] that does not[~~ necessarily~~] qualify [~~to be~~]as a rule[~~s~~] or [~~are~~]is not suitable for the normal rulemaking procedures.

(b) [~~These~~]A division shall[~~ be~~] present[~~ed~~] a policy manual or handbook described in Subsection (1)(a) to the Board for [~~purposes of~~]the Board's formal adoption or amendment.

[~~B.~~](2) An LEA[~~s~~] shall have electronic access to [~~such documents which are to be~~]the policy manual or handbook considered for adoption by the Board.

[~~C.~~](3) An LEA[~~s~~] shall comply with [~~the provisions of such documents,~~]a policy manual or handbook after the formal adoption or amendment by the Board[~~of a USOE policy manual or policy handbook~~].

[~~D.~~](4) Following formal review by the Board, the Board's designation of a handbook, manual, or similar document as a policy manual or policy handbook is conclusive for purposes of this rule.

R277-100-6. Hearings.

[~~A. When to hold hearings~~]

(1)(a) The Board may hold a hearing[~~s~~] during a regular or special meeting.

([~~2~~]b) The Board shall hold a hearing[~~s~~] if:

([~~a~~]i) required by state or federal law; or

([~~b~~]ii) an affected agency, ten persons, or an organization having not fewer than ten members submits a written request for a hearing to the Superintendent not

more than 15 days after the publication date of the proposed rule, amendment, or rule repeal.

(c) The Board shall hold a[~~ The~~] hearing [~~shall be held~~]described in Subsection (1)(b) within 30 days of receipt of the request.

[~~B. Hearing Procedures~~]

([~~1~~]2)(a) Notice of a hearing regarding a proposed rule[~~s~~] published in the Bulletin is provided by:

([~~a~~]i) publication of the hearing date, time, place, and subject matter in the Bulletin;

([~~b~~]ii) posting of the notice of information contained on the rule analysis form in a place frequented by the public consistent with Title 52, Chapter 4, Open and Public Meetings Act;

([~~c~~]iii) sending persons who receive rule analysis forms under Subsection R277-100-4[~~A(5)~~](1)(f) written notice of any changes made in the notice information contained on the rule analysis form;

([~~d~~]iv) giving further notice required by law or regulation; and

([~~e~~]v) sending notice to those requesting the hearing, if the hearing is requested under Subsection [~~R277-100-6A(2)(b)~~](1)(b)(ii).

([~~2~~]b) Notice of a hearing[~~s~~] held prior to proposing the rule is given by:

([~~a~~]i) posting the hearing date, time, place, and subject in a place frequented by the public consistent with Title 52, Chapter 4, Open and Public Meetings Act; and

([~~b~~]ii) providing the notice information to persons specified in Subsection [~~R277-100-4A(1)~~](1)(a).

[~~C.~~](3)(a) The Board may hold the hearing itself[~~,~~] or appoint any person who can fairly conduct the hearing, other than the Superintendent, [~~to be the~~]as a hearing officer.

(b) The hearing officer shall know rulemaking procedures, but may not be directly responsible for administering the rule.

[~~D. Conducting the Hearing~~]

([~~1~~]4)(a)(i) Upon opening the hearing, the hearing officer shall explain[~~s~~] the purpose of the hearing and invite[~~s~~] orderly, germane comment.

(ii) The hearing officer may set time limits for speakers and otherwise control

prudent use of time.

([~~2~~]b)(i) The hearing officer shall rule[~~s~~] on a question[~~s~~] of relevance and redundancy.

(ii) An [~~O~~]oath[~~s~~], cross-examination, and rules of evidence are not required.

(iii) The hearing officer shall conduct [~~T~~]the hearing[~~ is conducted~~] as an open, informal, orderly, and informative meeting.

([~~3~~]c) A person familiar with the rule at issue may be asked to be present at the hearing to respond to inquiries and to provide information.

([~~4~~]d)(i) The hearing officer may invite written comment to be submitted at the hearing or within a reasonable time thereafter.

(ii) A [~~W~~]written comment[~~s~~] shall include the name, address, and, if applicable, the organization represented by the person making the comment[~~s~~].

(iii) A [~~W~~]written comment or electronically received comment shall be appended to the hearing minutes.

[~~E. The Record~~]

([~~1~~]5)(a) The hearing officer or a person appointed to take minutes shall record[~~s~~] the name, address, and organization represented by each person speaking at the hearing, and a brief summary of the remarks.

([~~2~~]b) In the alternative, a hearing may be recorded by audio or video.

([~~3~~]c)(i) Hearing minutes, a hearing recording, [~~(~~]if available[~~)~~], a copy of the proposed rule, written comments, the findings and recommendations of the hearing officer, the decision of the Board, and other pertinent documents constitute the record of the hearing.

(ii) The record is maintained in a file available to the public at the USOE during regular business hours by appointment.

[~~F. Findings and Recommendations~~]

([~~1~~]6)(a) The hearing officer shall make[~~s~~] written findings and recommendations, including any facts pertinent to the hearing, recommendations for Board action, and reasons for the recommendations.

([~~2~~]b) The hearing officer shall transmit[~~s~~] the findings, recommendations, and the complete record of the hearing to the Board as soon as possible following the close of the hearing.

([~~3~~]c) [~~When~~]If the Board conducts the hearing, the Chair shall prepare[~~s~~] written findings, the decision, and reasons for the decision.

[~~G. The Decision~~]

([~~1~~]7)(a)(i) The Board shall issue[~~s~~] a written decision as soon as possible after the close of the hearing and before the rule becomes effective.

(ii) The decision shall state[~~s~~]:

(A) whether the proposed rule will be adopted, changed, or withdrawn;

(B) any alternative action, such as whether a rule will be proposed on the subject matter of the hearing; and

(C) reasons for the decision.

(iii) The written decision is included in the hearing record.

([~~2~~]b) If the hearing is held under Subsection [~~R277-100-6A(2)~~](1)(b), the Board shall mail[~~s~~] a copy of or send[~~s~~] electronically the decision to the person who requested the hearing.

[~~H.~~](8) A decision of the Board may be appealed to a district court.

R277-100-7. Board Review of Rules and Declaratory Judgments.

[~~A. Five Year Review~~]

(1)(a) The Board shall review[~~s~~] each rule within five years of its effective date and at five year intervals thereafter.

([~~2~~]b) The Superintendent shall coordinate with DAR to ensure that [~~all Administrative rules are~~]the Board adequately reviews[~~ed by the Board~~]a rule prior to the five year review deadline.

([~~3~~]c) The Superintendent shall complete [~~A~~]all [~~other~~]paperwork[~~ shall be completed by the Superintendent~~] to repeal or reenact [~~the~~]a rule[~~s~~].

[~~B. Declaratory Judgments on the Applicability of a Rule~~]

([~~1~~]2)(a) An interested person may petition the Board for a ruling on the applicability of a particular Board provision, rule, or order in a stated case by filing a petition for a declaratory judgment with the Superintendent.

([~~2~~]b)(i) The petition shall contain:

(A) the petitioner's name, address, and phone number;

(B) the Board provision, rule, or order; and

(C) a statement of the facts of the case.

(ii) The person shall file the petition[~~ shall be filed~~] within six months of the application of the rule to the interested party or to a person represented by the interested party.

([~~3~~]c) Within 15 days of the filing of the petition, the Superintendent shall make[~~s~~] a recommendation to the Board regarding the applicability of the provision, rule, or order to the case.

([~~4~~]d) Prior to issuing a decision, the Board may:

([~~a~~]i) conduct a hearing on the matter under Section R277-100-6[~~. The hearing shall begin~~], no sooner than 15 days and no later than 45 days after receiving the petition; or

([~~b~~]ii) appoint a staff member to conduct an investigation of the case.

(e) The investigator shall make[~~s~~] a recommendation to the Board as soon as possible after the close of the investigation.

([~~5~~]f)(i) The Board shall notif[~~ies~~]y the petitioner by certified mail of its decision to conduct a hearing or investigation.

(ii) The [~~N~~]notice shall include[~~s~~]:

(A) the time, date, and place of the hearing and the name of the hearing officer; or[~~,~~]

(B) in the case of an investigation, the name of the staff member responsible for conducting the investigation.

([~~6~~]g)(i) The Board shall issue[~~s~~] a ruling regarding the applicability of the provision, rule, or order within:

(A) 60 days of the filing of the petition[~~,~~]; or

(B) if a hearing is held, as soon as possible after the close of a hearing.

(ii) The Board's ruling shall include[~~s~~]:

(A) reasons for the decision; and

(B) [~~is~~]be sent by certified mail to the petitioner.

([~~7~~]h) The Superintendent shall maintain[~~s~~] a complete copy of the Board's current rules for public inspection at the [~~Superintendent's Office~~]USOE during regular business hours.

346 **KEY: administrative procedures, rules and procedures**

347 **Date of Enactment or Last Substantive Amendment: [~~January 10, 2012~~]2015**

348 **Notice of Continuation: [~~November 11, 2010~~]2015**

349 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 63G-3-101 et**

350 **seq.; 53A-1-401(3)**

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-207 *Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Presumptions* (New)

Background:
During the May 2015 meeting of the Law and Licensing Committee, the Committee asked staff to draft a Board rule to establish presumptions for UPPAC and Board review of UPPAC cases.

Key Points:
The new rule provides disciplinary presumptions for UPPAC and the Board when considering whether to issue disciplinary letters or take action following a UPPAC investigation.

Anticipated Action:
It is proposed that the Law and Licensing Committee consider approving R277-207 on first reading and, if approved by the Committee, the Board consider approving R277-207 on second reading.

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R277. Education, Administration.

R277-207. Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Presumptions.

R277-207-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

(2) The purpose of this rule is to establish presumptions for UPPAC and Board review of UPPAC cases.

R277-207-2. Presumptions.

(1) UPPAC and the Board shall consider the presumptions in this section when evaluating a case of educator misconduct.

(2)(a) Revocation is presumed appropriate if an educator:

(i) is subject to mandatory revocation under Subsection 53A-6-501(5)(b);

(ii) is convicted of, admits to, or is found pursuant to an evidentiary hearing to have engaged in viewing child pornography, whether real or simulated, on or off school property;

(iii) subject to Subsection (2)(b), is convicted of a violation of Title 76, Chapter 5, Offenses Against the Person, that results in a sentence of jail time of six months or more, unsuspended;

(iv) is convicted three or more times, each involving a minor, of any combination of drug, alcohol, violence, or sexual offenses in the three years previous to the most recent conviction; or

(v) is convicted of an offense that requires the educator to register as a sex offender under Subsection 77-41-105(3).

(b) Early release or work release permitted by the jail may not be considered by UPPAC or the Board for purposes of calculating the jail time in Subsection

(2)(a)(iii).

(3) Suspension of three years or more is presumed appropriate if an educator:

(a) engages in a serious boundary violation of a physical or sexually suggestive nature that is not sexually explicit conduct;

(b) is convicted of child abuse if the conduct results in a conviction of a class A misdemeanor or higher;

(c) is convicted of a first degree felony, a second degree felony, or a felony involving a minor, unless revocation is presumed by statute or Subsection (2);

(d) is convicted of an offense that results in the educator being placed on court supervision for three or more years;

(e) is convicted of intentional theft or misappropriation of public funds; or

(f) intentionally provides alcohol or illegal drugs to a minor.

(4) Suspension of one to three years is presumed appropriate, if an educator:

(a) willfully or knowingly creates, views, or gains access to sexually inappropriate material on school property or using school equipment;

(b) is convicted of one or more misdemeanor violence offenses in the last 3 years;

(c) is convicted of using physical force with a minor if the conviction is a class B misdemeanor or lower;

(d) engages in repeated incidents of or a single egregious incident of excessive physical force or discipline to a child or student that:

(i) does not result in a criminal conviction; and

(ii) does not meet the circumstances described in Subsection 53A-11-802(2);

(e) threatens a student physically, verbally, or electronically;

(f) engages in a pattern of inappropriately fraternizing with a student under a circumstance not described in Subsection (3)(a);

(g) engages in multiple incidents or a pattern of theft or misappropriation of public funds that does not result in a criminal conviction;

(h) attends a school or school-related activity in an assigned employment-related capacity while possessing, using, or under the influence of alcohol or illegal drugs;

(i) is convicted of two or three drug-related offenses or alcohol-related

offenses in the three years previous to the most recent conviction;

(j) is convicted of a third degree felony not covered by any other presumption specified in this rule;

(k) engages in a pattern of or a single egregious incident of:

(i) harassing;

(ii) bullying; or

(iii) threatening a co-worker or community member;

(l) knowingly and deliberately falsifies or misrepresents information on an education-related document; or

(m) knowingly and deliberately teaches, counsels, or assists a student in a manner that undermines or disregards the lawful, express directives of a parent.

(5) A short-term suspension is presumed appropriate if an educator:

(a) has three or more incidents of inappropriate conduct that would otherwise warrant lesser discipline; or

(b) fails to report to appropriate authorities suspected child or sexual abuse.

(6) A letter of admonition, letter of warning, or letter of reprimand, with or without probation, is presumed appropriate if an educator:

(a) engages in a miscellaneous minimal boundary violation with a student or minor, whether physical, electronic, or verbal;

(b) engages in minimal inappropriate physical contact with a student;

(c) engages in unprofessional communications or conduct with a student, co-worker, community member, or parent;

(d) engages in an inappropriate discussion with a student that violates state or federal law;

(e) knowingly violates a requirement or procedure for special education needs;

(f) knowingly violates a standardized testing protocol;

(g) is convicted of one of the following with or without court probation:

(i) a single driving under the influence of alcohol or drugs offense under Section 41-6a-502;

(ii) impaired driving under Section 41-6a-502.5; or

(iii) a charge that contains identical or substantially similar elements to the

96 state’s driving under the influence of alcohol or drugs law or under the law of
97 another state or territory;
98 (h) carelessly mismanages public funds or fails to accurately account for
99 receipt and expenditure of public funds entrusted to the educator's care;
100 (i) fails to make a report required by Rule R277-516;
101 (j) is convicted of one or two misdemeanor offenses not otherwise listed;
102 (k) engages in an activity that constitute or create the appearance of a conflict
103 of interest with the educator's professional responsibility; or
104 (l) engages in other minor violations of the Utah Educator Standards in Rule
105 R277-515.
106 (7) In considering a presumption described in this section, UPPAC or the
107 Board may deviate from the presumptions if:
108 (a) the presumption does not involve a revocation mandated by statute; and
109 (b) aggravating or mitigating factors exist that warrant deviation from the
110 presumption.
111 (8) An aggravating factor may include the following:
112 (a) the educator has engaged in prior misconduct;
113 (b) the educator presents a serious threat to a student;
114 (c) the educator's misconduct directly involved a student;
115 (d) the educator's misconduct involved a particularly vulnerable student;
116 (e) the educator's misconduct resulted in physical or psychological harm to
117 a student;
118 (f) the educator violated multiple standards of professional conduct;
119 (g) the educator's attitude does not reflect responsibility for the misconduct
120 or the consequences of the misconduct;
121 (h) the educator's misconduct continued after investigation by the LEA or
122 UPPAC;
123 (i) the educator holds a position of heightened authority as an administrator;
124 (j) the educator's misconduct had a significant impact on the LEA or the
125 community;
126 (k) the educator's misconduct was witnessed by a student;
127 (l) the educator was not honest or cooperative in the course of UPPAC's

128 investigation;
129 (m) the educator was convicted of crime as a result of the misconduct; and
130 (n) any other factor that, in the view of UPPAC or the Board, warrants a more
131 serious consequence for the educator's misconduct.
132 (9) A mitigating factor may include the following:
133 (a) the educator's misconduct was the result of strong provocation;
134 (b) the educator was young and new to the profession;
135 (c) the educator's attitude reflects recognition of the nature and consequences
136 of the misconduct;
137 (d) the educator's attitude suggests amenability to supervision and training;
138 (e) the educator has little or no prior disciplinary history;
139 (f) since the misconduct, the educator has an extended period of
140 misconduct-free classroom time;
141 (g) the educator was a less active participant in a larger offense;
142 (h) the educator's misconduct was directed or approved, whether implicitly or
143 explicitly, by a supervisor or person in authority over the educator;
144 (i) the educator has voluntarily sought treatment or made restitution for the
145 misconduct;
146 (j) there was insufficient training or other policies that might have prevented
147 the misconduct;
148 (k) any other factor that, in the view of UPPAC or the Board, warrants a less
149 serious consequence for the educator's misconduct.
150 (10)(a) UPPAC and the Board have sole discretion to determine the weight
151 it gives to an aggravating or mitigating factor.
152 (b) The weight UPPAC or the Board gives an aggravating or mitigating factor
153 may vary in each case and any one aggravating or mitigating factor may outweigh
154 some or all other aggravating or mitigating factors.

155 **KEY: educator, disciplinary presumptions**
156 **Date of Enactment of Last Substantive Amendment: 2015**
157 **Authorizing, Implemented, or Interpreted Law: Art X Sec 3; 53A-6-306;**
158 **53A-1-401(3)**

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Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-514 and R277-517 (Repeal)
R277-200 through R277-206 and R277-515 and R277-516 (Amendment)

Background:

1. Rules R277-517 and R277-514 are repealed because the bulk of the R277-517, which outlines the UPPAC process, was eliminated in HB 345 and, specifics on hearing procedures and Board review contained in R277-514 have been moved to R277-201 through R277-203.

2. Rules R277-200 through R277-206 and R277-515 and R277-516 are amended to incorporate hearing procedures, Board review of UPPAC recommendations, appeal procedures, and reporting requirements.

Key Points:

1. Repeal R277-517. The bulk of this rule outlines the UPPAC process which was done away with by HB 345. Specifics on hearing procedures and board review contained in this rule have been moved to R277-201-203.

2. Repeal R277-514.
   a. The substance of this rule dealing with Board review and appeals to the superintendent have been combined with the UPPAC rules R277-201-203.
   b. It is proposed that those cases in which the Board must adopt findings for deviating from UPPAC recommendations be limited to those in which a hearing has been held. Recommendations coming without a hearing report, would not require findings to remand the matter to UPPAC to conduct a hearing and create a record.
   c. Reporting provisions of this rule would be moved to R277-516 with other reporting requirements.

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3. Amend 201-203 to incorporate the above-referenced changes and clarify procedure for Board review and when the Board needs to issue independent findings. Specific procedures have been added for Board review of disciplinary letters, which don't require a stipulated agreement or hearing.

4. Amend 516 to incorporate 514 reporting requirements.

5. Amend 515 to update a reference to the reporting requirements.

6. Amend 200 to reflect application to the presumptions rule, if adopted, as well as add a definition for "sexually explicit conduct."

7. Rules 200-206 have been re-numbered consistent with new Board standards.

Anticipated Action:

1. It is proposed that the Law and Licensing Committee consider approving R277-514 and R277-517, for repeal, on first reading and, if approved by the Committee, the Board consider approving R277-514 and R277-517 for repeal on second reading.

2. It is proposed that the Law and Licensing Committee consider approving R277-200 through R277-206, R277-515, and R277-516, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-200 through R277-206, R277-515, and R277-516, as amended, on second reading.

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Ben Rasmussen, 801-538-7835

[**~~R277. Education, Administration.~~**

~~R277-514. Board Procedures: Sanctions for Educator Misconduct.~~

~~R277-514-1. Definitions.~~

~~In addition to terms defined in Section 53A-6-103, the following definitions apply:~~

~~A. "Allegation of misconduct" means a written or oral report alleging that an educator has engaged in unprofessional, criminal, or incompetent conduct; is unfit for duty; has lost licensure in another state due to revocation or suspension, or through voluntary surrender or lapse of a license in the face of an allegation of misconduct; or has committed some other violation of standards of ethical conduct, performance, or professional competence.~~

~~B. "Board" means the Utah State Board of Education.~~

~~C."Commission" means the Utah Professional Practices Advisory Commission.~~

~~D. "Educator" means a person who currently holds a license, held a license at the time of an alleged offense, is an applicant for a license, or is a person in training to obtain a license.~~

~~E. "License" means an authorization issued by the Board which permits the holder to serve in a professional capacity in a unit of the public education system or an accredited private school.~~

~~F. "Party" means the complainant or the respondent.~~

~~G. "Recommended disposition" means a recommendation for resolution of a complaint.~~

~~H. "Serve" or "service," as used to refer to the provision of notice to a person, means delivery of a written document or its contents to the person or persons in question. Delivery may be made in person, by mail to the individual's last known address or by other means reasonably calculated, under all of the circumstances, to apprise the interested person or persons to the extent reasonably practical or practicable of the information contained in the document.~~

~~I. "Superintendent" means the State Superintendent of Public Instruction.~~

~~R277-514-2. Authority and Purpose.~~

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public schools in the Board, Section 53A-6-405 relating to withdrawal or denial of licensure by the Board for cause, Section 53A-6-307 in which the Board retains the power to issue or revoke licenses, hold hearings or take other disciplinary action as warranted, and Subsection 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to provide an appeals process for recommendations and decisions made by the Commission, including a review by the Superintendent; and to specify the procedures under which the Board may take action against an educator's license for misconduct.~~

~~R277-514-3. Administrative Review by Superintendent.~~

~~A. If an administrative action is taken by the Commission which results in a recommendation to the Board for:~~

~~(1) suspension of an educator's license for two years or more, or~~

~~(2) revocation of an educator's license,~~

~~B. Either party may request review by the Superintendent within 15 days from the~~

~~date that the Commission sends written notice to both parties that the Commission has made its administrative recommendation.~~

~~C. The request for review shall consist of the following:~~

~~(1) name, position, and address of appellant;~~

~~(2) issue(s) being appealed; and~~

~~(3) signature of appellant.~~

~~D. If the Superintendent finds:~~

~~(1) that procedural errors have occurred which violated fairness or due process issues, the Superintendent shall refer the case back to the Commission for reconsideration as to whether or not the findings, conclusions or decisions of the Commission are supported by a preponderance of the evidence, or direct the Executive Secretary for the Commission to take specific administrative action. After reconsideration is completed, the Superintendent shall notify all parties to the case, and refer the matter to the Board, if necessary, for final disposition consistent with this rule.~~

~~R277-514-4. Board Procedures.~~

~~A. Except as provided under Subsection R277-514-4(E), if the Board receives an allegation of misconduct by an educator, the allegation shall be forwarded to the Executive Secretary for the Commission for action under R686-100.~~

~~B. Following completion of procedures provided in R686-100, if the Commission recommends that an educator's license be suspended for any period of time or revoked, the recommendation shall be forwarded to the Board for action.~~

~~C. Upon receiving a case from the Commission, the members of the Board shall review a summary of the case and may:~~

~~(1) accept the recommendation of the Commission; or~~

~~(2) review the case file, findings, conclusions, and recommended disposition of the case.~~

~~(a) If the Board finds no serious procedural errors, that the findings and conclusions are reasonable and supported by a preponderance of the evidence, and that the recommended disposition presents a reasonable resolution of the case, then the Board shall approve the findings and recommended disposition.~~

~~(b) If the Board finds serious procedural errors have violated the fundamental fairness of the process, then the Board shall refer the case back to the Commission to correct the errors.~~

~~(c) If the Board determines that the findings or conclusions are not supported by a preponderance of the evidence, or that the recommended disposition does not present a reasonable resolution of the case, then the Board may refer the case back to the Commission for further action or may, in the alternative, prepare other findings, conclusions, or disposition.~~

~~(d) If the Board finds that there is insufficient information in the case file to complete its work, the Board may direct the parties to appear and present additional evidence or clarification.~~

~~(e) If the Board finds it advisable to do so, the Board may initiate investigations or hearings regarding the initial or continued licensure of an individual and take disciplinary action upon its own volition without referring a given case to the Commission.~~

~~D. The Board shall issue a written order regarding its action which contains its conclusions and its disposition of the case, and direct the State Superintendent to serve~~

~~a copy of the written order upon the parties.~~

~~E. All documents used by the Board in reaching its decision, and a copy of the Board's final order, shall be made part of the permanent case file.~~

~~F. The decision of the Board is final.~~

~~R277-514-5. Notification Requirements and Procedures.~~

~~A. An educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report that belief to the school principal, district superintendent, or the Commission. A school administrator receiving such a report shall immediately submit the information to the Commission if the employee is licensed as an educator.~~

~~B. A local superintendent or charter school director shall notify the Commission if an educator is determined, pursuant to an administrative or judicial action, to have had disciplinary action taken for or to be guilty of:~~

~~(1) unprofessional conduct or professional incompetence which results in suspension for more than one week or termination, or which otherwise warrants Commission review; or~~

~~(2) immoral behavior.~~

~~C. Failure of an educator to comply with Subsection A or B may constitute unprofessional conduct.~~

~~D. The State Office of Education shall notify the educator's employer of any final action taken by the Board; and shall notify all Utah local education agencies (LEAs) and the NASDTEC Educator Information Clearinghouse whenever a license is revoked or suspended, or if an educator surrenders a license or allows it to lapse in the face of allegations of misconduct rather than accept an opportunity to defend against the allegations.~~

~~KEY: disciplinary actions, professional competency, educator licensure~~
~~Date of Enactment or Last Substantive Amendment: October 9, 2012~~
~~Notice of Continuation: August 14, 2012~~
~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-405; 53A-6-307; 53A-1-401(3)~~]

[~~**R277. Education, Administration.**~~
~~**R277-517. Board and UPPAC Disciplinary Definitions and Actions.**~~
~~**R277-517-1. Definitions.**~~

~~A. "Administrative hearing" means a formal adjudicative proceeding consistent with 53A-6-601. The Utah State Board of Education and Utah State Office of Education licensing process is not governed by the Utah Administrative Procedures Act Section 63G-4.~~

~~B. "Board" means the Utah State Board of Education.~~

~~C. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file owned and maintained on all licensed Utah educators. The file includes information such as:~~

~~(1) personal directory information;~~

~~(2) educational background;~~

~~(3) endorsements;~~

~~(4) employment history; and~~

~~(5) a record of disciplinary action taken against the educator.~~

~~D. "Educator paper licensing file" means the file maintained securely by UPPAC on an educator. The file is opened following UPPAC's direction to investigate alleged misconduct. The file contains the original complaint, subsequent correspondence and the final disposition of the case.~~

~~E. "Revocation" means a permanent invalidation of a Utah educator license.~~

~~F. "Stipulated agreement" means an agreement between a respondent/educator and the Board or between a respondent/educator and UPPAC under which disciplinary action against an educator's license status will be taken, in lieu of a hearing. At any time after an investigative letter has been sent, a stipulated agreement may be negotiated between the parties and becomes binding when approved by the Board.~~

~~G. "Suspension" means an invalidation of a Utah educator license. A suspension may include specific conditions that an educator shall satisfy and shall identify a minimum time period that shall elapse before the educator can request a reinstatement hearing before UPPAC.~~

~~H. "Utah Professional Practices Advisory Commission (Commission or UPPAC)" means a commission established to assist and advise the Board in matters relating to the professional practices of educators, as established under Section 53A-6-301.~~

~~I. "UPPAC disciplinary letters or action" means letters sent or action taken by UPPAC informing the educator of licensing disciplinary action not rising to the level of license suspension. Disciplinary letters and action include the following:~~

~~(1) Letter of admonishment is a letter sent by UPPAC to the educator cautioning the educator to avoid or take specific actions in the future;~~

~~(2) Letter of warning is a letter sent by UPPAC to an educator for misconduct that was inappropriate or unethical that does not warrant longer term or more serious discipline;~~

~~(3) Letter of reprimand is a letter sent by UPPAC to an educator for misconduct that was longer term or more seriously unethical or inappropriate than conduct warranting a letter of warning, but not warranting more serious discipline;~~

~~(4) Probation is an action directed by UPPAC for an indefinite or designated time period usually accompanied by a disciplinary letter.~~

~~J. "UPPAC investigative letter" means a letter sent by UPPAC to an educator notifying the educator that an allegation of misconduct has been received against him and~~

~~UPPAC has directed that an investigation of the educator's alleged actions take place.~~

~~K. "USOE" means the Utah State Office of Education.~~

~~R277-517-2. Authority and Purpose.~~

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of the public schools in the Board, by Section 53A-1-402(1)(a) which directs the Board to make rules regarding the certification of educators, by Section 53A-6 which establishes provisions related to educator licensing and professional practices, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to:~~

~~(1) provide standards and procedures to ensure protection of students' physical, emotional, academic and social well-being at school by all the adults who work for Utah public schools.~~

~~(2) provide definitions and provisions explaining UPPAC actions and recommendations that do not rise to the level of action against an educator's license and to provide definitions and criteria for Board disciplinary actions against educator licenses.~~

~~R277-517-3. UPPAC Disciplinary Actions.~~

~~A. UPPAC is an advisory body to the Board.~~

~~B. Unlike Board action, a UPPAC action does not affect the validity of a Utah educator license.~~

~~C. UPPAC may issue the following disciplinary actions:~~

~~(1) Letter of admonishment:~~

~~(a) sent directly to the educator;~~

~~(b) cautioning the educator to avoid or take specific actions in the future;~~

~~(c) does not show as a notation on CACTUS;~~

~~(d) is maintained permanently in educator's paper licensing file.~~

~~(2) Letter of warning:~~

~~(a) sent directly to the educator;~~

~~(b) warns the educator that specific behavior or conduct was inappropriate or unethical and directs the educator to avoid or take specific actions in the future;~~

~~(c) does not show as a notation on CACTUS;~~

~~(d) is maintained permanently in educator's paper licensing file;~~

~~(e) notice sent by UPPAC to employer or former employer that investigation was closed with a letter of warning.~~

~~(3) Letter of reprimand:~~

~~(a) sent to educator and to educator's employer or former employer, if the employer is a public or private school;~~

~~(b) strongly reprimands the educator that specific behavior or conduct was unethical or unacceptable among professional educators and directing the educator to avoid or take specific action in the future;~~

~~(c) shows as a notation on educator's CACTUS file which directs those with CACTUS access to contact USOE for further information;~~

~~(d) often, but not always, includes a period of probation during which educator must meet specific conditions;~~

~~(e) remains as a notation on educator's CACTUS file for at least two years from the~~

~~date of UPPAC action unless a different time period is identified by the reprimand letter or in the stipulated agreement for the letter;~~

~~(f) is maintained permanently in educator's paper licensing file.~~

~~(g) may be removed from educator's active CACTUS file, upon educator's request, following designated time period and satisfaction of conditions by educator. UPPAC shall review the request, review educator's file and subsequent actions and may require educator to meet with UPPAC prior to granting the request;~~

~~(4) probation:~~

~~(a) usually, but not always, accompanies a warning or reprimand letter and~~

~~(b) designates time period and conditions that educator receiving other UPPAC discipline may be asked to satisfy prior to lifting of the probation or to avoid further UPPAC discipline;~~

~~(c) shows as a notation on an educator's CACTUS file and directs those with CACTUS access to contact USOE for further information.~~

~~(d) remains on educator's CACTUS file for at least 2 years from the date of UPPAC action unless a different time period is designated;~~

~~(e) may be lifted upon educator's request following designated time period and satisfaction of all conditions; UPPAC shall review the request, review educator's file and subsequent action and may require educator to meet with UPPAC prior to granting the request;~~

~~(5) other disciplinary action or letter that is appropriate and reasonable to address or remediate educator misconduct, or both, that is not suspension or revocation.~~

~~D. UPPAC shall make written recommendations to the Board for disciplinary actions that affect educator licenses including suspension, revocation and reinstatement.~~

~~E. UPPAC action is a final administrative action for those disciplinary actions found in R277-517-3C, and the existence of such action is public information under Section 63G-2-201(2)(c). The substance of disciplinary letters is protected under Section 63G-2-305(25),(33) and (34).~~

~~F. UPPAC shall send notice of final UPPAC action to an educator no more than 30 days following a final UPPAC action.~~

~~G. UPPAC shall not provide information to the public about UPPAC actions until they have been reviewed or acted upon or both by the Board.~~

~~R277-517-4. Board Receipt and Review of UPPAC Recommendations.~~

~~A. The Board shall review UPPAC recommendations for suspension, revocations, reinstatements, and other disciplinary actions upon request in executive sessions consistent with Section 52-4-204 through 206.~~

~~B. UPPAC shall make Hearing Reports and stipulated agreements available for a confidential review by Board members prior to and during the Board's discussion of cases.~~

~~C. UPPAC shall make case files, hearing recordings and exhibits available for review by Board members as directed by the Board.~~

~~D. UPPAC shall forward the completed UPPAC Recommendation Report Form to the Board for its consideration.~~

~~E. If the Board takes final action to accept the recommendations of a UPPAC hearing report, the final hearing report is a public record, but may be redacted prior to release to protect the names of students or information consistent with Section 63G-2-202(3).~~

~~F. If the Board does not accept a UPPAC recommendation, the Board shall prepare written findings and conclusions based on the record and take any other action consistent with procedures in R277-514-4C, and provide the findings to the educator consistent with R277-517-5D and E, below. The Board findings and conclusions are a public record, but may be redacted prior to release to protect the names of students or information consistent with Section 63G-2-202(3).~~

~~G. The Board shall initially review UPPAC recommendations at the next regularly scheduled Board meeting following receipt of written recommendations.~~

~~R277-517-5. Board Disciplinary Actions.~~

~~A. Board disciplinary actions:~~

~~(1) The Board may suspend an educator's license consistent with R277-517-1G:~~

~~(a) A suspension may be recommended by a Stipulated Agreement negotiated between UPPAC and an educator; or~~

~~(b) A suspension may be recommended following an administrative hearing under the provisions of R686-100;~~

~~(c) A suspension may include specific conditions which shall be satisfied by the educator prior to requesting a reinstatement hearing from UPPAC under R686-100;~~

~~(d) A suspension shall provide a minimum time period after which the educator may request a reinstatement hearing from UPPAC.~~

~~(2) The Board may revoke an educator's license:~~

~~(a) A revocation is permanent, except as provided under R277-517-5A(2)(c) below;~~

~~(b) A revocation is required under Section 53A-6-405(2);~~

~~(c) An individual whose license has been revoked may seek reinstatement of his license only in the following limited circumstances:~~

~~(i) the individual provides evidence of mistake or false information that was critical to the revocation action;~~

~~(ii) the individual identifies material procedural UPPAC or Board error in the revocation process.~~

~~(3) If a complaint is filed against an educator and the educator fails to respond to the complaint or fails to appear for a hearing before the Board or UPPAC, the Board may revoke or suspend the educator's license. This action may be taken only if UPPAC has documentation of attempts to contact the educator, consistent with R686-100.~~

~~(4) The Board may reinstate an educator's license:~~

~~(a) An educator may request a reinstatement hearing following a license suspension. The reinstatement request shall be made consistent with R686-100.~~

~~(b) An educator has a reasonable expectation of a reinstatement hearing, consistent with due process and reinstatement hearing conditions set by UPPAC, but no expectation of license reinstatement by the Board.~~

~~(c) An educator whose license has been suspended and the reinstatement denied by the Board may request an additional reinstatement hearing once every 24 months unless otherwise directed by the Board.~~

~~(d) An educator requesting a reinstatement hearing shall have a criminal background check, that was conducted not more than six months prior to the requested hearing, on file with the USOE. The background check and review of any offenses must be completed prior to reinstatement.~~

~~(e) Prior to sending a reinstatement recommendation to the Board for its~~

~~consideration, UPPAC shall provide evidence to the Board of its consideration of Board-identified criteria central to the Board's authority to reinstate an educator's license.~~

~~**D.** The Board has sole discretion in final administrative decisions.~~

~~E. The Board shall send written notice to an educator of Board action no more than 30 days following the Board's final action.~~

~~F. The Board shall send written notice of an educator's license suspension or revocation to an educator's former employer if the employer was a public or private school.~~

~~**KEY: educator, professional, standards**~~
~~**Date of Enactment or Last Substantive Amendments: June 8, 2015**~~
~~**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-6; 53A-1-401(3)**~~]

R277. Education, Administration.

R277-200. Utah Professional Practices Advisory Commission (UPPAC), Definitions.

R277-200-1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

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

(b) [~~by~~]Section 53A-6-306, which directs the Board to adopt rules regarding UPPAC duties and procedures[~~,~~]; and

(c) [~~by~~]Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is to establish definitions for terms in UPPAC activities.

[~~C.~~](3) The definitions contained in this rule apply to [~~r~~]Rules R277-200 through R277-20[~~6~~]7. Any calculation of time called for by these rules shall be governed by Utah R. Civ. P. 6.

R277-200-2. Definitions.

[~~A~~](1)(a) “Action” means a disciplinary action taken by the Board adversely affecting an educator's license.

([~~2~~]b) “Action” does not include a disciplinary letter.

([~~3~~]c) “Action” includes:

([~~a~~]i) a letter of reprimand;

([~~b~~]ii) probation;

([~~c~~]iii) suspension; and

([~~d~~]iv) revocation.

[~~B.~~](2) “Administrative hearing” or “hearing” has the same meaning as that term is defined in Section 53A-6-601.

[~~C.~~](3) “Alcohol related offense” means:

([~~1~~]a) driving under the influence;

([~~2~~]b) alcohol-related reckless driving or impaired driving;

([~~3~~]c) intoxication;

([~~4~~]d) driving with an open container;

([~~5~~]e) unlawful sale or supply of alcohol;

([~~6~~]f) unlawful permitting of consumption of alcohol by minors;

([~~7~~]g) driving in violation of an alcohol or interlock restriction; and

(8) any offense under the laws of another state that is substantially equivalent to the offenses described in Subsections [~~R277-200-2C(1) through (7)~~](3)(a) through (g).

[~~D.~~](4) "Allegation of misconduct" means a written report alleging that an educator:

([~~1~~]a) has engaged in unprofessional or criminal conduct;

([~~2~~]b) is unfit for duty;

([~~3~~]c) has lost the educator's license in another state due to revocation or suspension, or through voluntary surrender or lapse of a license in the face of a claim of misconduct; or

([~~4~~]d) has committed some other violation of standards of ethical conduct, performance, or professional competence as provided in Rule R277-515.

[~~E.~~](5) "Answer" means a written response to a complaint filed by USOE alleging educator misconduct.

[~~F.~~](6) "Applicant" means a person seeking:

([~~1~~]a) a new license;

([~~2~~]b) reinstatement of an expired, surrendered, suspended, or revoked license; or

([~~3~~]c) clearance of a criminal background review from USOE at any stage of the licensing process.

[~~G. "Board" means the Utah State Board of Education.~~]

[~~H.~~](7) "Chair" means the Chair of UPPAC.

[~~I.~~](8) "Complaint" means a written allegation or charge against an educator filed by USOE against the educator.

[~~J.~~](9) "Complainant" means the Utah State Office of Education.

[~~K.~~](10) "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file developed by the USOE and maintained on all licensed Utah educators.

[~~L~~](11)(a) “Conviction” means the final disposition of a judicial action for a criminal offense, except in cases of a dismissal on the merits.

([~~2~~]b) “Conviction” includes:

([~~a~~]i) a finding of guilty by a judge or jury;

([~~b~~]ii) a guilty or no contest plea;

([~~c~~]iii) a plea in abeyance; and

([~~d~~]iv) for purposes of this rule, a conviction that has been expunged.

[~~M.~~](12) “Criminal Background Review” means the process by which the Executive Secretary, UPPAC, and the Board review information pertinent to:

([~~1~~]a) a charge revealed by a criminal background check;

([~~2~~]b) a charge revealed by a hit as a result of ongoing monitoring; or

([~~3~~]c) an educator or applicant’s self-disclosure.

[~~N~~](13)(a) “Disciplinary letter” means a letter issued to a respondent by the Board as a result of an investigation into an allegation of educator misconduct.

([~~2~~]b) “Disciplinary letter” includes:

([~~1~~]i) a letter of admonishment;

([~~2~~]ii) a letter of warning; and

([~~3~~]iii) any other action that the Board takes to discipline an educator for educator misconduct that does not rise to the level of an action as defined in this [~~R277-200-2~~]section.

[~~O.~~](14) “Drug” means controlled substance as defined in Section 58-37-2.

[~~P.~~](15) “Drug related offense” means any criminal offense under:

([~~1~~]a) Title 58, Chapter 37;

([~~2~~]b) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

([~~3~~]c) Title 58, Chapter 37b, Imitation Controlled Substances Act;

([~~4~~]d) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

([~~5~~]e) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

([~~6~~]f) Title 58, Chapter 37e, Drug Dealer’s Liability Act.

Sections 58-37 through 37e.

[~~Q. “Educator” means a person:~~

~~(1) who currently holds a license;~~

~~(2) who held a license at the time of an alleged offense;~~

~~(3) is a person who is student teaching in anticipation of seeking a license;~~

~~(4) is an applicant for a license;~~

~~(5) is a licensure candidate through the Alternate Route to Licensure, "ARL," program; or~~

~~(6) who has applied to the Alternate Route to Licensure, "ARL" program.~~]

[~~R.~~](16) "Educator Misconduct" means:

([~~1~~]a) unprofessional or criminal conduct;

([~~2~~]b) conduct that renders an educator unfit for duty; or

([~~3~~]c) conduct that is a violation of standards of ethical conduct, performance, or professional competence as provided in Rule R277-515.

[~~S.~~](17) "Executive Committee" means a subcommittee of UPPAC consisting of the following members:

([~~1~~]a) Executive Secretary;

([~~2~~]b) Chair;

([~~3~~]c) Vice-Chair; and

([~~4~~]d) one member of UPPAC at large.

[~~T.~~](18) "Executive Secretary" means an employee of USOE who:

([~~1~~]a) is appointed by the State Superintendent of Public Instruction to serve as the UPPAC Director; and

([~~2~~]b) serves as a non-voting member of UPPAC, consistent with Section 53A-6-302.

[~~U.~~](19) "Expedited Hearing" means an informal hearing aimed at determining an Educator's fitness to remain in the classroom held as soon as possible following an arrest, citation, or charge for a criminal offense requiring mandatory self-reporting under Section R277-516-3.

[~~V.~~](20) "Expedited Hearing Panel" means a panel of the following three members:

([~~1~~]a) the Executive Secretary;

([~~2~~]b) a voting member of UPPAC; and

([~~3~~]c) a UPPAC prosecutor.

[~~W.~~](21) "Final action" means an action by the Board that concludes an investigation of an allegation of misconduct against a licensed educator.

[~~X.~~](22) “GRAMA” refers to the Government Records Access and Management Act, Title 63G, Chapter 2, Government Records Access and Management Act.

[~~Y.~~](23) “Hearing officer” means a licensed attorney who:

(~~1~~]a) is experienced in matters relating to administrative procedures;

([~~2~~]b) is appointed by the Executive Secretary to manage the proceedings of a hearing;

([~~3~~]c) is not an acting member of UPPAC;

([~~4~~]d) has authority, subject to the limitations of these rules, to regulate the course of the hearing and dispose of procedural requests; and

(5) does not have a vote as to the recommended disposition of a case.

[~~Z.~~](24) “Hearing panel” means a panel of three or more individuals designated to:

([~~1~~]a) hear evidence presented at a hearing;

([~~2~~]b) make a recommendation to UPPAC as to disposition; and

([~~3~~]c) collaborate with the hearing officer in preparing a hearing report.

[~~AA.~~](25) “Hearing report” means a report that:

([~~1~~]a) is prepared by the hearing officer consistent with the recommendations of the hearing panel at the conclusion of a hearing; and

([~~2~~]b)includes:

([~~a~~]i) a recommended disposition;

([~~b~~]ii) detailed findings of fact and conclusions of law, based upon the evidence presented in the hearing, relevant precedent; and

([~~c~~]iii) applicable law and rule.

[~~BB.~~](26) “Informant” means a person who submits information to UPPAC concerning the alleged misconduct of an educator.

[~~CC.~~](27) “Investigator” means an employee of the USOE, or independent investigator selected by the Board, who:

([~~1~~]a) is assigned to investigate allegations of educator misconduct under UPPAC supervision;

([~~2~~]b) offers recommendations of educator discipline to UPPAC and the Board at the conclusion of the investigation;

([~~3~~]c) provides an independent investigative report for UPPAC and the Board; and

([~~4~~]d) may also be the prosecutor but does not have to be.

[~~DD.~~](28) “Investigative report” means a written report of an investigation into allegations of educator misconduct, prepared by an Investigator that:

([~~1~~]a) includes a brief summary of the allegations, the investigator's narrative, and a recommendation for UPPAC and the Board;

([~~2~~]b) may include a rationale for the recommendation, and mitigating and aggravating circumstances;

([~~3~~]c) is maintained in the UPPAC Case File; and

([~~4~~]d) is classified as protected under Subsection 63G-2-305(34).

[~~EE.~~](29) “LEA” or “local education agency” [~~means a school district, charter school or,~~]for purposes of this rule[~~,~~] includes the Utah Schools for the Deaf and the Blind.

[~~FF.~~](30) “Letter of admonishment” is a letter sent by the Board to an educator cautioning the educator to avoid or take specific actions in the future.

[~~GG.~~](31) “Letter of reprimand” is a letter sent by the Board to an educator:

([~~1~~]a) for misconduct that was longer term or more seriously unethical or inappropriate than conduct warranting a letter of warning, but not warranting more serious discipline;

([~~2~~]b) that provides specific directives to the educator as a condition for removal of the letter;

([~~3~~]c) appears as a notation on the educator's CACTUS file; and

([~~4~~]d) that an educator can request to be removed from the educator's CACTUS file after two years, or after such other time period as the Board may prescribe in the letter of reprimand.

[~~HH.~~](32) “Letter of warning” is a letter sent by the Board to an educator:

([~~1~~]a) for misconduct that was inappropriate or unethical; and

([~~2~~]b) that does not warrant longer term or more serious discipline.

[~~II.~~](33) “License” means a teaching or administrative credential, including an endorsement, which is issued by the Board to signify authorization for the person holding the license to provide professional services in Utah’s public schools.

[~~JJ.~~](34) “Licensed educator” means an individual issued a teaching or administrative credential, including an endorsement, issued by the Board to signify authorization for the individual holding the license to provide professional services in Utah's public schools.

[~~KK.~~](35) “National Association of State Directors of Teacher Education and Certification (NASDTEC) Educator Information Clearinghouse” means a database maintained by NASDTEC for the members of NASDTEC regarding persons whose licenses have been suspended or revoked.

[~~LL.~~](36) “Notification of Alleged Educator Misconduct” means the official UPPAC form that may be accessed on UPPAC's internet website, and may be submitted by any person, school, or LEA that alleges educator misconduct.

[~~MM.~~](37) “Party” means a complainant or a respondent.

[~~NN.~~](38) “Petitioner” means an individual seeking:

([~~1~~]a) an educator license following a denial of a license;

([~~2~~]b) reinstatement following a license suspension; or in the event of compelling circumstances, reinstatement following a license revocation.

[~~OO.~~](39) “Probation” is an action directed by the Board that:

([~~1~~]a) involves monitoring or supervision for a designated time period, usually accompanied by a disciplinary letter;

([~~2~~]b) may require the educator to be subject to additional monitoring by an identified person or entity;

([~~3~~]c) may require the educator to be asked to satisfy certain conditions in order to have the probation lifted;

([~~4~~]d) may be accompanied by a letter of reprimand, which shall appear as a notation on the educator's CACTUS file; and

([~~5~~]e) unless otherwise specified, lasts at least two years and may be terminated through a formal petition to the Board by the respondent.

[~~PP.~~](40) “Prosecutor” means an attorney who:

([~~1~~]a) is designated by the Superintendent to represent the complainant and present evidence in support of the complaint; and

([~~2~~]b) may also be the investigator, but does not have to be.

[~~QQ.~~](41) “Revocation” means a permanent invalidation of a Utah educator

license consistent with Rule R277-517.

[~~RR.~~](42) “Respondent” means an educator against whom:

([~~1~~]a) a complaint is filed; or

([~~2~~]b) an investigation is undertaken.

[~~SS.~~](43) “Serve” or “service,” as used to refer to the provision of notice to a person, means:

([~~1~~]a) delivery of a written document or its contents to the person or persons in question; and

([~~2~~]b) delivery that may be made in person, by mail, by electronic correspondence, or by any other means reasonably calculated, under all of the circumstances, to notify an interested person or persons to the extent reasonably practical or practicable of the information contained in the document.

(44) “Sexually explicit conduct” means the same as that term is defined in Section 76-5b-103.

[~~TT.~~](45) “Stipulated agreement” means an agreement between a respondent and the Board:

([~~1~~]a) under which disciplinary action is taken against the educator in lieu of a hearing;

([~~2~~]b) that may be negotiated between the parties and becomes binding:

([~~a~~]i) when approved by the Board; and

([~~b~~]ii) at any time after an investigative letter has been sent;

([~~3~~]c) is a public document under GRAMA unless it contains specific information that requires redaction or separate classification of the agreement.

[~~UU. “Superintendent” means the State Superintendent of Public Instruction or the Superintendent’s designee.~~]

[~~VV~~]([~~1~~]46)(a) “Suspension” means an invalidation of a Utah educator license.

([~~2~~]b) “Suspension” may:

([~~a~~]i) include specific conditions that an educator must satisfy; and

([~~b~~]ii) may identify a minimum time period that must elapse before the educator may request a reinstatement hearing before UPPAC.

[~~WW.~~](47) “Utah Professional Practices Advisory Commission” or “[~~(~~]UPPAC[~~)~~]” means an advisory commission established to assist and advise the

Board in matters relating to the professional practices of educators, established in Section 53A-6-301.

[~~XX.~~](48) “UPPAC Background Check File” means a file maintained securely by UPPAC on a criminal background review that:

([~~1~~]a) contains information obtained from:

([~~a~~]i) BCI; and

([~~b~~]ii) letters, police reports, court documents, and other materials as provided by an educator; and

([~~2~~]b) is classified as private under Subsection 63G-2-302(2).

[~~YY.~~](49) “UPPAC Case File” means a file:

([~~1~~]a) maintained securely by UPPAC on an investigation into educator misconduct;

([~~2~~]b) opened following UPPAC's direction to investigate alleged misconduct;

([~~3~~]c) that contains the original notification of misconduct with supporting documentation, correspondence with the Executive Secretary, the investigative report, the stipulated agreement, the hearing report, and the final disposition of the case;

([~~4~~]d) that is classified as protected under Subsection 63G-2-305(10) until the investigation and any subsequent proceedings before UPPAC and the Board are completed; and

([~~5~~]e) that after a case proceeding is closed, is considered public under GRAMA, unless specific documents contained therein contain non-public information or have been otherwise classified as non-public under GRAMA, in which case the file may be redacted or partially or fully restricted.

[~~ZZ.~~](50) “UPPAC Evidence File” means a file:

([~~1~~]a) maintained by the attorney assigned by UPPAC to investigate a case containing materials, written or otherwise, obtained by the UPPAC investigator during the course of the attorney’s investigation;

([~~2~~]b) that contains correspondence between the Investigator and the educator or the educator’s counsel;

([~~3~~]c) that is classified as protected under Subsection 63G-2-305(10) until the investigation and any subsequent proceedings before UPPAC and the Board are

289 completed; and

290 ([~~4~~]d) that is considered public under GRAMA after case proceedings are
291 closed, unless specific documents contained therein contain non-public information
292 or have been otherwise classified as non-public under GRAMA.

293 [~~AAA.~~](51) "UPPAC investigative letter" means a letter sent by UPPAC to an
294 educator notifying the educator that an allegation of misconduct has been received
295 against him and that UPPAC or the Board has directed that an investigation of the
296 educator's alleged actions take place.

297 [~~BBB.~~](52) "UPPAC Prosecutor File" means a file:

298 ([~~1~~]a) that is kept by the attorney assigned by UPPAC to investigate and/or
299 prosecute a case that contains:

300 ([~~a~~]i) the attorney's notes prepared in the course of investigation; and

301 ([~~b~~]ii) other documents prepared by the attorney in anticipation of an eventual
302 hearing; and

303 ([~~2~~]b) that is classified as protected pursuant to Subsection 63G-2-305(18).

304 [~~CCC. "USOE" means the Utah State Office of Education.~~]

305 **KEY: professional practices, definitions, educators**

306 **Date of Enactment or Last Substantive Amendment: [~~July 8,~~]2015**

307 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-**
308 **1-401(3)**

R277. Education, Administration.

R277-201. Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions.

R277-201-1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

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

(b) [~~by~~]Section 53A-6-306, which directs the Board to adopt rules regarding UPPAC duties and procedures[~~,~~]; and

(c) [~~by~~]Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is to provide procedures regarding:

([~~1~~]a) notifications of alleged educator misconduct;

([~~2~~]b) review of notifications by UPPAC; and

([~~3~~]c) complaints, stipulated agreement, and defaults.

[~~C.~~](3) Except as provided in Subsection [~~R277-201-1D~~](4), [~~the provisions of the~~]Title 63G, Chapter 4, [~~Utah~~]Administrative Procedures Act does not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

[~~D.~~](4) UPPAC may invoke and use sections or provisions of[~~ the Utah Administrative Procedures Act as found in~~] Title 63G, Chapter 4, [~~Utah~~] Administrative Procedures Act[~~,~~] as necessary to adjudicate an issue.

R277-201-2. Initiating Proceedings Against Educators.

[~~A.~~](1) The Executive Secretary may refer a case to UPPAC to make a determination if an investigation should be opened regarding an educator:

([~~1~~]a) upon receiving a notification of alleged educator misconduct; or

([~~2~~]b) upon the Executive Secretary's own initiative.

[~~B.~~](2) An informant shall submit an allegation to the Executive Secretary in writing, including the following:

([~~1~~]a) the informant's:

([~~a~~]i) name;

([~~b~~]ii) position, [~~(~~]such as administrator, teacher, parent, or student[~~)~~];

([~~c~~]iii) telephone number;

([~~d~~]iv) address; and

([~~e~~]v) contact information;

([~~2~~]b) [~~the following~~]information of the educator against whom the allegation is made:

([~~a~~]i) name;

([~~b~~]ii) position, [~~(~~]such as administrator, teacher, candidate[~~)~~]; and

([~~c~~]iii) if known, the address and telephone number[~~ of the educator against whom the allegation is made~~];

([~~d~~]c) the facts on which the allegation is based and supporting information; and

([~~e~~]d) signature of the informant and date.

[~~C.~~](3) If an informant submits a written allegation of misconduct as provided in this rule, the informant may be notified of a final action taken by the Board regarding the allegation.

[~~D~~]([~~1~~]4)(a) Proceedings initiated upon the Executive Secretary's own initiative may be based on information received through a telephone call, letter, newspaper article, media information, notice from another state, or by other means.

([~~2~~]b) The Executive Secretary may also recommend an investigation based on an anonymous allegation, notwithstanding the provisions of this rule, if the allegation bears sufficient indicia of reliability.

[~~E.~~](5) All written allegations, subsequent dismissals, actions, or disciplinary letters related to a case against an educator shall be maintained permanently in the UPPAC[~~'s paper licensing~~]case file[~~s~~].

R277-201-3. Review of Notification of Alleged Educator Misconduct.

[~~A.~~](1)(a) [~~Initial Review: ~~]On reviewing the notification of alleged educator misconduct, the Executive Secretary, the Executive Committee, or both, shall recommend one of the following to UPPAC:

([~~1~~]i) [~~D~~]dismiss[~~: I~~] the matter if UPPAC determines that alleged misconduct does not involve an issue that UPPAC should address[~~, UPPAC shall dismiss the~~

~~matter~~]; or

([~~2~~]ii) [~~I~~]initiate an investigation[~~: I~~] if UPPAC determines that the alleged misconduct involves an issue [~~which~~]that may be appropriately addressed by UPPAC and the Board[~~:~~].

([~~a~~]b) If the Executive Secretary or Executive Committee recommends UPPAC initiate an investigation:

(i) UPPAC shall initiate an investigation; and

([~~b~~]ii) the Executive Secretary shall direct a UPPAC investigator to gather evidence relating to the allegations.

[~~B~~]([~~1~~]2)(a) Prior to a UPPAC investigator's initiation of an investigation, the Executive Secretary shall send a letter to the following with information that UPPAC has initiated an investigation[~~ has been initiated~~]:

([~~a~~]i) the educator to be investigated;

([~~b~~]ii) the LEA that[~~ currently~~] employs the educator; and

([~~c~~]iii) the LEA where the alleged activity occurred.

([~~2~~]b) A letter described in Subsection [~~R277-201-3B(1)~~](2)(a) shall inform the educator and the LEA[~~(s)~~] that an investigation shall take place and is not evidence of unprofessional conduct.

([~~3~~]c) UPPAC shall place a flag on the educator's CACTUS file after sending the notices as provided in this rule.

[~~C~~]([~~1~~]3)(a) The investigator shall review relevant documentation and interview individuals who may have knowledge of the allegations.

([~~2~~]b) The investigator shall prepare an investigative report of the findings of the investigation and a recommendation for appropriate action or disciplinary letter.

([~~3~~]c) If the investigator discovers additional evidence of unprofessional conduct [~~which~~]that could have been included in the original notification of alleged educator misconduct, the investigator may include the additional evidence of misconduct in the investigative report.

([~~4~~]d) The investigator shall submit the investigative report[~~ shall be submitted~~] to the Executive Secretary.

([~~5~~]e) The Executive Secretary shall review the investigative report described in Subsection [~~R277-201-3C(4)~~](3)(d) with UPPAC.

([~~6~~]f) The investigative report described in Subsection [~~R277-201-3C(4)~~](3)(d) shall become part of the UPPAC [~~C~~]case [~~F~~]file.

[~~D.~~](4) [~~Secondary Review:~~]UPPAC shall review the investigative report and take one of the following actions:

([~~1~~]a) [~~Dismiss: If~~]UPPAC determines no further action should be taken, [~~it~~]UPPAC may recommend that the Board dismiss the case; or

([~~2~~]b) UPPAC may [~~M~~]make an initial recommendation of appropriate [~~A~~]action or disciplinary letter.

[~~E.~~](5) After receiving an initial recommendation from UPPAC for action, the Executive Secretary shall direct a UPPAC prosecutor to:

([[~~1~~]a) prepare and serve a complaint; or

([~~2~~]b) negotiate and prepare a stipulated agreement.

[~~F~~]([~~1~~]6)(a) A stipulated agreement shall conform to the requirements set forth in Section R277-201-6.

([~~2~~]b) An educator may stipulate to any recommended disposition for an action.

[~~G.~~](7) The Executive Secretary shall forward any stipulated agreement to the Board for approval.

[~~H. Upon receipt of a hearing report as defined in R277-202, UPPAC shall make a final recommendation with appropriate findings and shall direct the Executive Secretary to transmit the recommendation to the Board for consideration.~~]

R277-201-4. Expedited Hearings.

[~~A.~~](1) In a case involving the report of an arrest, citation, or charge of a licensed educator, which requires self-reporting by the educator under Section R277-516-3, the Executive Secretary, with the consent of the educator, may schedule the matter for an expedited hearing in lieu of initially referring the matter to UPPAC.

[~~B~~]([~~1~~]2)(a) The Executive Secretary shall hold an expedited hearing[~~ shall be held~~] within [~~thirty (~~]30[~~)~~] days of a report of an arrest, citation, or charge, unless otherwise agreed upon by both parties.

([~~2~~]b) The Executive Secretary or the Executive Secretary's designee shall

conduct [~~A~~]an expedited hearing[~~ will be conducted by the Executive Secretary or the Executive Secretary's designee~~] with the following additional invited participants:

([~~a~~]i) the educator;

([~~2~~]ii) the educator's attorney or representative;

([~~3~~]iii) a UPPAC prosecutor;

([~~4~~]iv) a voting member of UPPAC; and

([~~5~~]v) a representative[~~(s)~~] of the educator's LEA.

[~~C.~~](3) The panel may consider the following matters[~~ may be considered~~] at an expedited hearing:

([~~1~~]a) an educator's oral or written explanation of the events;

([~~2~~]b) a police report;

([~~3~~]c) a court docket or transcript;

([~~4~~]d) an LEA's investigative report or employment file; and

([~~5~~]e) additional information offered by the educator if the panel deems it probative of the issues at the [~~E~~]expedited [~~H~~]hearing.

[~~D.~~](4) After reviewing the evidence, the expedited hearing panel shall make written findings and a recommendation to UPPAC to do one of the following:

([~~1~~]a) close the case;

([~~2~~]b) close the case upon completion of court requirements;

([~~3~~]c) recommend issuance of a disciplinary letter to the Board;

([~~4~~]d) open a full investigation; or

([~~5~~]e) recommend action by the Board, subject to an educator's due process rights under these rules.

[~~E.~~](5) An expedited hearing may be recorded, but the testimony from the expedited hearing is inadmissible during a future UPPAC action related to the allegation.

[~~F.~~](6) If the Board fails to adopt the recommendation of an expedited hearing panel, UPPAC shall open a full investigation.

R277-201-5. Complaints.

[~~A.~~](1) [~~Filing a complaint: ~~]If UPPAC determines that an allegation is sufficiently supported by evidence discovered in the investigation, UPPAC, through

the Executive Secretary, may direct the prosecutor to serve a complaint upon the educator being investigated.

[~~B.~~](2) [~~Elements of a complaint:~~]At a minimum, a complaint shall include:

([~~1~~]a) a statement of legal authority and jurisdiction under which the action is being taken;

([~~2~~]b) a statement of the facts and allegations upon which the complaint is based;

([~~3~~]c) other information [~~which~~]that the investigator believes [~~to be~~]is necessary to enable the respondent to understand and address the allegations;

([~~4~~]d) a statement of the potential consequences [~~should~~]if an allegation [~~be~~]is found to be true or substantially true;

([~~5~~]e) a statement that the respondent shall answer the complaint and request a hearing, if desired, within 30 days of the date the complaint [~~was~~]is mailed to the respondent;

([~~6~~]f) a statement that the respondent is required to file a written answer described in Subsection [~~R277-201-5B(5)~~](2)(e) with the Executive Secretary;

([~~7~~]g) a statement advising the respondent that if the respondent fails to respond within 30 days, a default judgment for revocation or a suspension of the educator's license may occur for a term of five years or more;

([~~8~~]h) a statement that, if a hearing is requested, the hearing [~~shall~~]will be scheduled no less than 25 days, nor more than 180 days, after receipt of the respondent's answer, unless a different date is agreed to by both parties in writing; and

([~~9~~]i) a statement that the hearing [~~will be~~]is governed by these rules, with an internet address where the rules may be accessed.

[~~C.~~](3) On the Executive Secretary's own motion, the Executive Secretary, or the Executive Secretary's designee, with notice to the parties, may reschedule a hearing date.

[~~D~~]([~~1~~]4)(a) [~~Answer to the complaint:~~]A respondent may file an answer to a complaint by filing a written response signed by the respondent[~~,~~] or the respondent's representative with the Executive Secretary within 30 days after the complaint [~~was~~]is mailed.

([~~2~~]b) The answer may include a request for a hearing, and shall include:

([~~a~~]i) the file number of the complaint;

([~~b~~]ii) the names of the parties;

([~~c~~]iii) a statement of the relief that the respondent seeks; and

([~~d~~]iv) if not requesting a hearing, a statement of the reasons that the relief requested should be granted.

[~~E~~]([~~1~~]5)(a) As soon as reasonably practicable after receiving an answer, or no more than 30 days after receipt of an answer at the USOE, the Executive Secretary shall schedule a hearing, if requested, as provided in Rule R277-202.

([~~2~~]b) If the parties can reach an agreement prior to the hearing consistent with the terms of UPPAC's initial recommendation, the prosecutor may negotiate a stipulated agreement with the respondent.

([~~3~~]c) A stipulated agreement described in Subsection [~~R277-201-5E(2)~~](5)(b) shall be submitted to the Board for the Board's final approval.

[~~F~~]([~~1~~]6)(a) [~~Default:~~]If a respondent does not respond to the complaint within 30 days, the Executive Secretary may initiate default proceedings in accordance with the procedures set forth in Section R277-201-7.

([~~2~~]b) Except as provided in Subsection R277-201-7[~~C~~](3), if the Executive Secretary enters an order of default, the Executive Secretary shall make a recommendation to the Board for a revocation or a suspension of the educator's license for five years before the educator may request a reinstatement hearing.

([~~3~~]c) If a default results in a suspension, a default may include conditions that an educator shall satisfy before the educator may qualify for a reinstatement hearing.

([~~4~~]d) An order of default shall result in a recommendation to the Board for a revocation if the alleged misconduct is conduct identified in Subsection 53A-6-501(5)(b).

R277-201-6. Stipulated Agreements.

[~~A.~~](1) At any time after UPPAC has made an initial recommendation, a respondent may accept UPPAC's initial recommendation, rather than request a hearing, by entering into a stipulated agreement.

[~~B.~~](2) By entering into a stipulated agreement, a respondent waives the respondent's right to a hearing to contest the recommended disposition, contingent on final approval by the Board[~~;~~].

[~~C.~~](3) [~~Elements of a stipulated agreement:~~]At a minimum, a stipulated agreement shall include:

([~~1~~]a) a summary of the facts, the allegations, and the evidence relied upon by UPPAC in its recommendation;

([~~2~~]b) a statement that the respondent admits the facts recited in the stipulated agreement as true for purposes of the Board administrative action;

([~~3~~]c) a statement that the respondent:

([~~a~~]i) waives the respondent's right to a hearing to contest the allegations that gave rise to the investigation; and

([~~b~~]ii) agrees to limitations on the respondent's license or surrenders the respondent's license rather than contest the allegations;

([~~4~~]d) a statement that the respondent agrees to the terms of the stipulated agreement and other provisions applicable to the case, such as remediation, counseling, restitution, rehabilitation, and other conditions, if any, under which the respondent may request a reinstatement hearing or a removal of the letter of reprimand or termination of probation;

([~~5~~]e) if for suspension or revocation of a license, a statement that the respondent:

([~~a~~]i) may not seek or provide professional services in a public school in [~~Utah~~]the state;

([~~b~~]ii) may not seek to obtain or use an educator license in [~~Utah~~]the state; or

([~~c~~]iii) may not work or volunteer in a public K-12 setting in any capacity without express authorization from the UPPAC Executive Secretary, unless or until the respondent:

([~~i~~]A) first obtains a valid educator license or authorization from the Board to obtain such a license; or

([~~ii~~]B) satisfies other provisions provided in the stipulated agreement;

([~~6~~]f) a statement that the action and the stipulated agreement shall be

reported to other states through the NASDTEC Educator Information Clearinghouse and any attempt to present to any other state a valid Utah license shall result in further licensing action in Utah;

([~~7~~]g) a statement that respondent waives the respondent's right to contest the facts stated in the stipulated agreement at a subsequent reinstatement hearing, if any;

([~~8~~]h) a statement that all records related to the stipulated agreement shall remain permanently in the UPPAC case file; and

([~~9~~]i) a statement reflecting the stipulated agreement's classification under [~~GRAMA~~]Title 63G, Chapter 2, Government Records Access and Management Act.

[~~D.~~](4) A violation of the terms of a stipulated agreement may result in additional disciplinary action and may affect the reinstatement process.

[~~E~~]([~~1~~]5)(a) A stipulated agreement shall be forwarded to the Board for approval prior to execution by the respondent.

(b) Prior to consideration of a stipulated agreement, UPPAC shall:

(i) make the UPPAC case file available to the Board for confidential review; and

(ii) make other evidence available for review as directed by the Board.

(c) There is a presumption that the Board shall approve a stipulated agreement if the Board finds that:

(i) a stipulated agreement is based on adequate evidence; and

(ii) the terms of a stipulated agreement present a reasonable resolution of the case.

(d) The Board may take other action as provided in this rule if it finds that:

(i) a stipulated agreement is based on insufficient evidence;

(ii) the terms of a stipulated agreement present an unreasonable resolution of the case; or

(iii) exceptional circumstances exist which warrant an alternative resolution.

([~~2~~]e)(i) If the Board [~~fails to approve the stipulated agreement,~~]finds that a stipulated agreement is based on insufficient evidence, the Board may reject a stipulated agreement and direct UPPAC to hold a hearing.

(ii) [~~t~~]The Executive Secretary shall notify the parties of the decision and the

proceedings shall continue from the point under these procedures at which the stipulated agreement was negotiated, as if the stipulated agreement had not been submitted.

([~~3~~]f) [~~Alternatively, i~~]If the Board [~~rejects the stipulated agreement~~]finds that the terms of a stipulated agreement present an unreasonable resolution of a case, it may, by motion, provide alternative terms to the Executive Secretary, [~~which~~]that would be satisfactory to the Board.

([~~4~~]g) If accepted by the respondent, the stipulated agreement, as modified, [~~would become~~]is a final Board administrative action without further Board consideration.

([~~5~~]h) If the terms approved by the Board are rejected by the respondent, the proceedings shall continue from the point under these procedures at which the agreement was negotiated, as if the stipulated agreement had not been submitted.

([~~6~~]i) If the Board approves a stipulated agreement, the approval is a final Board administrative action, effective upon signature by all parties, and the Executive Secretary shall:

([~~a~~]i) notify the parties of the decision;

(ii) update CACTUS to reflect the action;

(iii) report the action to the NASDTEC Educator Information Clearinghouse if the agreement results in:

(A) a revocation; or

(b) a suspension; and

([~~b~~]iv) direct the appropriate penalties to begin.

[~~F.~~](6) If, after negotiating a stipulated agreement, a respondent fails to sign or respond to a proffered stipulated agreement within 30 days after the stipulated agreement is mailed, the Executive Secretary shall direct the prosecutor to prepare findings in default consistent with Section R277-201-7.

R277-201-7. Default Procedures.

[~~A.~~](1) If a respondent does not respond to a complaint or execute a negotiated stipulated agreement within 30 days from the date the complaint or stipulated agreement is served, the Executive Secretary may issue an order of

default against the respondent consistent with the following:

([~~1~~]a) the prosecutor shall prepare and serve on the respondent an order of default including:

([~~a~~]i) a statement of the grounds for default; and

([~~b~~]ii) a recommended disposition if the respondent fails to file a response to a complaint or respond to a proffered stipulated agreement;

([~~2~~]b) ten[~~ (10)~~] days following service of the order of default, the prosecutor shall attempt to contact respondent by telephone or electronically;

([~~3~~]c) UPPAC shall maintain documentation of attempts toward written, telephonic, or electronic contact;

([~~4~~]d) the respondent has 20 days following service of the order of default to respond to UPPAC; and

([~~5~~]e) if UPPAC receives a response from respondent to a default order before the end of the 20 day default period, UPPAC shall allow respondent a final [~~10~~]ten day period to respond to a complaint or stipulated agreement.

[~~B.~~](2) Except as provided in Subsection [~~R277-201-7C~~](3), if an order of default is issued, the Executive Secretary may make a recommendation to the Board for revocation or for a suspension of the educator's license for no less than five years.

[~~C.~~](3) If an order of default is issued, the Executive Secretary shall make a recommendation to the Board for a revocation of the educator's license if the alleged misconduct is conduct identified in Subsection 53A-6-501(5)(b).

R277-201-8. Disciplinary Letters and Dismissal.

(1) If UPPAC recommends issuance of a disciplinary letter or dismissal, the Executive Secretary shall forward the case to the Board for review.

(2) Prior to Board consideration of a disciplinary letter or dismissal, UPPAC shall:

(a) make the UPPAC case file available to the Board for confidential review; and

(b) make other evidence available for review as directed by the Board.

(3) There is a presumption that the Board shall approve a UPPAC disciplinary

letter or dismissal recommendation if the Board finds that:

(a) the UPPAC recommendation is based on adequate evidence; and

(b) the UPPAC recommendation constitutes a reasonable resolution of the case.

(4) If the Board finds that the UPPAC recommendation is based on insufficient evidence or presents an unreasonable resolution of the case or exceptional circumstances exist that warrant an alternative resolution, then the Board may:

(a) remand the case to UPPAC for a hearing;

(b) remand the case to UPPAC with recommendations for negotiation of a stipulated agreement;

(c) direct the Executive Secretary to issue a different level of disciplinary letter; or

(d) dismiss the matter.

(5) If the Board approves a disciplinary letter, the Executive Secretary shall:

(a) prepare the disciplinary letter and mail it to the educator;

(b) place a copy of the disciplinary letter in the UPPAC case file; and

(c) update CACTUS to reflect that the investigation is closed.

KEY: teacher licensing, conduct, hearings

Date of Enactment or Last Substantive Amendment: [~~July 8,~~]2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-1-401(3)

R277. Education, Administration.

R277-202. UPPAC Hearing Procedures and Reports.

R277-202-1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

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

(b) [~~by~~]Section 53A-6-306, which directs the Board to adopt rules regarding UPPAC duties and procedures[~~,~~]; and

(c) [~~by~~]Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is to establish procedures regarding UPPAC hearings and hearing reports.

[~~C.~~](3) The standards and procedures of [~~the Utah~~]Title 63G, Chapter 4, Administrative Procedures Act do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

R277-202-2. Scheduling a Hearing.

[~~A~~](1)(a) [~~Scheduling the hearing:~~]Following receipt of an answer by respondent requesting a hearing:

([~~a~~]i) UPPAC shall select panel members;

([~~b~~]ii) the Executive Secretary shall appoint a hearing officer from among a list of hearing officers identified by the state procurement process and approved by UPPAC; and

([~~c~~]iii) UPPAC shall schedule the date, time, and place for the hearing.

([~~2~~]b) The Executive Secretary shall schedule a hearing for a date that is not less than 25 days nor more than 180 days from the date the Executive Secretary receives the answer[~~ is received by the Executive Secretary~~].

([~~3~~]c) The required scheduling periods may be waived by mutual written consent of the parties or by the Executive Secretary for good cause shown.

[~~B.~~](2)[~~ Change of hearing date:~~

~~(1)~~](a) Any party may request a change of hearing date by submitting a request in writing [~~which~~]that shall:

([~~a~~]i) include a statement of the reasons for the request; and

([~~b~~]ii) be submitted to the Executive Secretary at least five days prior to the scheduled date of the hearing.

([~~2~~]b) The Executive Secretary shall determine whether the reason stated in the request is sufficient to warrant a change.

([~~3~~]c) If the Executive Secretary finds that the reason for the request for a change of hearing date is sufficient, the Executive Secretary shall promptly notify all parties of the new time, date, and place for the hearing.

([~~4~~]d) If the Executive Secretary does not find the reason for the request for a change of hearing date to be sufficient, the Executive Secretary shall immediately notify the parties that the request has been denied.

([~~5~~]e) The Executive Secretary and the parties may waive the time period required for requesting a change of hearing date for good cause shown.

[~~C.~~](3) An educator [~~shall be~~]is entitled to a hearing on any matter in which an action is recommended, as defined in Subsection R277-200-2[~~A~~](1).

[~~D.~~](4) An educator is not entitled to a hearing on a matter in which a disciplinary letter is recommended, as defined in Subsection R277-200-2[~~N~~](14).

R277-202-3. Appointment and Duties of the Hearing Officer and Hearing Panel.

[~~A~~](1)(a) [~~Hearing officer:~~]The Executive Secretary shall appoint a hearing officer to chair the hearing panel and conduct the hearing.

([~~2~~]b) The Executive Secretary shall select a hearing officer on a random basis from a list of available contracted hearing officers, subject to availability and conflict of interest.

([~~3~~]c) The Executive Secretary shall provide such information about the case as necessary to determine whether the hearing officer has a conflict of interest and shall disqualify any hearing officer that cannot serve under the Utah Rules of Professional Conduct.

([~~4~~]d) [~~Duties of a hearing officer.~~]A hearing officer:

([~~a~~]i) may require the parties to submit a brief[~~s~~] and a list[~~s~~] of witnesses prior to the hearing;

([~~b~~]ii)presides at the hearing and regulates the course of the proceeding[~~s~~];

([~~c~~]iii) administers an oath to a witness[~~es~~] as follows: “Do you swear or affirm that the testimony you will give is the truth?”;

([~~d~~]iv) may take testimony, rule on a question[~~s~~] of evidence, and ask a question[~~s~~] of a witness[~~es~~] to clarify a specific issue[~~s~~]; and

([~~e~~]v) prepares and submits a hearing report to the Executive Secretary at the conclusion of the proceedings in consultation with panel members and the timelines of this rule.

[~~B~~]([~~1~~]2)(a) [~~UPPAC panel members: ~~]UPPAC shall select three or more individuals to serve as members of the hearing panel.

([~~2~~]b) As directed by UPPAC, any licensed educator may [~~be used~~]serve as a panel member, if needed.

([~~3~~]c) The majority of panel members shall be current UPPAC members.

([~~4~~]d) UPPAC shall select panel members on a rotating basis to the extent practicable.

([~~5~~]e) UPPAC shall accommodate each prospective panel member based on the availability of the panel member.

([~~6~~]f) If the respondent is a teacher, at least one panel member shall be a teacher.

([~~7~~]g) If the respondent is a non-teacher licensed educator, at least one panel member shall be a non-teacher licensed educator.

([~~8~~]h) The requirements of [~~this~~]Subsection [~~R277-202-3B~~](2) may be waived only upon the stipulation of both UPPAC and the respondent.

[~~C~~]([~~1~~]3)(a) A UPPAC panel member shall:

([~~a~~]i) assist a hearing officer by providing information concerning professional standards and practices of educators in the respondent's particular field of practice and in the situations alleged;

([~~b~~]ii) ask a question[~~s~~] of a[~~ll~~] witness[~~es~~] to clarify a specific issue[~~s~~];

([~~c~~]iii) review all evidence and briefs, if any, presented at the hearing;

([~~d~~]iv) make a recommendation to UPPAC as to the suggested disposition of a complaint; and

([~~e~~]v) assist the hearing officer in preparing the hearing report.

([~~2~~]b) A panel member [~~should~~]may only consider [~~only such~~]the evidence [~~as~~

~~has been~~]approved for admission by the hearing officer.

([~~3~~]c) The Executive Secretary may make an emergency substitution of a panel member for cause with the consent of the parties.

([~~4~~]d) The agreement to substitute a panel member shall be in writing.

([~~5~~]e) Parties may agree to a two-member UPPAC panel in an emergency situation.

([~~6~~]f) If the parties do not agree to a substitution or to having a two-member panel, the [~~hearing~~]Executive Secretary shall [~~be~~]reschedule[~~d~~] the hearing.

[~~D.~~](4)[~~ Disqualification of a hearing officer shall be governed by the following requirements:~~

~~(1)~~](a) A party may request that the Executive Secretary disqualify a hearing officer[~~ be disqualified~~] by submitting a written request for disqualification to the Executive Secretary.

([~~2~~]b) A party shall submit a request to disqualify a hearing officer[~~ shall be submitted~~] to the Executive Secretary at least 15 days before a scheduled hearing.

([~~3~~]c) The Executive Secretary shall review a request described in [~~this~~]Subsection [~~R277-202-3D~~](4) and supporting evidence to determine whether the reasons for the request are substantial and sufficient.

([~~4~~]d) If the Executive Secretary determines that the hearing officer should be disqualified, the Executive Secretary shall appoint a new hearing officer and, if necessary, reschedule the hearing.

([~~5~~]e) A hearing officer may recuse himself or herself from a hearing if, in the hearing officer's opinion, the hearing officer’s participation would violate any of the Utah Rules of Professional Conduct consistent with the Supreme Court Rules of Professional Practice.

([~~6~~]f) If the Executive Secretary denies a request to disqualify a hearing officer, the Executive Secretary shall notify the party within ten days prior to the date of the hearing.

([~~7~~]g) The requesting party may submit a written appeal of the Executive Secretary’s denial to the Superintendent no later than five days prior to the hearing date.

([~~8~~]h) If the Superintendent finds that the appeal is justified, the

Superintendent shall direct the Executive Secretary to appoint a new hearing officer and, if necessary, reschedule the hearing.

([~~9~~]i) The decision of the Superintendent described in Subsection [~~R277-202-3D(8)~~](4)(h) is final.

(~~10~~]j) If a party fails to file an appeal within the time requirements of Subsection [~~R277-202-3D(7)~~](4)(g), the appeal shall be deemed denied.

([~~11~~]k) If the Executive Secretary fails to meet the time requirements described in Subsection [~~R277-202-3D~~](4), the request or appeal [~~shall be~~]is approved.

[~~E.~~](5)[~~ UPPAC panel members shall be governed by the following requirements:~~

~~(1)~~](a) A UPPAC member shall [~~disqualify~~]recuse himself or herself as a panel member due to any known financial or personal interest, prior relationship, personal and independent knowledge of the persons or issues in the case, or other association that the panel member believes would compromise the panel member's ability to make an impartial decision.

([~~2~~]b) A party may request that a UPPAC panel member be disqualified by submitting a written request to the following:

([~~a~~]i) the hearing officer; or

([~~b~~]ii) to the Executive Secretary if there is no hearing officer.

([~~3~~]c) A party shall submit a request described in Subsection [~~R277-202-3E(2)~~](5)(b) no less than 15 days before a scheduled hearing.

([~~4~~]d) The hearing officer, or the Executive Secretary, if there is no hearing officer, shall:

([~~a~~]i) review a request described in Subsection [~~R277-202-3E(2)~~](5)(b) and supporting evidence to determine whether the reasons for the request are substantial and compelling enough to disqualify the panel member; and

([~~b~~]ii) if the reasons for the request described in Subsection [~~R277-202-3E(2)~~](5)(b) are substantial and compelling, disqualify the panel member.

([~~5~~]e) If the panel member’s disqualification leaves the hearing panel with fewer than three UPPAC panel members:

([~~a~~]i) UPPAC shall appoint a replacement; and

([~~b~~]ii) the Executive Secretary shall, if necessary, reschedule the hearing.

([~~6~~]f) If a request described in Subsection [~~R277-202-3E(2)~~](5)(b) is denied, the hearing officer or the Executive Secretary if there is no hearing officer, shall notify the party requesting the panel member's disqualification no less than ten days prior to the date of the hearing.

([~~7~~]g) The requesting party may file a written appeal of a denial described in Subsection [~~R277-202-3E(6)~~](5)(f) with the Superintendent no later than five days prior to the hearing date.

([~~8~~]h) If the Superintendent finds that an appeal described in Subsection [~~R277-202-3E(7)~~](5)(g) is justified, the Superintendent shall direct the hearing officer or the Executive Secretary if there is no hearing officer, to replace the panel member.

([~~9~~]i) If a panel member's disqualification leaves the hearing panel with fewer than three UPPAC panel members, UPPAC shall agree upon a replacement and the Executive Secretary shall, if necessary, reschedule the hearing.

([~~10~~]j) The decision of the Superintendent described in Subsection [~~R277-202-3E(8)~~](5)(h) is final.

([~~11~~]k) If a party fails to file an appeal within the time requirements of Subsection [~~R277-202-3E(7)~~](5)(g), the appeal shall be deemed denied.

([~~12~~]l) If the hearing officer, or the Executive Secretary if there is no hearing officer, fails to meet the time requirements described in this Subsection [~~R277-202-3E~~](5), the request or appeal [~~shall be~~]is approved.

[~~F.~~](6) The Executive Secretary may, at the time the Executive Secretary selects a hearing officer or panel member, select an alternative hearing officer or panel member following the process for selecting those individuals.

[~~G.~~](7) The Executive Secretary may substitute a panel member with an alternative panel member if the Executive Secretary notifies the parties of the substitution.

R277-202-4. Preliminary Instructions to Parties to a Hearing.

[~~A.~~](1) No later than 25 days before the date of a hearing, the Executive Secretary shall provide the parties with the following information:

([~~1~~]a) date, time, and location of the hearing;

([~~2~~]b) names and LEA affiliations of each panel member, and the name of the hearing officer; and

([~~3~~]c) instructions for accessing these rules.

[~~B.~~](2) No later than 20 days before the date of the hearing, the respondent and the complainant shall provide the following to the other party and to the hearing officer:

([~~1~~]a) a brief, if requested by the hearing officer containing:

([~~a~~]i) any procedural and evidentiary motions along with the party's position regarding the allegations; and

([~~b~~]ii) relevant laws, rules, and precedent;

([~~2~~]b) the name of the person who will represent the party at the hearing;

([~~3~~]c) a list of witnesses expected to be called, including a summary of the testimony [~~which~~]that each witness is expected to present;

([~~4~~]d) a summary of documentary evidence that the party intends to submit; and

([~~5~~]e) following receipt of the other party's witness list, a list of anticipated rebuttal witnesses and evidence no later than [~~10~~]ten days prior to the hearing.

[~~C~~]([~~1~~]3)(a) Except as provided in Subsection [~~R277-202-4C(1)~~](3)(b), a party may not present a witness or evidence at the hearing if the witness or evidence has not been disclosed to the other party as required in Subsection [~~R277-202-4B~~](2).

([~~2~~]b) A party may present a witness or evidence at the hearing even if the witness or hearing has not been disclosed to the other party if:

([~~a~~]i) the parties stipulate to the presentation of the witness or evidence at the hearing; or

([~~b~~]ii) the hearing officer makes a determination of good cause to allow [~~it in~~]the witness or evidence.

[~~D.~~](4) If a party fails to comply in good faith with a directive of the hearing officer, including time requirements, the hearing officer may prohibit introduction of the testimony or evidence or take other steps reasonably appropriate under the circumstances.

[~~E.~~](5) A party shall provide materials to the hearing officer, panel members,

and UPPAC as directed by the hearing officer.

R277-202-5. Hearing Parties' Representation.

[~~A.~~](1) [~~Complainant: The~~]A USOE prosecutor shall represent the complainant [~~shall be represented by a USOE prosecutor~~].

[~~B.~~](2) [~~Respondent:~~]A respondent may represent himself or herself or be represented, at [~~his~~]the respondent's own cost, by another person.

[~~C.~~](3) The informant has no right to:

([~~1~~]a) individual representation at the hearing; or

([~~2~~]b) to be present or heard at the hearing unless called as a witness.

[~~D.~~](4) A respondent shall notify the Executive Secretary in a timely manner and in writing if the respondent chooses to be represented by anyone other than the respondent.

R277-202-6. Discovery Prior to a Hearing.

[~~A.~~](1) Discovery is permitted to the extent necessary to obtain relevant information necessary to support claims or defenses, as determined by the hearing officer.

[~~B.~~](2) Unduly burdensome legalistic discovery may not be used to delay a hearing.

[~~C.~~](3) A hearing officer may limit discovery:

([~~1~~]a) at the discretion of the hearing officer; or

([~~2~~]b) upon a motion by either party.

[~~D.~~](4) A hearing officer rules on all discovery requests and motions.

[~~E.~~](5) The Executive Secretary shall issue a subpoena or other order to secure the attendance of a witness pursuant to Subsection 53A-6-306(3)(c)(i) if:

([~~1~~]a) requested by either party; and

([~~2~~]b) notice of intent to call the witness has been timely provided as required by Section R277-202-4.

[~~F.~~](6) The Executive Secretary shall issue a subpoena to produce evidence if timely requested by either party.

[~~G~~]([~~1~~]7)(a) A party may not present an expert witness report or expert witness

testimony at a hearing unless the requirements of Section R277-202-10 have been met.

([~~2~~]b) A respondent may not subpoena the UPPAC prosecutor or investigator as an expert witness.

R277-202-7. Burden and Standard of Proof for UPPAC Proceedings.

[~~A.~~](1) In matters other than those involving applicants for licensing, and excepting the presumptions under Subsection R277-202-11[~~J~~](10), the Board shall have the burden of proving that an action against the license is appropriate.

[~~B.~~](2) An applicant for licensing has the burden of proving that licensing is appropriate.

[~~C.~~](3) [~~Standard of proof:~~]The standard of proof in all UPPAC hearings is a preponderance of the evidence.

[~~D.~~](4) [~~Evidence:~~]The Utah Rules of Evidence are not applicable to UPPAC proceedings.

[~~E.~~](5) The criteria to decide an evidentiary question[~~s shall be~~] are:

([~~1~~]a) reasonable reliability of the offered evidence;

([~~2~~]b) fairness to both parties; and

([~~3~~]c) usefulness to UPPAC in reaching a decision.

[~~F.~~](6) The hearing officer has the sole responsibility to determine the application of the hearing rules and the admissibility of evidence.

R277-202-8. Deportment.

[~~A.~~](1) Parties, their representatives, witnesses, and other persons present during a hearing shall conduct themselves in an appropriate manner during a hearing, giving due respect to members of the hearing panel and complying with the instructions of the hearing officer.

[~~B.~~](2) A hearing officer may exclude a person from the hearing room who fails to conduct [~~themself~~]himself or herself in an appropriate manner and may, in response to extreme instances of noncompliance, disallow the person's testimony.

[~~C.~~](3) Parties, attorneys for parties, or other participants in the professional practices investigation and hearing process may not harass, intimidate, or pressure

witnesses or other hearing participants, nor may they direct others to harass, intimidate, or pressure witnesses or participants.

R277-202-9. Hearing Record.

[~~A.~~](1) A hearing shall be recorded at UPPAC's expense, and the recording shall become part of the UPPAC case file, unless otherwise agreed upon by all parties.

[~~B.~~](2) An individual party may, at the party's own expense, make a recording or transcript of the proceedings if the party provides notice to the Executive Secretary.

[~~C.~~](3) If an exhibit is admitted as evidence, the record shall reflect the contents of the exhibit.

[~~D.~~](4) All evidence and statements presented at a hearing shall become part of the UPPAC [~~C~~]case [~~F~~]file and may not be removed except by direction of the hearing officer or by order of the Board.

[~~E.~~](5) A party may review a UPPAC case file upon request of the party if the review of the UPPAC case file is performed:

([~~1~~]a) under supervision of the Executive Secretary; and

([~~2~~]b) at the USOE.

R277-202-10. Expert Witnesses in UPPAC Proceedings.

[~~A.~~](1) A hearing officer may allow testimony by an expert witness[~~es~~].

[~~B.~~](2) A party may call an expert witness at the party's own expense.

[~~C.~~](3) A party shall provide a hearing officer and the opposing party with the following information at least 15 days prior to the hearing date:

([~~1~~]a) notice of intent of a party to call an expert witness;

([~~2~~]b) the identity and qualifications of [~~each~~]an expert witness;

([~~3~~]c) the purpose for which the expert witness is to be called; and

([~~4~~]d) any prepared expert witness report.

[~~D.~~](4) Defects in the qualifications of an expert witness[~~es~~], once a minimum threshold of expertise is established, go to the weight to be given the testimony and not to its admissibility.

[~~E.~~](5) An expert witness who is a member of the complainant's staff or staff of an LEA may testify and have the[~~ir~~] testimony considered as part of the record in the same manner as the testimony of any other expert.

R277-202-11. Evidence and Participation in UPPAC Proceedings.

[~~A.~~](1) A hearing officer may not exclude evidence solely because the evidence is hearsay.

[~~B.~~](2) Each party has a right to call witnesses, present evidence, argue, respond, cross-examine witnesses who testify in person at the hearing, and submit rebuttal evidence.

[~~C.~~](3) Testimony presented at the hearing shall be given under oath if the testimony is offered as evidence to be considered in reaching a decision on the merits.

[~~D.~~](4) If a case involves allegations of child abuse or of a sexual offense against a minor, either party, a member of the hearing panel, or the hearing officer, may request that a minor be allowed to testify outside of the respondent's presence.

[~~E.~~](5) If the hearing officer determines that a minor would suffer undue emotional or mental harm, or that the minor's testimony in the presence of the respondent would be unreliable, the minor's testimony may be admitted [~~in one of the following ways:~~]as described in this section.

[~~F.~~](6) An oral statement of a victim or witness younger than 18 years of age [~~which~~]that is recorded prior to the filing of a complaint [~~shall be~~]is admissible as evidence in a hearing regarding the offense if:

([~~1~~]a) no attorney for either party is in the minor's presence when the statement is recorded;

([~~2~~]b) the recording is visual and aural and is recorded;

([~~3~~]c) the recording equipment is capable of making an accurate recording;

([~~4~~]d) the operator of the equipment is competent;

([~~5~~]e) the recording is accurate and has not been altered; and

([~~6~~]f) each voice in the recording is identified.

[~~G.~~](7) The testimony of a witness or victim younger than 18 years of age may be taken in a room other than the hearing room, and may be transmitted by

closed circuit equipment to another room where it can be viewed by the respondent if[~~ the following conditions shall be observed~~]:

([~~1~~]a) only the hearing panel members, attorneys for each party, persons necessary to operate equipment, and a person approved by the hearing officer whose presence contributes to the welfare and emotional well-being of the minor may be with the minor during the testimony;

([~~2~~]b) the respondent [~~may~~]is not[~~ be~~] present during the minor's testimony;

([~~3~~]c) the hearing officer[~~ shall~~] ensures that the minor cannot hear or see the respondent;

([~~4~~]d) the respondent [~~shall be~~]is permitted to observe and hear, but[~~ may~~] not communicate with the minor; and

([~~5~~]e) only hearing panel members, the hearing officer, and the attorneys [~~may~~] question the minor.

[~~H.~~](8) If the hearing officer determines that the testimony of a minor may be taken consistent with Subsections [~~R277-202-11D~~](4) through [~~G~~](7), the minor may not be required to testify in any proceeding where the recorded testimony is used.

[~~I.~~](9) On the hearing officer's own motion or upon objection by a party, the hearing officer:

([~~1~~]a) may exclude evidence that the hearing officer determines to be irrelevant, immaterial, or unduly repetitious;

([~~2~~]b) shall exclude evidence that is privileged under law applicable to administrative proceedings in [~~Utah~~]the state unless waived;

([~~3~~]c) may receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all pertinent portions of the original document;

([~~4~~]d) may take official notice of any facts that could be judicially noticed under judicial or administrative laws of [~~Utah~~]the state, or from the record of other proceedings before the agency.

[~~J.~~](10)[~~ Presumptions:~~

~~(1)~~](a) A rebuttable evidentiary presumption exists that a person has committed a sexual offense against a minor if the person has:

([~~a~~]i) been found, pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor;

([~~b~~]ii) failed to defend himself or herself against [~~such a~~]the charge when given a reasonable opportunity to do so; or

([~~c~~]iii) voluntarily surrendered a license or allowed a license to lapse in the face of a charge of having committed a sexual offense against a minor.

([~~2~~]b) A rebuttable evidentiary presumption exists that a person is unfit to serve as an educator if the person has been found pursuant to a criminal, civil, or administrative action to have exhibited behavior evidencing unfitness for duty, including immoral, unprofessional, or incompetent conduct, or other violation of standards of ethical conduct, performance, or professional competence.

([~~3~~]c) Evidence of behavior described in Subsection [~~R277-202-11J(2)~~](10)(b) may include:

([~~a~~]i) conviction of a felony;

([~~b~~]ii) a felony charge and subsequent conviction for a lesser related charge pursuant to a plea bargain or plea in abeyance;

([~~c~~]iii) an investigation of an educator's license, certificate, or authorization in another state; or

([~~d~~]iv) the expiration, surrender, suspension, revocation, or invalidation of an educator’s license for any reason.

R277-202-12. Hearing Report.

[~~A.~~](1) Within 20 days after the hearing, or within 20 days after the deadline imposed for the filing of any post-hearing materials as permitted by the hearing officer, the hearing officer shall sign and issue a hearing report consistent with the recommendations of the panel that includes:

([~~1~~]a) detailed findings of fact and conclusions of law based upon the evidence of record or on facts officially noted[~~.~~];

([~~2~~]b) a statement of relevant precedent, if available;

([~~3~~]c) a statement of applicable law and rule;

([~~4~~]d) a recommended disposition of UPPAC panel members [~~which~~]that shall be one or an appropriate combination of the following:

([~~a~~]i) dismissal of the complaint;

([~~b~~]ii) letter of admonishment;

([~~e~~]iii) letter of warning;

([~~d~~]iv) letter of reprimand;

([~~e~~]v) probation, to include the following terms and conditions:

([~~i~~]A) it is the respondent's responsibility to petition UPPAC for removal of probation and letter of reprimand from the respondent's CACTUS file;

([~~ii~~]B) a probationary time period or specifically designated indefinite time period;

(~~iii~~]C) conditions that can be monitored;

([~~iv~~]D) if recommended by the panel, a person or entity to monitor a respondent's probation;

([~~v~~]E) a statement providing for costs of probation, if appropriate; and

([~~vi~~]F) whether or not the respondent may work in any capacity in public education during the probationary period;

([~~f~~]vi) disciplinary action held in abeyance;

([~~g~~]vii) suspension, to include the following terms and conditions:

(A) a recommended minimum time period after which an educator may request a reinstatement hearing under Rule R277-203; and

(B) any recommended conditions precedent to requesting a reinstatement hearing under Section R277-203-2; or

([~~h~~]viii) revocation; and

([~~5~~]e) notice that UPPAC's recommendation is subject to approval by the Board and judicial review as may be allowed by law.

[~~B.~~](2) Findings of fact may not be based solely upon hearsay, and conclusions shall be based upon competent evidence.

[~~C.~~](3) Any of the consequences described in Subsection [~~R277-202-12B~~](1)(d) may be imposed in the form of a disciplinary action held in abeyance.

[~~D.~~](4)(a) If the respondent’s penalty is held in abeyance, the respondent’s penalty is stayed subject to the satisfactory completion of probationary conditions.

[~~E.~~](b) The decision to impose a consequence in the form of a disciplinary action held in abeyance shall provide for appropriate or presumed discipline [~~should~~]if the respondent does not fully satisfy the probationary conditions[~~ not be fully satisfied;~~].

[~~F.~~](5)[~~ Processing the hearing report:~~

~~(1)~~](a) A hearing officer shall circulate a draft report to hearing panel members prior to the 20 day completion deadline of the hearing report.

([~~2~~]b) Hearing panel members shall notify the hearing officer of any changes to the report:

([~~a~~]i) as soon as possible after receiving the report; and

([~~b~~]ii) prior to the 20 day completion deadline of the hearing report.

([~~3~~]c) The hearing officer shall file the completed hearing report with the Executive Secretary, who shall review the report with UPPAC.

([~~4~~]d) The Executive Secretary may participate in UPPAC's deliberation as a resource to UPPAC in explaining the hearing report and answering any procedural questions raised by UPPAC members.

([~~5~~]e) The hearing officer may confer with the Executive Secretary or the panel members or both while preparing the hearing report.

([~~6~~]f) The hearing officer may request the Executive Secretary to confer with the hearing officer and panel following the hearing.

([~~7~~]g) The Executive Secretary may return a hearing report to a hearing officer if the report is incomplete, unclear, or unreadable, or missing essential components or information.

([~~8~~]h) UPPAC shall vote to uphold the hearing officer's and panel's report if UPPAC finds that:

([~~a~~]i) there are no significant procedural errors;

([~~b~~]ii) the hearing officer’s recommendations are based upon a reasonable interpretation of the evidence presented at the hearing; and

([~~c~~]iii) that all issues explained in the hearing report are adequately addressed in the conclusions of the report.

([~~9~~]i) [~~The~~]After the UPPAC review, the Executive Secretary shall [~~forward~~]send a copy of the hearing report to:

(i) the Board for further action;[~~ after the UPPAC review described in R277-202-12F(8).~~]

(ii) the respondent; and

([~~10~~]iii) [~~The Executive Secretary shall place a copy of the hearing report in~~]

470 the UPPAC case file.

471 [~~(11) If UPPAC or the Board determines that:~~

472 ~~(a) the hearing process had procedural errors;~~

473 ~~(b) the hearing officer's report is not based upon a reasonable interpretation~~

474 ~~of the evidence presented at the hearing;~~

475 ~~(c) that the conclusions and findings of the hearing report do not provide~~

476 ~~adequate guidance to the educator; or~~

477 ~~(d) that the findings or conclusions of the hearing report do not adequately~~

478 ~~address the evidence as outlined in the hearing report, the Board or UPPAC may:~~

479 ~~(i) direct the Executive Secretary to schedule the matter for rehearing before~~

480 ~~a new hearing officer and a new UPPAC panel; or~~

481 ~~(ii) direct the Executive Secretary to amend the hearing report to reflect the~~

482 ~~decision of UPPAC or the Board.~~]

483 (6)(a) If UPPAC adopts a hearing report that recommends an action, as

484 defined in Subsection R277-200-2(l), either party may request review by the

485 Superintendent within 15 days from the date the Executive Secretary sends a copy

486 of the hearing report to the respondent.

487 (b) The request for review shall consist of:

488 (i) the name, position, and address of the appellant;

489 (ii) the issue being appealed; and

490 (iii) the signature of the appellant or the appellant's representative.

491 (c) An appeal to the Superintendent is limited to a question of fairness or a

492 violation of due process.

493 (d) If the Superintendent finds that a procedural error has occurred that

494 violates fairness or due process, the Superintendent shall:

495 (i) refer the report back to UPPAC for reconsideration as to whether the

496 findings, conclusions, or decisions are supported by a preponderance of the

497 evidence; or

498 (ii) direct the UPPAC Executive Secretary to take specific administrative

499 action.

500 (e) After UPPAC completes reconsideration, the Superintendent shall:

501 (i) notify all parties; and

(ii) refer the report to the Board, if necessary, for final disposition consistent with this rule.

(7)(a) Prior to Board consideration of a hearing report, UPPAC shall:

(i) make the UPPAC case file available to the Board for confidential review; and

(ii) make other evidence available for review as directed by the Board.

(b) It is presumed that the Board will approve a UPPAC hearing report if:

(i) the UPPAC hearing process comports with due process and is free from a procedural error;

(ii) the hearing report is based upon a reasonable interpretation of the evidence;

(iii) the hearing report's recommendations constitute a reasonable resolution to the UPPAC investigation; and

(iv) the hearing report provides adequate guidance to the educator concerning any conditions prior to:

(A) reinstatement;

(B) termination of probation; or

(C) removal of a letter of reprimand from CACTUS.

(c) If the Board determines that any of the criteria in Subsection (1) are absent from a hearing report, or that exceptional circumstances exist, the Board shall:

(i) remand the case to UPPAC to cure any issues with due process; or

(ii)(A) issue findings specifying the defects in the hearing report and adopting the Board's agreed upon disposition of the matter; and

(B) direct the Executive Secretary to include the findings as an addendum to the hearing report, which findings constitute final Board action.

(d) Following Board adoption of a hearing report or alternative findings, the Executive Secretary shall:

(i) notify the educator;

(ii) notify the educator's employer;

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

(iv) report the action to the NASDTEC Educator Information Clearing house if the action results in:

(A) a revocation; or

(B) a suspension.

[~~G.~~](8) The hearing report is a public document under [~~GRAMA~~]Title 63G, Chapter 2, Government Records Access and Management Act after final action is taken in the case, but may be redacted if it is determined that the hearing report contains particular information, the dissemination of which is otherwise restricted under the law.

[~~H.~~](9) A respondent's failure to comply with the terms of a final disposition may result in additional discipline against the educator license.

[~~I.~~](10) If a hearing officer fails to satisfy the hearing officer's responsibilities under this rule, the Executive Secretary may:

([~~1~~]a) notify the Utah State Bar of the failure;

([~~2~~]b) reduce the hearing officer's compensation consistent with the failure;

([~~3~~]c) take timely action to avoid disadvantaging either party; or

([~~4~~]d) preclude the hearing officer from further employment by the Board for UPPAC purposes.

[~~J.~~](11) The Executive Secretary may waive the deadlines within this section [~~R277-202-12~~]if the Executive Secretary finds good cause.

[~~K.~~](12) All criteria of letters of warning and reprimand, probation, suspension, and revocation[~~ shall also~~] apply to the comparable sections of the final hearing report[~~s~~].

R277-202-13. Default.

[~~A~~](1)(a) The Executive Secretary may prepare an order of default if:

([~~a~~]i) the respondent fails to attend or participate in a properly scheduled hearing after receiving proper notice; or

([~~b~~]ii) the hearing officer recommends default as a sanction as a result of misconduct by the respondent or [~~his~~]the respondent's representative during the course of the hearing process.

([~~2~~]b) The hearing officer may determine that the respondent has failed to attend a properly scheduled hearing if the respondent has not appeared within 30 minutes of the appointed time for the hearing to begin, unless the respondent shows

565 good cause for failing to appear in a timely manner.

566 [~~B.~~](2) The recommendation of default may be executed by the Executive
567 Secretary following all applicable time periods, without further action by UPPAC.

568 [~~C.~~](3) An order of default may result in a recommendation to the Board for
569 revocation or for a suspension of no less than five years.

570 [~~D.~~](4) An order of default shall result in a recommendation to the Board for
571 a revocation if the alleged misconduct is conduct identified in Subsection
572 53A-6-501(5)(b).

573 **R277-202-14. Rights of Victims at Hearings.**

574 [~~A.~~](1) If the allegations that gave rise to the underlying allegations involve
575 abuse of a sexual or physical nature, UPPAC shall make reasonable efforts to:

576 ([~~1~~]a) advise the alleged victim that a hearing has been scheduled; and

577 ([~~2~~]b) notify the alleged victim of the date, time, and location of the hearing.

578 [~~B.~~](2) An alleged victim entitled to notification of a hearing [~~shall be~~]is
579 permitted, but is not required, to attend the hearing.

580 **KEY: hearings, reports, educators**

581 **Date of Enactment or Last Substantive Amendment: [~~July 8,~~]2015**

582 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-**
583 **1-401(3)**

R277. Education, Administration.

R277-203. Request for Licensure Reinstatement and Reinstatement Procedures.

R277-203-1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

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

(b) [~~by~~]Section 53A-6-306, which directs the Board to adopt rules regarding UPPAC duties and procedures[~~,~~]; and

(c) [~~by~~]Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is to establish procedures regarding educator license reinstatement.

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

R277-203-2. Application for Licensing Following Denial or Loss of License.

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

([~~2~~]b) A request for review described in Subsection [~~R277-203-2A~~](1)(a) shall:

([~~a~~]i) be in writing;

([~~b~~]ii) be transmitted to the UPPAC Executive Secretary; and

([~~c~~]iii) have the following information:

([~~i~~]A) name and address of the individual requesting review;

([~~ii~~]B) the action being requested;

([~~iii~~]C) specific evidence and documentation of compliance with terms and conditions of any remedial or disciplinary requirements or recommendations from UPPAC or the Board;

([~~iv~~]D) reason(s) that the individual seeks reinstatement; and

([~~v~~]E) signature of the individual requesting review.

[~~B~~]([~~1~~]2)(a) The Executive Secretary shall review the request with UPPAC.

([~~2~~]b) If UPPAC determines that the request is incomplete or invalid:

([~~a~~]i) the Executive Secretary shall deny the request; and

([~~b~~]ii) notify the individual requesting reinstatement of the denial.

([~~3~~]c) If UPPAC determines that the request of an individual described in Subsection [~~R277-203-2A~~](1) is complete, timely, and appropriate, UPPAC shall schedule and hold a hearing as provided under Section R277-203-3.

[~~C~~]([~~1~~]3)(a) Burden of Persuasion: The burden of persuasion at a reinstatement hearing shall fall on the individual seeking the reinstatement.

([~~2~~]b) An individual requesting reinstatement of a suspended license shall:

([~~a~~]i) show sufficient evidence of compliance with any conditions imposed in the past disciplinary action;

([~~b~~]ii) provide sufficient evidence to the reinstatement hearing panel that the educator will not engage in recurrences of the actions that gave rise to the suspension and that reinstatement is appropriate;

([~~c~~]iii) undergo a criminal background check [~~consistent with Utah law and R277-517~~]not more than six months prior to the requested hearing; and

([~~d~~]iv) provide materials for review by the hearing panel that demonstrate the individual's compliance with directives from UPPAC or the Board found in petitioner's original stipulated agreement or hearing report.

([~~3~~]c) An individual requesting licensing following a denial shall show sufficient evidence of completion of a rehabilitation or remediation program, if applicable, when requesting reinstatement.

[~~D.~~](4) An individual whose license has been suspended or revoked in another state shall seek reinstatement of the individual's license in the other state before a request for a reinstatement hearing may be approved.

R277-203-3. Reinstatement Hearing Procedures.

[~~A.~~](1) A hearing officer shall:

([~~1~~]a) preside over a reinstatement hearing; and

([~~2~~]b) rule on all procedural issues during the reinstatement hearing as they arise.

[~~B.~~](2) A hearing panel, comprising individuals as set forth in Subsection [~~R277-202-3(B)~~](2), shall:

([~~1~~]a) hear the evidence; and

([~~2~~]b) along with the prosecutor and hearing officer, question the individual seeking reinstatement regarding the appropriateness of reinstatement.

[~~C.~~](3) An individual seeking reinstatement may:

(a) be represented by counsel; and

(b) may present evidence and witnesses.

[~~D.~~](4) A party may present evidence and witnesses consistent with Rule R277-202.

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

[~~F.~~](6) An individual seeking reinstatement shall present documentation or evidence that supports reinstatement.

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

[~~H.~~](8) Other evidence or witnesses may be presented by either party and shall be presented consistent with Rule R277-202.

[~~I.~~](9) The individual seeking reinstatement shall:

([~~1~~]a) focus on the individual’s actions, rehabilitative efforts, and performance following license denial or suspension;

([~~2~~]b) explain item by item how each condition of the hearing report or stipulated agreement was satisfied;

([~~3~~]c) provide documentation in the form of evaluations, reports, or plans, as directed by the hearing report or stipulated agreement, of satisfaction of all required and outlined conditions;

([~~4~~]d) be prepared to completely and candidly respond to the questions of the UPPAC prosecutor and hearing panel regarding:

([~~a~~]i) the misconduct that caused the license suspension;

([~~b~~]ii) subsequent rehabilitation activities;

([~~c~~]iii) counseling or therapy received by the individual related to the original misconduct; and

([~~d~~]iv) work, professional actions, and behavior between the suspension and reinstatement request;

(~~5~~]e) present witnesses and be prepared to question witnesses (including counselors, current employers, support group members) at the hearing who can provide substantive corroboration of rehabilitation or current professional fitness to be an educator;

([~~6~~]f) provide copies of all reports and documents to the UPPAC prosecutor and hearing officer at least five days before a reinstatement hearing; and

([~~7~~]g) bring eight copies of all documents or materials that an individual seeking reinstatement plans to introduce at the hearing.

[~~J.~~](10) The UPPAC prosecutor, the hearing panel, and hearing officer shall thoroughly question the individual seeking reinstatement as to the individual's:

([~~1~~]a) underlying misconduct which is the basis of the sanction on the educator's license;

([~~2~~]b) specific and exact compliance with reinstatement requirements;

([~~3~~]c) counseling, if required for reinstatement;

([~~4~~]d) specific plans for avoiding previous misconduct; and

([~~5~~]e) demeanor and changed understanding of petitioner's professional integrity and actions consistent with Rule R277-515.

[~~K.~~](11) If the individual seeking reinstatement sought counseling as described in Subsection [~~R277-203-3J(3)~~](10)(c), the individual shall state, under oath, that he provided all relevant information and background to his counselor or therapist.

[~~L.~~](12) A hearing officer shall rule on procedural issues in a reinstatement hearing in a timely manner as they arise.

[~~M.~~](13) No more than 20 days following a reinstatement hearing, a hearing officer, with the assistance of the hearing panel, shall:

([~~1~~]a) prepare a hearing report in accordance with the requirements set forth in Section R277-203-5; and

([~~2~~]b) provide the hearing report to the UPPAC Executive Secretary.

[~~N.~~](14) The Executive Secretary shall submit the hearing report to UPPAC at the next meeting following receipt of the hearing report by the Executive Secretary.

[~~O.~~](15) UPPAC may do the following upon receipt of the hearing report:

([~~1~~]a) accept the hearing panel's recommendation as prepared in the hearing report;

([~~2~~]b) amend the hearing panel's recommendation with conditions or modifications to the hearing panel's recommendation which shall be:

([~~a~~]i) directed by UPPAC;

([~~b~~]ii) prepared by the UPPAC Executive Secretary; and

([~~c~~]iii) attached to the hearing report; or

([~~3~~]c) reject the hearing panel's recommendation.

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

[~~Q. If the Board denies an individual's request for reinstatement, the individual shall wait at least twenty four (24) months prior to filing a request for reinstatement again, unless a different time is provided in the hearing panel recommendation or in the Board's motion to deny.~~]

R277-203-4. Rights of a Victim at a Reinstatement Hearing.

[~~A.~~](1) If the allegations that gave rise to the underlying suspension involve abuse of a sexual or physical nature, UPPAC shall make reasonable efforts to notify the victim or the victim's family of the reinstatement request.

[~~B.~~](2) UPPAC's notification shall:

([~~1~~]a) advise the victim that a reinstatement hearing has been scheduled;

([~~2~~]b) notify the victim of the date, time, and location of the hearing;

([~~3~~]c) advise the victim of the victim's right to be heard at the reinstatement hearing; and

([~~4~~]d) provide the victim with a form upon which the victim can submit a statement for consideration by the hearing panel.

[~~C.~~](3) A victim entitled to notification of the reinstatement proceedings shall

be permitted:

([~~1~~]a) to attend the hearing; and

([~~2~~]b) to offer the victim's position on the educator's reinstatement request, either by testifying in person or by submitting a written statement.

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

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

R277-203-5. Reinstatement Hearing Report.

[~~A.~~](1) A hearing officer shall provide the following in a reinstatement hearing report:

([~~1~~]a) [~~provide~~]a summary of the background of the original disciplinary action;

([~~2~~]b) [~~provide~~]adequate information, including summary statements of evidence presented, documents provided, and petitioner's testimony and demeanor for both UPPAC and the Board to evaluate petitioner's progress and rehabilitation since petitioner's original disciplinary action;

([~~3~~]c) [~~specifically address~~]the hearing panel's conclusions regarding petitioner's appropriateness and fitness to be a public school educator again;[~~ and~~]

(d) the hearing panel's recommendation; and

([~~4~~]e) [~~provide~~]a statement [~~that~~]indicating whether the hearing panel's recommendation to UPPAC was unanimous or [~~provide~~]identifying how the panel[~~'s~~] member's voted concerning reinstatement.

[~~B~~]([~~1~~]2)(a) The hearing panel report is a public document under GRAMA following the conclusion of the reinstatement process unless specific information or evidence contained therein is protected by a specific provision of GRAMA, or another provision of state or federal law.

([~~2~~]b) The Executive Secretary shall add the hearing panel report to the UPPAC case file.

[~~C.~~](3) If a license is reinstated, an educator's CACTUS file shall be updated

to:

([~~1~~]a) remove the flag;

([~~2~~]b) show that the educator's license was reinstated; and

([~~3~~]c) show the date of formal Board action reinstating the license.

[~~D.~~](4)(a) The Board decision as to whether to accept the recommendation of the reinstatement hearing report is within the Board's sole discretion.

(b) An educator has an expectation of due process, but no expectation of license reinstatement by the Board.

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

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

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

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

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

(a) the educator;

(b) the educator's LEA.

R277-203-6. Reinstatement from Revocation of License.

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

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

(a) an educator provides:

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

(ii) newly discovered evidence:

(A) that undermines the revocation determination; and

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

disciplinary proceedings; or

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

(3) A request for review by the Superintendent must be filed within 30 days of Board action for circumstances identified in Subsection (2)(a)(i) or (b).

(4) A request for review by the Superintendent must be filed within 90 days of discovery of the new evidence for circumstances identified in Subsection(2)(a)(ii).

(5) The Superintendent:

(a) shall make a determination on a request made under Subsection(2) within 60 days; and

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

(6) If the Superintendent finds that the criteria in Subsection (2)(a) have been established, the Superintendent shall direct UPPAC to conduct a new hearing consistent with Rule R277-202.

(7) If the Superintendents finds that the criteria in Subsection (2)(b) have been established, the Superintendent shall recommend to the Board that they reconsider their previous action.

KEY: licensure, reinstatement, hearings; license reinstatement

Date of Enactment or Last Substantive Amendment: [~~July 8,~~]2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-1-401(3)

R277. Education, Administration.

R277-204. Utah Professional Practices Advisory Commission Criminal Background Review.

R277-204-1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

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

(b) [~~by~~]Section 53A-6-306, which directs the Board to adopt rules regarding UPPAC duties and procedures[~~,~~]; and

(c) [~~by~~]Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is:

(a) to establish procedures for an applicant to proceed toward licensing; or

(b) be denied to continue when an application or recommendation for licensing or renewal identifies offenses in the applicant's criminal background check.

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

R277-204-2. Initial Submission and Evaluation of Information.

[~~A.~~](1) The Executive Secretary shall review all information received as part of a criminal background review.

[~~B.~~](2) The Executive Secretary may request any of the following information from an educator in determining how to process a criminal background review:

([~~1~~]a) a letter of explanation for each reported offense that details the circumstances, the final disposition, and any explanation for the offense the applicant may want to provide UPPAC, including any advocacy for approving licensing;

([~~2~~]b) official documentation regarding each offense, including court records and police reports for each offense, or if both court records and police reports are not available, a letter on official police or court stationery from the appropriate court or police department involved, explaining why the records are not available; and

([~~3~~]c) any other information that the Executive Secretary considers relevant

under the circumstances in a criminal background review.

[~~C~~]([~~1~~]3)(a) The Executive Secretary may only process a criminal background review after receipt of all letters of explanation and documentation requested in good faith by the Executive Secretary.

([~~2~~]b) The Executive Secretary shall provide timely notice if the information provided by an applicant is incomplete.

[~~D.~~](4) If an applicant is under court supervision of any kind, including parole, informal or formal probation, or plea in abeyance, the Executive Secretary may not process the background check review until the Executive Secretary receives proof that court supervision has terminated.

[~~E.~~](5) It is the applicant's sole responsibility to provide any requested material to the Executive Secretary.

[~~F.~~](6) The Executive Secretary shall process criminal background reviews subject to the following criteria:

([~~1~~]a) the Executive Secretary may clear a criminal background review without further action if the arrest, citation, or charge resulted in a dismissal, unless the dismissal resulted from a plea in abeyance agreement;

([~~2~~]b) the Executive Secretary shall forward a recommendation to clear the following criminal background reviews directly to the Board:

([~~a~~]i) singular offenses committed by an applicant, excluding offenses identified in Subsection [~~R277-204-2F(3)~~](6)(c), if the arrest occurred more than two years prior to the date of submission to UPPAC for review;

([~~b~~]ii) more than two offenses committed by the applicant, excluding offenses identified in Subsection [~~R277-204-2F(3)~~](6)(c), if at least one arrest occurred more than five years prior to the date of submission to UPPAC for review; or

([~~c~~]iii) more than two offenses committed by the applicant, excluding offenses identified in Subsection [~~R277-204-2F(3)~~](6)(c), if all arrests for the offenses occurred more than 10 years prior to the date of submission to UPPAC for review;

([~~3~~]c) the Executive Secretary shall forward the following criminal background reviews to UPPAC, which shall make a recommendation to the Board for final action:

([~~a~~]i) convictions or pleas in abeyance for any offense where the offense date occurred less than two years prior to the date of submission to UPPAC;

([~~b~~]ii) convictions or pleas in abeyance for multiple offenses where all offenses occurred less than five years prior to the date of submission to UPPAC;

([~~c~~]iii) convictions or pleas in abeyance for felonies;

([~~d~~]vi) arrests, convictions, or pleas in abeyance for sex-related or lewdness offenses;

([~~e~~]v) convictions or pleas in abeyance for alcohol-related offenses or drug-related offenses where the offense date was less than five years prior to the date of submission to UPPAC;

([~~f~~]vi) convictions or pleas in abeyance involving children in any way; and

([~~g~~]vii) convictions or pleas in abeyance involving any other matter which the Executive Secretary determines, in his discretion, warrants review by UPPAC and the Board; and

([~~4~~]d) If the criminal background review involves a conviction for an offense requiring mandatory revocation under Subsection 53A-6-501(5)(b) or meeting the definition of sex offender under Subsection 77-41-102(1[~~6~~]7), the Executive Secretary shall forward a recommendation directly to the Board that clearance be denied.

[~~G.~~](7) The Executive Secretary shall use reasonable discretion to interpret the information received from the Bureau of Criminal Identification to comply with the provisions of this rule.

[~~H.~~](8) In Board review of recommendations of the Executive Secretary and UPPAC for criminal background checks, the following shall apply:

(a) the Board shall consider a criminal background review in accordance with the standards described in Section 53A-6-405;

([~~1~~]b) the Board may uphold any recommendation of the Executive Secretary or UPPAC, which action shall be the final agency action of USOE;

([~~2~~]c) the Board may substitute its own judgment in lieu of the recommendation of the Executive Secretary or UPPAC, which action shall be the final agency action of USOE; and

([~~3~~]d) if the Board chooses to substitute its own judgment in a criminal background review, the Board shall adopt findings articulating its reasoning.

[~~I.~~](9) If a criminal background review arises as a result of conduct that was

cleared in a prior criminal background review by the Executive Secretary, UPPAC, or the Board, the prior action shall be deemed final, and the Executive Secretary shall clear the criminal background review.

[~~J.~~](10) If a criminal background review results in an applicant's denial, the applicant may request to be heard, and to have the matter reconsidered by the Board, consistent with the requirements of Subsection 53A-15-1506(1)(c).

KEY: educator license, background review, background check
Date of Enactment or Last Substantive Amendment: [~~July 8,~~]2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-1-401(3)

R277. Education, Administration.

R277-205. Alcohol Related Offenses.

R277-205-1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

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

(b) [~~by~~]Section 53A-6-306, which directs the Board to adopt rules regarding UPPAC duties and procedures[~~,~~]; and

(c) [~~by~~]Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is to establish procedures for disciplining educators regarding alcohol related offenses.

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

R277-205-2. Action by the Board if a Licensed Educator Has Been Convicted of an Alcohol Related Offense.

[~~A.~~](1)(a) If as a result of a background check, it is discovered that a licensed educator has been convicted of an alcohol related offense in the previous five years, UPPAC shall adhere to the[~~ following~~] minimum conditions described in this Subsection (1).[~~:~~]

([~~1~~]b) One conviction--a letter shall be sent to the educator informing the educator of the provisions of this rule[~~;~~].

([~~2~~]c) Two convictions--a letter shall be sent to the educator informing the educator of the provisions of this rule and requiring documentation of clinical assessment and recommended treatment following the second conviction[~~;~~].

([~~3~~]d) If the most recent conviction was more than three years prior to the discovery of the conviction(s) and the educator provides documentation of clinical assessment and recommended treatment, UPPAC shall recommend that the Board send a letter of warning to the educator[~~;~~].

([~~4~~]e) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides documentation of clinical

assessment and recommended treatment, UPPAC shall recommend that the Board send a letter of reprimand to the educator and a letter to the district, if employed[~~;~~].

([~~5~~]f) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides no documentation of clinical assessment and recommended treatment, UPPAC or the Board may initiate an investigation of the educator based upon the alcohol offenses[~~;~~].

([~~6~~]g) Three convictions--a letter shall be sent to the educator informing the educator of the provisions of this rule and requiring documentation of clinical assessment and recommended treatment following the third conviction[~~;~~].

([~~7~~]h) If the most recent conviction was more than three years prior to the discovery of the conviction(s) and the educator provides documentation of clinical assessment and recommended treatment, UPPAC shall recommend that the Board send a letter of warning to the educator[~~;~~].

([~~8~~]i) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides documentation of clinical assessment and recommended treatment, UPPAC shall recommend that the Board send a letter of reprimand to the educator and send a copy of the letter of reprimand to the educator's employer[~~; and~~].

([~~9~~]j) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides no documentation of clinical assessment and recommended treatment, UPPAC shall recommend suspension of the educator's license to the Board, subject to the educator's right to a hearing under Rule R277-202.

[~~B.~~](2) This rule does not preclude more serious or additional action by the Board against an educator for other related or unrelated offenses.

R277-205-3. Board Action Toward Individuals Who Do Not Hold Licensing.

(1) If as a result of a background check, it is discovered that an individual inquiring about educator licensing, seeking information about educator licensing, or placed in a public school for any purpose requiring a background check, has been convicted of an alcohol related offense within five years of the date of the background check, the[~~ following~~] minimum conditions described in this section shall

apply[~~:~~].

[~~A.~~](2) [~~o~~]One conviction--the individual shall be denied Board clearance for a period of one year from the date of the arrest[~~;~~].

[~~B.~~](3) [~~t~~]Two convictions--the individual shall be denied Board clearance for a period of two years from the date of the most recent arrest and the applicant shall present documentation of clinical assessment and recommended treatment before Board clearance shall be considered[~~; and~~].

[~~C.~~](4) [~~t~~]Three convictions-the Board may require the applicant to present documentation of clinical assessment and recommended treatment and may deny clearance.

KEY: educators, disciplinary actions, alcohol, background check

Date of Enactment or Last Substantive Amendment: [~~July 8,~~]2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-1-401(3)

R277. Education, Administration.

R277-206. Drug Related Offenses.

R277-206-1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

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

(b) [~~by~~]Section 53A-6-306, which directs the Board to adopt rules regarding UPPAC duties and procedures[~~,~~] and

(c) [~~by~~]Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is to establish procedures for disciplining educators regarding drug related offenses.

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

R277-206-2. Action by the Board if a Licensed Educator Has Been Convicted of a Drug Related Offense.

[~~A.~~](1)(a) If as a result of a background check, it is discovered that a licensed educator has been convicted of a drug related offense in the previous ten years, the [~~following~~]minimum conditions described in this Subsection (1) shall apply[~~:~~].

([~~1~~]b) [~~o~~]One conviction--a letter shall be sent to the educator informing the educator of the provisions of this rule[~~;~~].

([~~2~~]c) [~~t~~]Two convictions--a letter shall be sent to the educator informing the educator of the provisions of this rule and requiring documentation of clinical assessment and recommended treatment following the second conviction[~~;~~].

([~~3~~]d) If the most recent conviction was more than three years prior to the discovery of the conviction(s) and the educator provides documentation of clinical treatment, the Board shall send a letter of warning to the educator[~~;~~].

([~~4~~]e) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides documentation of clinical treatment, the Board shall send a letter of reprimand to the educator and a letter to the district with notice of treatment[~~;~~].

([~~5~~]f) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides no documentation of clinical treatment, UPPAC or the Board may initiate an investigation of the educator based upon the drug offenses[~~;~~].

([~~6~~]g) Three convictions--a letter shall be sent to the educator informing the educator of the provisions of this rule and requiring documentation of clinical treatment following the third conviction[~~;~~].

([~~7~~]h) If the most recent conviction was more than five years prior to the discovery of the conviction(s) and the educator provides documentation of clinical assessment and recommended treatment, the Board shall send a letter of warning to the educator[~~;~~].

([~~8~~]i) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides documentation of clinical assessment and recommended treatment, the Board shall send a letter of reprimand to the educator and send a copy of the letter of reprimand to the educator's employer[~~; and~~].

([~~9~~]j) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides no documentation of clinical assessment and recommended treatment, UPPAC shall recommend suspension of the educator's license to the Board, subject to the educator's right to a hearing under Rule R277-202.

[~~B.~~](2) This rule does not preclude more serious or additional action by the Board against an educator if circumstances warrant it.

R277-206-3. Board Action Towards an Individual Who Does Not Hold Licensing.

[~~A.~~](1)(a) If as a result of a background check, it is discovered that an applicant has been convicted of a drug related offense within ten years of the date of the background check, the[~~ following~~] minimum conditions described in this Subsection (1) shall apply[~~:~~].

([~~1~~]b) [~~o~~]One conviction--the individual shall be denied clearance for a period of one year from the date of the conduct giving rise to the charge[~~;~~].

([~~2~~]c) [~~t~~]Two convictions--the individual shall be denied clearance for a period of three years from the date of the conduct giving rise to the most recent charge and the applicant shall present documentation of clinical assessment and recommended treatment before clearance shall be considered[~~; and~~].

([~~3~~]d) [~~t~~]Three convictions--the individual shall be denied clearance for a period of five years from the date of the conduct giving rise to the most recent charge.

[~~B.~~](2) UPPAC or the Board may require the applicant to present documentation of clinical assessment and recommended treatment and may recommend denial of clearance.

KEY: educators, disciplinary actions, drug offenses, background checks
Date of Enactment or Last Substantive Amendment: [~~July 8, ~~]2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-306; 53A-1-401(3)

R277. Education, Administration.

R277-515. Utah Educator Standards.

R277-515-[~~2~~]1. Authority and Purpose.

[~~A.~~](1) This rule is authorized by:

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

(b) [~~by~~]Subsection 53A-1-402(1)(a), which directs the Board to make rules regarding the certification of educators[~~,~~];

(c) [~~by Section 53A-6~~]Title 53A, Chapter 6, Educator Licensing and Professional Practices Act, which provides all laws related to educator licensing and professional practices]~~,~~]; and

(d) [~~by~~]Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is to:

(a) establish statewide standards for public school educators that provide notice to educators and prospective educators and notice and protection to public school students and parents[~~. The rule also~~];

(b) recognize[~~s~~] that licensed public school educators are professionals and, as such, should share common professional standards, expectations, and role model responsibilities[~~. The rule~~]; and

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

R277-515-[~~1~~]2. Definitions.

[~~A. "Board" means the Utah State Board of Education.~~]

(1) "Core Standard" means a statement:

(a) of what a student enrolled in a public school is expected to know and be able to do at a specific grade level or following completion of an identified course; and

(b) established by the Board in Rule R277-700 as required by Section 53A-1-

402.

[~~B.~~](2) "Diversion agreement" means an agreement between a prosecutor and defendant entered into prior to a conviction delaying prosecution of a criminal charge for a specified period of time and contingent upon the defendant satisfying certain conditions.

[~~C.~~](3)(a) "Educator" or "professional educator" means a person who currently holds a Utah educator license, held a license at the time of an alleged offense, is an applicant for a license, or is a person in training to obtain a license.

(b) "Professional educator" does not include [~~The "professional" denotes that the individual holds or is seeking a Utah educator license as opposed to~~]a paraprofessional, [~~or~~]a volunteer, or an unlicensed teacher in a classroom.

[~~D.~~](4) "Felony offense" means any offense for which an individual is charged with a first, second, or third degree felony under:

(a) [~~the~~]Title 76, Utah Criminal Code[~~, Title 76,~~];

(b) [~~the~~]Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act[~~, Title 67, Chapter 16,~~];

(c) [~~the~~]Title 58, Chapter 37d, Clandestine Drug Lab Act[~~, Title 58 Chapter 37d,~~];

(d) [~~the~~]Title 63G, Chapter 6a, Utah Procurement Code[~~, Title 63G, Chapter 6,~~]; or

(e) any other statute in the Utah Code establishing a felony.

[~~E.~~](5) "Illegal drug[~~(s)~~]" means a substance included in:

(a) Schedules I, II, III, IV, or V [~~of~~]established in Section 58-37-4[~~, and also includes a drug or substance included in~~];

(b) Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, Pub. L. No. 91-513[~~,~~]; or

(c) any controlled substance analog.

[~~F. "Illegal sexual conduct" means any conduct proscribed under the Utah Criminal Code, Sections 76-5-401 through 406, Section 76-5a-1-4, and Section 76-9-704 through 704.~~]

(6) "LEA" or "local education agency" for purposes of this rule includes the Utah Schools for the Deaf and the Blind.

[~~G.~~](7) "Licensing discipline" means a sanction[~~s ranging from~~], including an admonition, a letter of warning, a written reprimand, suspension of license, and revocation of license, or other appropriate disciplinary measure[~~s~~], for violation of a professional educator standard[~~s~~].

[~~H.~~](8) "Misdemeanor offense" means any offense for which an individual is charged with a Class A, B, or C misdemeanor under:

(a) [~~the~~]Title 76, Utah Criminal Code[~~, Title 76,~~];

(b) [~~the~~]Title 67, Chapter 16, Utah Officers' and Public Employees' Ethics Act[~~, Title 67, Chapter 16,~~];

(c) [~~the~~]Title 58, Chapter 37d, Clandestine Drug Lab Act[~~, Title 58 Chapter 37d,~~];

(d) [~~the~~]Title 63G, Chapter 6a, Utah Procurement Code[~~, Title 63G, Chapter 6,~~]; or

(e) any other statute in the Utah Code establishing a misdemeanor.

[~~I.~~](9) "Plea in abeyance" means a plea of guilty or no contest [~~which~~]that is not entered as a judgment or conviction but is held by a court in abeyance for a specified period of time.

[~~J.~~](10) "School-related activity" means any event, activity, or program:

(a) occurring at the school before, during, or after school hours; or

(b) [~~which~~]that a student[~~s~~] attends at a remote location as a representative[~~s~~] of the school or with the school's authorization, or both.

[~~K.~~](11) "Stalking" means the act of intentionally or knowingly engaging in a course of conduct directed at a specific person as defined in Section 76-5-106.5.

[~~L. "Utah Core Curriculum" means minimum academic standards provided through courses as established by the Board which shall be mastered by all students K-12 as a requisite for graduation from Utah's secondary schools.~~]

[~~M. "Utah Public Employees Ethics Act" means the provisions established in Section 67-16-1-14.~~]

[~~N.~~](12) "Utah Professional Practices Advisory Commission" or [~~(Commission)~~]"UPPAC" means an advisory commission established to assist and advise the Board in matters relating to the professional practices of educators, as established [~~under~~]by Section 53A-6-301.

[~~O. "USOE" means the Utah State Office of Education.~~]

[~~P.~~](13) "Weapon[~~(s)~~]" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury.

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

[~~A.~~](1) The professional educator is responsible for compliance with federal, state, and local laws.

[~~B.~~](2) The professional educator shall familiarize himself or herself with professional ethics and is responsible for compliance with applicable professional standards.

[~~C.~~](3) Failing to strictly adhere to [~~the following~~]Subsection (4) shall result in licensing discipline[~~ as defined in R277-515-1G~~].

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

([~~1~~]a) [~~shall~~]may not be convicted of any felony or misdemeanor offense [~~which~~]that adversely affects the individual's ability to perform an assigned dut[~~ies~~]y and carry out the responsibilities of the profession, including role model responsibilit[~~ies.~~]y;

([~~2~~]b) [~~shall~~]may not be convicted of or commit any act of violence or abuse, including physical, sexual, or emotional abuse of any person;

([~~3~~]c) [~~shall~~]may not commit any act of cruelty to a child[~~ren~~] or any criminal offense involving a child[~~ren~~];

([~~4~~]d) [~~shall~~]may not be convicted of a stalking crime;

([~~5~~]e) [~~shall~~]may not possess or distribute an illegal drug[~~s,~~] or be convicted of any crime related to an illegal drug[~~s~~], including a prescription drug[~~s~~] not specifically prescribed for the individual;

([~~6~~]f) [~~shall not be convicted of any illegal sexual conduct, including offenses that are plea bargained to lesser offenses from an initial sexual offense~~]may not engage in conduct of a sexual nature described in Section 53A-6-405;

([~~7~~]g) [~~shall~~]may not be subject to a diversion agreement specific to a sex-related or drug-related offense[~~s~~], plea in abeyance, court-imposed probation, or court supervision related to a criminal charge[~~s which~~] that could adversely impact the educator's ability to perform the duties and responsibilities of the profession;

([~~8~~]h) [~~shall~~]may not provide to a student[~~s~~] or allow a student[~~s,~~] under the educator's supervision or control to consume an alcoholic beverage[~~s~~] or unauthorized drug[~~s~~];

([~~9~~]i) [~~shall~~]may not attend school or a school-related activity in an assigned supervisory capacity[~~,~~] while possessing, using, or under the influence of alcohol or an illegal drug[~~s~~];

([~~10~~]j) [~~shall~~]may not intentionally exceed the prescribed dosage[~~s~~] of a prescription medication[~~s~~] while at school or a school-related activity;

([~~11~~]k) shall cooperate in providing all relevant information and evidence to the proper authorit[~~ies~~]y in the course of an investigation by a law enforcement agency or by the Division of Child [~~Protective~~]and Family Services regarding potential criminal activity[~~. However~~], except that an educator [~~shall be entitled to~~]may decline to give evidence against himself or herself in an[~~y such~~] investigation if the [~~same~~]evidence may tend to incriminate the educator as that term is defined by the Fifth Amendment of the U.S. Constitution;

([~~12~~]l) shall report suspected child abuse or neglect to law enforcement or the Division of Child and Family Services pursuant to Sections 53A-6-502 and 62A-4a-409 and comply with[~~ Board~~] rules and [~~school district~~]LEA polic[~~ies~~]y regarding the reporting of suspected child abuse;

([~~13~~]m) shall strictly adhere to state laws regarding the possession of a firearm[~~s,~~] while on school property or at a school-sponsored activit[~~ies,~~]y and enforce [~~district~~]an LEA polic[~~ies~~]y related to student access to or possession of a weapon[~~s~~];

([~~14~~]n) [~~shall~~]may not solicit, encourage, or consummate an inappropriate relationship, whether written, verbal, or physical, with a student or minor;

([~~15~~]o) [~~shall~~]may not:

(i) participate in sexual, physical, or emotional harassment[~~ or any combination~~] towards any public school-age student or colleague[~~, n~~]; or

(ii) knowingly allow harassment toward a student[~~s~~] or colleague[~~s~~];

([~~16~~]p) [~~shall~~]may not make inappropriate contact in any communication[~~-~~], including written, verbal, or electronic[~~-~~], with a minor, student, or colleague, regardless of age or location;

([~~17~~]q) [~~shall~~]may not interfere or discourage a student's[~~'~~] or colleague's[~~'~~] legitimate exercise of political and civil rights, acting consistent with law and [~~school district/school~~]LEA polic[~~ies~~]y;

([~~18~~]r) shall provide accurate and complete information in a required evaluation[~~s~~] of himself or herself, another educator[~~s~~], or student[~~s~~], as directed, consistent with the law;

([~~19~~]s) shall be forthcoming with accurate and complete information to an appropriate authorit[~~ies~~]y regarding known educator misconduct [~~which~~]that could adversely impact performance of a professional responsibilit[~~ies~~]y, including a role model responsibilit[~~ies~~]y, by himself or herself, or another[~~s~~];

([~~20~~]t) shall provide accurate and complete information required for licensure, transfer, or employment purposes;[~~ and~~]

([~~21~~]u) shall provide accurate and complete information regarding qualifications, degrees, academic or professional awards or honors, and related employment history when applying for employment or licensure[~~.~~];

([~~22~~]v) shall notify the USOE at the time of application for licensure of past license disciplinary action or license discipline from another jurisdiction[~~s~~];

([~~23~~]w) shall notify the USOE honestly and completely of past criminal convictions at the time of the license application and renewal of licenses; and

([~~24~~]x) shall provide complete and accurate information during an official inquiry or investigation by [~~school district~~]LEA, state, or law enforcement personnel.

[~~D.~~](5)(a) Failure to adhere to [~~the following~~]this Subsection (5) may result in licensing discipline[~~ as defined in R277-515-1G~~].

(b) A [~~P~~]penalt[~~ies~~]y shall be imposed, most readily, if an educator[~~s have~~] has received a previous documented warning[~~(s)~~] from the educator's employer.

([~~1~~]c) An educator [~~shall~~]may not:

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

(ii) [~~shall~~]may not engage in conduct that would encourage a student[~~(s)~~] to develop a prejudice on the[~~se~~] grounds described in Subsection (5)(c)(i) or any other,

consistent with the law.

([~~2~~]d) An educator shall maintain confidentiality concerning a student unless revealing confidential information to an authorized person[~~s~~] serves the best interest of the student and serves a lawful purpose, consistent with[~~ federal and state~~]:

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

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

([~~3~~]e) Consistent with [~~the~~]Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, Section 53A-1-402.5, and[~~ Board~~] rule[~~s~~], a professional educator:

([~~a~~]i) [~~shall~~]may not accept a bonus[~~es~~] or incentive[~~s~~] from a vendor[~~s,~~] or potential vendor[~~s,~~] or a gift[~~s~~] from a parent[~~s~~] of a student[~~s~~], or a student[~~s~~] where there may be the appearance of a conflict of interest or impropriety;

([~~b~~]ii) [~~shall~~]may not accept or give a gift[~~s~~] to a student[~~s~~] that would suggest or further an inappropriate relationship;

([~~c~~]iii) [~~shall~~]may not accept or give a gift[~~s~~] to a colleague[~~s~~] that [~~are~~]is inappropriate or furthers the appearance of impropriety;

([~~d~~]iv) may accept a donation[~~s~~] from a student[~~s~~], parent[~~s~~], [~~and~~]or business[~~es~~] donating specifically and strictly to benefit a student[~~s~~];

([~~e~~]v) may accept, but not solicit, a nominal appropriate personal gift[~~s~~] for a birthday[~~s~~], holiday[~~s and~~], or teacher appreciation occasion[~~s~~], consistent with [~~school or school district~~]LEA polic[~~ies~~]y and [~~the~~]Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

([~~f~~]vi) [~~shall~~]may not use [~~his~~]the educator's position or influence to:

([~~i~~]A) solicit a colleague[~~s~~], student[~~s~~], or parent[~~s or~~] of a student[~~s~~] to purchase equipment, supplies, or services from the educator or participate in an activit[~~ies~~]y that financially benefits the educator unless approved in writing by the [~~local school board or governing board~~]LEA; or

([~~ii~~]B) promote an athletic camp[~~s~~], summer league[~~s~~], travel opportunit[~~ies~~]y, or other outside instructional opportunit[~~ies~~]y from which the educator receives personal remuneration[~~,~~] and that involve students in the educator's school system,

unless approved in writing consistent with [~~local school board or governing board~~]LEA policy and[~~ Board~~] rule; and

([~~g~~]vii) [~~shall~~]may not use school property, a facilit[~~ies~~]y, or equipment for personal enrichment, commercial gain, or for personal uses without express supervisor permission.

R277-515-4. Educator Responsibility for Maintaining a Safe Learning Environment and Educational Standards.

[~~A.~~](1) A professional educator maintains a positive and safe learning environment for a student[~~s,~~] and works toward meeting an educational standard[~~s~~] required by law.

[~~B.~~](2)(a) Failure to strictly adhere to [~~the following~~]this Subsection (2) shall result in licensing discipline[~~ as defined in R277-515-1G~~].

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

([~~1~~]i) shall take prompt and appropriate action to prevent harassment or discriminatory conduct toward[~~s~~] a student[~~s~~] or school employee[~~s~~] that may result in a hostile, intimidating, abusive, offensive, or oppressive learning environment;

([~~2~~]ii) shall resolve a disciplinary problem[~~s~~] according to law, [~~school board~~]LEA policy, and local building procedures and strictly protect student confidentiality and understand laws relating to student information and records;

([~~3~~]iii) shall supervise a student[~~s~~] appropriately at school and a school-related activit[~~ies~~]y, home or away, consistent with [~~district~~]LEA policy and building procedures and the age of the students;

([~~4~~]iv) shall take action to protect a student from any known condition detrimental to that student's physical health, mental health, safety, or learning;

([~~5~~]v)(A) shall demonstrate honesty and integrity by strictly adhering to all state and [~~district~~]LEA instructions and protocols in managing and administering a standardized test[~~s~~] to a student[~~s~~] consistent with Section 53A-1-608 and Rule R277-[~~473~~]404;

([~~a~~]B) shall cooperate in good faith with a required student assessment[~~s~~];

([~~b~~]C) shall encourage a student's[~~'~~] best effort[~~s~~] in a[~~ll~~]n assessment[~~s~~];

([~~c~~]D) shall submit and include all required student information and

assessments, as required by [~~state law and State Board of Education~~]statute and rule[~~s~~]; and

([~~d~~]E) shall attend training and cooperate with assessment training and assessment directives at all levels[~~.~~];

([~~6~~]vi) [~~shall~~]may not use or attempt to use [~~school district or school~~]an LEA computer[~~s~~] or information system[~~s~~] in violation of the [~~school district's~~]LEA's acceptable use policy for an employee[~~s~~] or access information that may be detrimental to young people or inconsistent with the educator's role model responsibility; and

([~~7~~]vii) [~~shall~~]may not knowingly possess, while at school or any school-related activity, any pornographic material in any form.

[~~C.~~](3)(a) Failure to adhere to [~~the following~~]this Subsection (3) may result in licensing discipline[~~ as defined in R277-515-1G~~].

(b) A [~~P~~]penalt[~~ies~~]y shall be imposed, most readily, if an educator[~~s have~~] has received a previous documented warning[~~(s)~~] from the educator's employer[~~:~~].

(c) A professional educator:

([~~1~~]i) shall demonstrate respect for a diverse perspective[~~s~~], idea[~~s~~], and opinion[~~s~~] and encourage contributions from a broad spectrum of school and community sources, including a communit[~~ies~~]y whose heritage language is not English;

([~~2~~]ii) shall use appropriate language, eschewing profane, foul, offensive, or derogatory comments or language;

([~~3~~]iii) shall maintain a positive and safe learning environment for a student[~~s~~];

([~~4~~]iv) shall work toward meeting an educational standard[~~s~~] required by law;

([~~5~~]v) shall teach the objectives contained in [~~the Utah~~]a Core [~~Curriculum~~]Standard;

([~~6~~]vi) [~~shall~~]may not distort or alter subject matter from [~~the~~]a Core Standard in a manner inconsistent with the law[~~ and shall use instructional time effectively~~]; and

([~~7~~]vii) shall use instructional time effectively consistent with [~~school and school district~~]LEA polic[~~ies~~]y.

R277-515-5. Professional Educator Responsibility for Compliance with [~~School District~~]LEA Polic[~~ies~~]y.

[~~A.~~](1)(a) Failure to strictly adhere to [~~the following~~]this Subsection (1) shall result in licensing discipline[~~ as defined in R277-515-1G~~].

(b) The professional educator:

([~~1~~]i) understands and follows [~~Board~~]a rule[~~s~~] and [~~local board~~]LEA polic[~~ies~~]y;

([~~2~~]ii) understands and follows a school [~~and~~]or administrative polic[~~ies~~]y [~~and~~]or procedure[~~s~~];

([~~3~~]iii) understands and respects appropriate boundaries[~~,~~] established by ethical rules and school polic[~~ies~~]y and directive[~~s,~~] in teaching, supervising, and interacting with a student[~~s and~~] or colleague[~~s~~]; and

([~~4~~]iv) shall conduct financial business with integrity by honestly accounting for all funds committed to the educator's charge, as school responsibilities require, consistent with [~~school and school district~~]LEA policy.

[~~B.~~](2)(a) Failure to adhere to [~~the following~~]this Subsection (2) may result in licensing discipline[~~ as defined in R277-515-1G~~].

(b) A [~~P~~]penalt[~~ies~~]y shall be imposed most readily, if an educator[~~s have~~] has received a previous documented warning[~~(s)~~] from the educator's employer.

(c) The professional educator:

([~~1~~]i) shall resolve a grievance[~~s~~] with a student[~~s~~], colleague[~~s~~], school community member[~~s~~], and parent[~~s~~] professionally, with civility, and in accordance with [~~school district/charter school~~]LEA polic[~~ies~~]y; and

([~~2~~]ii) shall follow [~~school district/charter school~~]LEA polic[~~ies~~]y for collecting money from a student[~~s~~], accounting for all money collected, and not commingling any school funds with personal funds.

R277-515-6. Professional Educator Conduct.

[~~A.~~](1) A professional educator exhibits integrity and honesty in relationships with [~~school and district~~]an LEA administrator[~~s and~~] or personnel.

[~~B.~~](2)(a) Failure to adhere to [~~the following~~]this Subsection (2) may result in licensing discipline[~~ as defined in R277-515-1G~~].

(b) A [~~P~~]penalt[~~ies~~]y shall be imposed most readily, if an educator[~~s have~~] has received a previous documented warning[~~(s)~~] from the educator's employer.

(c) The professional educator:

([~~1~~]i) shall communicate professionally and with civility with a colleague[~~s~~], school and community specialist[~~s~~], administrator[~~s~~], and other personnel;

([~~2~~]ii) shall maintain[~~s~~] a professional and appropriate relationship and demeanor with a student[~~s~~], colleague[~~s and~~], school community member[~~s~~], and parent[~~s~~];

([~~3~~]iii) [~~shall~~]may not promote a personal opinion[~~s~~], personal issue[~~s~~], or political position[~~s~~] as part of the instructional process in a manner inconsistent with law;

(iv) shall express[~~es~~] a personal opinion[~~s~~] professionally and responsibly in the community served by the school;

([~~4~~]v) shall comply with [~~school and district~~]an LEA polic[~~ies~~]y, supervisory directive[~~s~~], and generally-accepted professional standard[~~s~~] regarding appropriate dress and grooming at school and at a school-related event[~~s~~];

([~~5~~]vi) shall work diligently to improve the educator's own professional understanding, judgment, and expertise;

([~~6~~]vii) shall honor all contracts for a professional service[~~s~~];

([~~7~~]viii) shall perform all services required or directed by the educator's contract with the [~~school district, school, or charter school~~]LEA with professionalism consistent with [~~local~~]LEA polic[~~ies~~]y and[~~ Board~~] rule[~~s~~]; and

([~~8~~]ix) shall recruit another educator[~~s~~] for employment in another position only within [~~district~~]a LEA timeline[~~s~~] and guideline[~~s~~].

R277-515-7. Violations of Professional Ethics.

[~~A.~~](1) This rule establishes standards of ethical decorum and behavior for licensed educators in [~~Utah~~]the state.

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

[~~C.~~](3) The Board and USOE shall adhere to the provisions of this rule in licensing and disciplining a licensed Utah educator[~~s~~].

347 [~~D.~~](4) Reporting and employment provisions related to professional ethics are
348 provided in:
349 ([~~1~~]a) Section [~~53A-3-410~~]53A-15-1507;
350 ([~~2~~]b) Section 53A-6-501;
351 ([~~3~~]c) Section 53A-11-403; and
352 ([~~4~~]d) Section [~~R277-514-5~~]R277-516-7.

353 **KEY: educator, professional, standards**
354 **Date of Enactment or Last Substantive Amendments: [~~August 7, 2008~~]2015**
355 **Notice of Continuation: November 15, 2012**
356 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a);**
357 **53A-6; 53A-1-401(3)**

R277. Education, Administration.

R277-516. [~~Education Employee~~]Background Check Policies and Required Reports of Arrests [~~and Required Background Check Policies~~]for Licensed Educators, Volunteers, Non-licensed Employees, and Charter School Governing Board Members.

R277-516-[~~2~~]1. Authority and Purpose.

[~~A.~~](1) This rule is authorized by:

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

(b)(i) [~~by~~]Subsections 53A-1-301(3)(a) and 53A-1-301(3)(d)(x), which instruct the Superintendent to perform duties assigned by the Board that include:

(ii) presenting to the Governor and the Legislature each December a report of the public school system for the preceding year that includes:

(A) investigation of all matters pertaining to the public schools[~~,~~]; and

(B) statistical and financial information about the school system which the Superintendent considers pertinent;

(c) [~~by~~]Subsections 53A-1-402(1)(a)(i) and (iii), which direct the Board to:

(i) establish rules and minimum standards for the public schools regarding the qualification and certification of educators and ancillary personnel who provide direct student services[~~,~~]; and

(ii) the evaluation of instructional personnel; and

(d) [~~by~~]Title 53A, Chapter 15, Part 15, Background Checks, which directs the Board to require educator license applicants to submit to background checks and provide ongoing monitoring of licensed educators.

[~~B.~~](2) The purpose of this rule is ensure that all students who are compelled by law to attend public schools, subject to release from school attendance consistent with Section 53A-11-102, are instructed and served by public school teachers and employees who have not violated laws that would endanger students in any way.

R277-516-[~~1~~]2. Definitions.

[~~A. "Board" means the Utah State Board of Education.~~]

[~~B.~~](1) "Charter school governing board" means a board designated by a

charter school to make decisions for the operation of the charter school.

[~~C.~~](2) “Charter school board member” means a current member of a charter school governing board.

[~~D.~~](3) “Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)” means the database maintained on all licensed Utah educators, which includes information such as:

([~~1~~]a) personal directory information;

([~~2~~]b) educational background;

([~~3~~]c) endorsements;

([~~4~~]d) employment history;

([~~5~~]e) professional development information;

([~~6~~]f) completion of employee background checks; and

([~~7~~]g) a record of disciplinary action taken against the educator.

[~~E.~~](4) “Contract employee” means an employee of a staffing service who works at a public school under a contract between the staffing service and the public school.

[~~F.~~](5) “DPS” means the Department of Public Safety.

[~~G.~~](6) “LEA” or “local education agency” [~~means a school district, a charter school, or,~~]for purposes of this rule[~~,~~] includes the Utah Schools for the Deaf and the Blind.

[~~H~~]([~~1~~]7)(a) “Licensed educator” means an individual who holds a valid Utah educator license and has satisfied all requirements to be a licensed educator in the Utah public school system (examples are traditional public school teachers, charter school teachers, school administrators, USOE and school district specialists).

([~~2~~]b) A licensed educator may or may not be employed in a position that requires an educator license.

([~~3~~]c) A licensed educator includes an individual who:

([~~a~~]i) is student teaching;

([~~b~~]ii) is in an alternative route to licensing program or position; or

([~~c~~]iii) [~~an individual who~~]holds an LEA-specific competency-based license.

[~~I.~~](8) “Non-licensed public education employee” means an employee of a an LEA who:

([~~1~~]a) does not hold a current Utah educator license issued by the Board under Title 53A, Chapter 6, Educator Licensing and Professional Practices; or

([~~2~~]b) is a contract employee.

[~~J.~~](9) "Public education employer" means the education entity that hires and employs an individual, including public school districts, the Utah State Office of Education, Regional Service Centers, and charter schools.

[~~K. "Superintendent" means the State Superintendent of Public Instruction or the Superintendent's designee.~~

~~L. "USOE" means the Utah State Office of Education.~~]

(10) "Utah Professional Practices Advisory Commission" or "UPPAC" means an advisory commission established to assist and advise the Board in matters relating to the professional practices of educators, established in Section 53A-6-301.

[~~M.~~](11) "Volunteer" means a volunteer who may be given significant unsupervised access to children in connection with the volunteer's assignment.

R277-516-3. Licensed Public Education Employee Personal Reporting of Arrests.

[~~A.~~](1) A licensed educator who is arrested, cited or charged with the following alleged offenses shall report the arrest, citation, or charge within 48 hours or as soon as possible to the licensed educator's district superintendent, charter school director or designee:

([~~1~~]a) any matters involving an alleged sex offense;

([~~2~~]b) any matters involving an alleged drug-related offense;

([~~3~~]c) any matters involving an alleged alcohol-related offense;

([~~4~~]d) any matters involving an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person;

([~~5~~]e) any matters involving an alleged felony offense under Title 76, Chapter 6, Offenses Against Property;

([~~6~~]f) any matters involving an alleged crime of domestic violence under Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and

([~~7~~]g) any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed in Subsections [~~R277-516-3A(1)-~~

~~(6)~~](a) through (f).

[~~B.~~](2) A licensed educator shall report convictions, including pleas in abeyance and diversion agreements within 48 hours or as soon as possible upon receipt of notice of the conviction, plea in abeyance or diversion agreement.

[~~C.~~](3) An LEA superintendent, director, or designee shall report conviction, arrest or offense information received from a licensed educator to the Superintendent within 48 hours of receipt of information from a licensed educator.

[~~D.~~](4) The Superintendent shall develop an electronic reporting process on the USOE website.

[~~E.~~](5) A licensed educator shall report for work following an arrest and provide notice to the licensed educator's employer unless directed not to report for work by the employer, consistent with school district or charter school policy.

R277-516-4. Non-licensed Public Education Employee, Volunteer, and Charter School Board Member Background Check Policies.

[~~A.~~](1) An LEA shall adopt a policy for non-licensed public education employee, volunteer, and charter school board member background checks that includes at least the following components:

([~~1~~]a) a requirement that the individual submit to a background check and ongoing monitoring through registration with the systems described in Section 53A-15-1505 as a condition of employment or appointment; and

([~~2~~]b) identification of the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA only receives notifications for individuals with whom the LEA maintains an authorizing relationship.

[~~B.~~](2) An LEA policy shall describe the background check process necessary based on the individual's duties.

R277-516-5. Non-licensed Public Education Employee[~~ or~~], Volunteer, or Charter School Board Member Arrest Reporting Policy Required from LEAs.

[~~A.~~](1) An LEA shall have a policy requiring a non-licensed public employee[~~s~~], a volunteer, a charter school board member[~~s~~], [~~and all~~]or any other employee[~~s~~] who drives a motor vehicle[~~s~~] as an employment responsibility, to report

offenses specified in Subsection [~~R277-516-5C~~](3).

[~~B.~~](2) An LEA shall post the policy described in Subsection [~~R277-516-5A~~](1) on the LEA's website.

[~~C.~~](3) An LEA's policy described in Subsection [~~R277-516-5A~~](1) shall include the following minimum components:

([~~1~~]a) reporting of the following:

([~~a~~]i) convictions, including pleas in abeyance and diversion agreements;

([~~b~~]ii) any matters involving arrests for alleged sex offenses;

([~~c~~]iii) any matters involving arrests for alleged drug-related offenses;

([~~d~~]iv) any matters involving arrests for alleged alcohol-related offenses; and

([~~e~~]v) any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

([~~2~~]b) a timeline for receiving reports from non-licensed public education employees;

([~~3~~]c) immediate suspension from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation;

([~~4~~]d) immediate suspension from transporting students or public education vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation;

([~~5~~]e) adequate due process for the accused employee consistent with S[~~ubs~~]ection 53A-[~~3-410(10)~~]15-1506;

([~~6~~]f) a process to review arrest information and make employment or appointment decisions that protect both the safety of students and the confidentiality and due process rights of employees and charter school board members; and

([~~7~~]g) timelines and procedures for maintaining records of arrests and convictions of non-licensed public education employees and charter school board members.

[~~D.~~](4) An LEA shall ensure that the records described in R277-516-5[~~C~~](3)([~~7~~]g):

(a) include final administrative determinations and actions following investigation; and

(b) are maintained:

(i) only as necessary to protect the safety of students; and

(ii) with strict requirements for the protection of confidential employment information.

R277-516-6. Public Education Employer Responsibilities Upon Receipt of Arrest Information.

[~~A.~~](1) A public education employer that receives arrest information about a licensed public education employee shall review the arrest information and assess the employment status consistent with Section 53A-6-501, Rule R277-515, and the LEA's policy.

[~~B.~~](2) A public education employer that receives arrest information about a non-licensed public education employee, volunteer, or charter school board member shall review the arrest information and assess the individual's employment or appointment status:

([~~1~~]a) considering the individual's assignment and duties; and

([~~2~~]b) consistent with a local board-approved policy for ethical behavior of non-licensed employees, volunteers, and charter school board members.

[~~C.~~](3) A local board shall provide appropriate training to non-licensed public education employees, volunteers, and charter school board members about the provisions of the local board's policy for self-reporting and ethical behavior of non-licensed public education employees, volunteers, and charter school board members.

[~~D.~~](4) A public education employer shall cooperate with the Superintendent in investigations of licensed educators.

R277-516-7. Misconduct Notification Requirements and Procedures.

(1)(a) An educator who has reasonable cause to believe that a student may have been physically or sexually abused by a schools employee shall immediately report that belief to the school principal, district superintendent, or UPPAC, in addition to any other reports required by law.

(b) A school administrator who receives a report described in Subsection

187 (1)(a) shall immediately submit the information to UPPAC if the employee is licensed
188 as an educator.
189 (2) A local superintendent or charter school director shall notify UPPAC if an
190 educator is determined, pursuant to an administrative or judicial action, to have had
191 disciplinary action taken for, or, to be guilty of:
192 (a) unprofessional conduct or professional incompetence that:
193 (i) results in suspension for more than one week or termination; or
194 (ii) otherwise warrants UPPAC review; or
195 (b) immoral behavior.
196 (3) An educator who fails to comply with Subsection (1) may:
197 (a) be found guilty of unprofessional conduct; and
198 (b) have disciplinary action taken against the educator.

199 **KEY: school employees, self reporting**
200 **Date of Enactment or Last Substantive Amendments: 2015**
201 **Notice of Continuation: June 10, 2014**
202 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-301(3)(a);**
203 **53A-1-301(3)(d)(x); 53A-1-402(1)(a)(i); 53A-1-402(1)(a)(iii)**

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Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-417 *Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation* (Amendment)

Background:
R277-417 was adopted by the Board effective July 8, 2015. Since that time, staff received additional public comment and identified additional recommended changes. Technical and conforming changes are also provided.

Key Points:
The amendments to R277-417 clarify that LEAs may use public funds for costs related to curriculum, instruction, private lessons, technology, and other educational services as long as the LEA selects and has oversight of the curriculum, instruction, private lessons, technology, and other educational services. The amendments also include changes to numbering and terminology throughout the rule.

Anticipated Action:
It is proposed that the Law and Licensing Committee consider approving R277-417, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-417, as amended, on second reading.

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R277. Education, Administration.

R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation.

R277-417-[~~2~~]1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

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

(b) [~~by~~]Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

[~~B.~~](2) The purpose of this rule is to provide standards and procedures for prohibiting LEAs and third party providers from offering incentives for student enrollment.

R277-417-[~~1~~]2. Definitions.

[~~A. "Board" means the Utah State Board of Education.~~]

[~~B.~~](1) "Incentive" means one of the following given to a student or to the student's parent or guardian by an LEA or by a third party provider as a condition of the student's enrollment in an LEA or specific program for any length of time, during any school year:

([~~1~~]a) money greater than $10; or

([~~2~~]b) an item of value greater than $10.

[~~C. "Individualized Education Program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Utah Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).~~]

[~~D. "LEA" or "local education agency" means a school district or charter school.~~]

(2) "Program" means a program within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

[~~E~~]([~~1~~]3)(a) "Reimbursement" means the payment of money or provision of other item of value greater than $10 offered as payment or compensation to a student or to a parent or guardian for:

([~~a~~]i) a student's enrollment in an LEA; or

([~~b~~]ii) a student's participation in an LEA's program.

([~~2~~]b) "Reimbursement" does not include a reimbursement paid by an LEA to a student, parent or guardian, for an expenditure incurred by the student, parent or guardian on behalf of the LEA if:

([~~a~~]i) the expenditure is for an item that will be the property of the LEA; and

([~~b~~]ii) the expenditure was authorized by the LEA.

[~~F.~~](4) "Section 504 accommodation plan" required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

[~~G.~~](5) "Third party provider" means a third party who provides educational services on behalf of an LEA.

R277-417-3. LEA and Third Party Provider Use of Public Funds for Incentives and Reimbursements.

[~~A.~~](1) Except as provided in [~~R277-417-3B~~]Subsection (3), an LEA or a third party provider may not use public funds, as defined under Subsection 51-7-3(26), to provide the following to a student, parent or guardian, individual, or group of individuals:

([~~1~~]a) an incentive for a student's:

([~~a~~]i) enrollment in an LEA; or

([~~b~~]ii) participation in an LEA's program; or

([~~2~~]b) a referral bonus for a student's:

([~~a~~]i) enrollment in an LEA; or

([~~b~~]ii) participation in an LEA's program.

[~~B. An LEA or third party provider may use public funds to provide an incentive to a student or the student's parent or guardian if the incentive is:~~

~~(1) provided to all students enrolled in the LEA; and~~

~~(2) part of a school uniform used by the LEA.~~]

[~~C.~~](2) Except as provided in [~~R277-417-3D~~]Subsection (3), an LEA or third party provider may not use public funds to provide a reimbursement to a student or

the student's parent or guardian for:

([~~1~~]a) curriculum selected by a parent;

([~~2~~]b) instruction not provided by the LEA;

([~~3~~]c) private lessons or classes not managed or facilitated by the LEA;

([~~4~~]d) technology devices selected by a parent; or

([~~5~~]e) other educational expense selected by a parent.

(3) An LEA may use public funds to provide:

(a) uniforms, technology devices, curriculum, materials and supplies, or instructional services to a student if the uniforms, technology devices, curriculum, materials and supplies, or instructional services are:

(i) available to all students enrolled in the LEA or program within the LEA; or

(ii) authorized by the student's college and career readiness plan, IEP, or 504 accommodation plan; or

(b) internet access for instructional purposes to a student:

(i) in kindergarten through grade 6; or

(ii) in grade 7 through grade 12 if:

(A) the internet access is provided in accordance with the fee waiver policy requirements of Section R277-407-6; or

(B) failure to provide the internet access will cause economic hardship on the student or parent.

[~~D. An LEA or third party provider may use public funds to provide a reimbursement to a student or the student's parent or guardian if:~~

~~(1) the reimbursement is required to be paid or provided pursuant to an IEP or Section 504 accommodation plan that is approved by the LEA;~~

~~(2) for a student in Kindergarten through grade 6, the reimbursement is provided to a student's parent or guardian for internet accessibility; or~~

~~(3) for a student in grade 7 through grade 12:~~

~~(a) the reimbursement is provided to a student or student's parent or guardian for internet access in accordance with the fee waiver policy requirements of R277-407-6; and~~

~~(b) failure to provide the reimbursement described in R277-417-3D(3)(a) will cause economic hardship.~~]

[~~E.~~](4) An LEA or third party provider shall ensure that [~~an item~~]equipment purchased[~~, rented,~~] or leased by the LEA or third party provider remains the property of the LEA and is subject to the LEA's asset policies if:

([~~1~~]a) the LEA or third party provider purchases [~~an item~~]equipment; and

([~~2~~]b) provides the [~~item~~]equipment to a student or to the student's parent or guardian.

[~~F.~~](5) An LEA shall establish monitoring procedures to ensure that a third party provider who provides educational services to a student on behalf of the LEA complies with the provisions of [~~R277-417~~]this rule.

[~~G.~~](6) The Board or the Superintendent may require an LEA to repay public funds to the Superintendent if:

([~~1~~]a) an LEA or an LEA's third party provider fails to comply with the provisions of this [~~R277-417~~]rule; and

([~~2~~]b) the repayment is made in accordance with the procedures established in Rule R277-114.

KEY: student, enrollment, incentives

Date of Enactment or Last Substantive Amendment: July 8, 2015

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

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-438 *Dual Enrollment* (Amendment)

Background:
R277-438 *Dual Enrollment* is amended to provide technical and conforming changes to the rule and bring the rule into compliance with Utah Code. Recently staff members have received correspondence from parents who are confused about dual enrollment requirements.

Key Points:
R277-438 is amended to clarify a student's right to dual enroll simultaneously in a private or home school and a public school. It is also amended to distinguish "dual enrollment" from the statutory requirement to allow a home, private, charter, or online school student to participate in activities at another public school. The amendments also provide changes to numbering and make technical corrections throughout the rule.

Anticipated Action:
It is proposed that the Law and Licensing Committee consider approving R277-438, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-438, as amended, on second reading.

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R277. Education, Administration.

R277-438. Dual Enrollment.

R277-438-[~~2~~]1. Authority and Purpose.

[~~A.~~](1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system under the [~~b~~]Board[~~,~~];

(b) [~~by~~] Subsection 53A-1-402(1)(b), which directs the Board to establish rules and minimum standards for access to programs;[~~ and by Section 53A-11-102.5 directing the Board to make rules to permit home school, charter and online students and private school students to participate in public school extracurricular or co-curricular school activities.~~]

(c) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities; and

(d) Section 53A-11-102.5, which governs dual enrollment.

[~~B.~~](2) The purpose of this rule is to provide consistent statewide procedures and criteria for a home school and private school student's[~~'~~] participation in a public school course, co-curricular activit[~~ies~~]y, or program.[~~ A further purpose is to provide procedures and criteria for charter school and online school students to participate in traditional public school activities consistent with R277-494.~~]

R277-438-[~~1~~]2. Definitions.

[~~A. "Accredited" means evaluated and approved under the standards of the Northwest Accreditation Commission or the accreditation standards of the Board, available from the USOE Accreditation Specialist.~~

~~[B. "Board" means the Utah State Board of Education.~~

~~[C. "Charter school" means a school acknowledged as a charter school by a local board of education under Section 53A-1a-515 and by R277-470, or by the Board under Section 53A-1a-505.~~]

(1) "Co-curricular activity" means a school district or school activity, course, or experience that includes a required regular school day component and an after school component, including a special program or activity such as a program for a gifted and talented student, a summer program, and a science or history fair.

[~~D.~~](2) “Dual enrollment student” means a student who is enrolled simultaneously in[~~ public~~]:

(a) a private school [~~and in~~]or a home school[~~,~~]; and

(b) a [~~Utah charter school, a Utah online school, or a regularly established private~~]public school.

[~~E.~~](3) “Eligibility” means a student’s fitness and availability to participate in a school course, activit[~~ies~~]y, or program governed by this rule[~~. Eligibility~~] that is determined by a number of factors, including:

(a) residency[~~ (of student and legal guardian),~~];

(b) scholarship[~~,~~];

(c) age[~~,~~]; and

(d) the number of semesters of participation in a particular course, activity, or program.

[~~F.~~](4) “Full-time student” means a student earning the school district designated number[~~(s)~~] and type[~~(s)~~] of credits required for participation in a [~~extracurricular or interscholastic~~] course, activit[~~ies~~]y, or program in the school district in which the student's parent[~~ or legal guardian~~] resides.

[~~G.~~](5) “Home school” means a school in the state comprised of one or more students officially excused from compulsory public school attendance under Section 53A-11-102.

[~~H. “Online school” means a school:~~

~~(1) that provides the same number of classes consistent with the requirement of similar resident schools;~~

~~(2) that delivers course work via the internet;~~

~~(3) that has designated a readily accessible contact person; and~~

~~(4) that provides the range of services to a public education students required by state and federal law.~~]

[~~I. “Previous academic grading period” means the most recent period as defined by the school district for which a student received a recorded grade.~~]

[~~J.~~](6) “Private school” means a school [~~satisfying the following criteria~~]in the state that:

([~~1~~]a) is maintained by a private individual[~~s~~] or corporation[~~s~~];

([~~2~~]b) is maintained and operated not at public expense;

([~~3~~]c) is generally supported, in part at least, by tuition fees or charges;

([~~4~~]d) operate[~~d~~]s as a substitute for, and giv[~~ing~~]es the equivalent of, instruction required in a public school[~~s~~];

([~~5~~]e) employ[~~ing~~]s a teacher[~~s~~] able to provide the same quality of education as a public school teacher[~~s~~];

([~~6~~]f) is established to operate indefinitely and independently, not dependent upon age of the students available or upon individual family situations; and

([~~7~~]g) is licensed as a business by the[~~ Utah~~] Department of [~~Business Regulations~~]Commerce.

(7)(a) "Resident school" means a public school:

(i) that is under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards; and

(ii) within whose boundaries a student's custodial parent resides.

(b) "Resident school" does not mean a charter school or online school.

[~~K. "School participation fee" means the fee paid by the charter/online school to the traditional school consistent with the fee schedule of R277-494-4 for student participation in extracurricular or co-curricular school activities.~~]

[~~L.~~](8) "Student participation fee" means [~~the~~]a fee charged to all participating [~~charter/online and traditional school~~]students by the resident school for [~~designated extracurricular~~]enrollment in a course, program, or co-curricular school activit[~~ies~~]y consistent with Rule R277-407.

[~~M. "USOE" means the Utah State Office of Education.~~]

R277-438-3. Private and Home School Student Participation in a Public School Course, [~~Extracurricular or~~]Co-curricular [~~ School~~] Activit[~~ies~~]y, or Program.

[~~A.~~](1) A [~~S~~]student[~~s~~] who is exempt[~~ed~~] from compulsory public school education by [~~the~~]a local school board for instruction in a private or home school[~~s~~] may [~~be eligible for~~]enroll in the student's resident school as a dual enrollment student and participat[~~ion~~]e in a [~~extracurricular or~~]course, co-curricular [~~public school~~] activit[~~ies~~]y, or program at the student's resident school [~~provided they are~~]if

the student tak[~~ing~~]es courses comparable to [~~traditional~~]resident school courses or earn[~~ing~~]s credit under options outlined in Section R277-700-6 in at least as many of the designated courses as required by the local school board of a student[~~s~~] for participation in th[~~at~~]e course, co-curricular activity, or program.

(2) A public school that is not the student's resident school may allow a private or home school student to enroll in the public school as a dual enrollment student at the discretion of the public school.

[~~B. The private or home school student may only participate in extracurricular or co-curricular school day activities at the school within whose boundaries the student's custodial parent(s) or legal guardian resides.~~]

[~~C.~~](3) A [~~D~~]dual enrollment student[~~s shall be~~] is eligible [~~for~~]to participate in a [~~extracurricular or~~]course, co-curricular[~~ school~~] activit[~~ies~~]y, or program:

(a) consistent with the eligibility standards for [~~fully enrolled traditional public school~~]a full-time student[~~s~~], including providing a report card[~~s~~] and citizenship information to [~~activity sponsors and coaches~~]the resident school or other school described in Subsection (2) upon request[~~.~~]; and

(b) in accordance with Section 53A-11-102.5.

R277-438-4. Fees for Private and Home School Students.

[~~A. Private and home school students are responsible for student participation fees in the same manner as full-time public school students.~~]

[~~B.~~] A school or school district shall waive a [~~S~~]student participation fee[~~s~~] for a dual enrollment private[~~, charter, online~~] or home school student[~~s shall be waived by the school or school district~~] if:

(1) the student[~~s are~~] is eligible; and

(2) the parent[~~s~~] provides required documentation under Section 53A-12-103 and Rule R277-407, School Fees.[~~ The charter or online schools shall be responsible for payment of waived fees to the resident school district.~~]

[~~**R277-438-5. Utah Charter and Utah Online School Student Participation in Extracurricular or Co-curricular School Activities.**~~

~~A. Utah charter school and Utah online school students shall be eligible to~~

~~participate in extracurricular and co-curricular school activities at their public schools of residence consistent with Section 53A-1a-519, Section 53A-2-214, and R277-494.~~

~~B. Charter schools and online schools may determine if the schools shall allow students to participate in extracurricular or co-curricular school activities at the students' resident schools understanding:~~

~~(1) That the charter/online school is responsible for the school participation fees associated with the designated activity consistent with Section R277-494-4;~~

~~(2) If the charter/online school allows one student to participate in a given activity, the charter/online school shall allow all interested students to participate;~~

~~(3) That the charter/online school is responsible for the school participation fee;~~

~~(4) That the student shall be allowed to participate only upon payment of the school participation fee by the school;~~

~~(5) That the charter/online school shall cooperate fully with all resident schools regarding students' participation in try-outs, practices, pep rallies, team fund raising efforts, scheduled games and required travel and provision of complete and prompt reports of student academic and citizenship progress or grades, upon request; and~~

~~(6) That charter/online students' parents are responsible for the students' transportation to the school with which the student participates; and~~

~~(7) That the charter/online school is responsible for any student participation fees required of all student participants in the activity if the participating student is eligible for fee waivers under R277-407.~~]

R277-438-[6]5. Miscellaneous Issues.

[~~A.~~](1) A dual enrollment student attending an activit[~~ies~~]y or a portion of [~~the~~]a school day under [~~the provisions of~~]Section 53A-11-102.5 [~~shall be~~]is subject to the same behavior and discipline rights and requirements of a full-time[~~ resident school~~] student.

[~~B.~~](2) A dual enrollment student who attends an activity or a portion of the school day [~~shall be~~]is subject to the administrative scheduling and teacher discretion of the [~~traditional~~]public school.

[~~C.~~](3)(a) A dual enrollment student with a disabilit[~~ies~~]y may participate as a dual enrollment student consistent with[~~ Utah~~] law, this rule and [~~Code of Federal Regulations (CFR) Vol. 64, No. 48, Section~~]34 CFR 300.450 through 300.455.

[~~(1) If a student with disabilities who attends a charter or online school desires to participate in dual enrollment, the charter/online school is responsible for accommodations or extra costs to the student's resident school for the student's participation.~~]

([~~2~~]b) [~~The~~]A dual enrollment student's resident school shall prepare an IEP for a student described in Subsection (3)(a) [~~shall have a services plan in place~~] prior to the student's participation in dual enrollment using comparable procedures to those required for identifying and evaluating public school students[~~;~~].

([~~3~~]c) A [~~S~~]student[~~s~~] with a disabilit[~~ies~~]y seeking dual enrollment [~~shall be~~]is entitled to services only in the same proportional amount that the number of private school students residing in the school district is to the total number of students with a disabilit[~~ies~~]y in the school district.

([~~4~~]d) Decisions about the scheduling and manner of services provided [~~shall be~~]is the responsibility of the resident school and school district personnel.

([~~5~~]e) A [~~S~~]school[~~s and~~] or a school district[~~s are~~] is not prohibited from providing a service[~~s~~] to a student[~~s~~] who [~~are~~]is not enrolled full time in excess of those required by [~~R277-438-6~~]this section.

KEY: public education, dual enrollment

Date of Enactment or Last Substantive Amendment: [~~November 10, 2008~~]2015

Notice of Continuation: March 14, 2014

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b); 53A-11-102.5

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-494 *Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities* (Amendment and Continuation)

Background:

1. R277-494 is amended to provide technical and conforming changes to the rule.
2. In addition to the amendments to R277-494, the rule is continued consistent with Board policy for continuation of rules and the Utah Administrative Rulemaking Act. The rule was last continued effective October 4, 2013.

Key Points:

1. The amendments provide changes to numbering and terminology throughout the rule.
2. R277-494 continues to be necessary because it provides procedures for informing school districts, charter schools, online schools, and parents of school participation fees and state-determined requirements for a charter school or a public online school student to participate in extracurricular athletics and activities at a student's boundary school.

Anticipated Action:

1. It is proposed that the Law and Licensing Committee consider approving R277-494, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-494, as amended, on second reading.
2. It is proposed that the Law and Licensing Committee consider approving R277-494 for continuation on first reading and, if approved by the Committee, the Board consider approving R277-494 for continuation on second reading.

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R277. Education, Administration.

R277-494. Charter, Online, Home, and Private School[~~ and Online~~] Student Participation in Extracurricular or Co-curricular School Activities.

R277-494-[~~2~~]1. Authority and Purpose.

[~~A.~~](1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board[~~,~~];

(b) Subsection 53A-1-401(3), which permits the Board to adopt rules in accordance with its responsibilities[~~,~~];

(c) Subsection 53A-1a-519(6)(a)[~~)~~], [~~that~~]which directs the Board to make rules establishing fees for a charter school student's participation in extracurricular or co-curricular activities at [~~school district~~]certain public schools[~~,~~]; and

(d) Subsection 53A-2-214(6), which directs the Board to make rules establishing fees for an online student's participation in extracurricular or co-curricular activities at [~~school district~~]certain public schools.

[~~B.~~](2) The purpose of this rule is to inform school districts, charter and online schools, and parents of:

(a) school participation fees; and

(b) state-determined requirements for a charter school or a public online school student to participate in an extracurricular[~~ athletics and~~] activit[~~ies~~]y at a student's boundary school.

R277-494-[~~1~~]2. Definitions.

[~~A.~~](1) "Activity fee[~~s~~]" means a fee[~~s~~] that:

(a) [~~are~~]is approved by a local school board or public school[~~ and~~];

(b) is charged to all students to participate in an[~~y or all~~] activit[~~ies~~]y sponsored by or through the public school[~~.~~]; and

(c) [~~Fees vary among districts and schools and~~]entitles a public school student to:

(i) participate in a [~~regular~~]school activit[~~ies~~]y[~~,~~];

(ii) [~~to~~]try out for an extracurricular or co-curricular school activit[~~ies~~]y[~~,~~];

(iii) [~~to~~]receive transportation to an activit[~~ies~~]y[~~,~~]; and

(iv) [~~to~~]attend a regularly scheduled public school activit[~~ies~~]y.

[~~B. "Board" means the Utah State Board of Education.~~

~~C. "Charter school" means a school acknowledged as a charter school by a chartering entity under Sections 53A-1a-515, 53A-1a-521, and R277-470 or by the Board under Section 53A-1a-505.~~]

[~~D.~~](2) "Co-curricular activity" means a school district or school activity, course, or experience that includes a required regular school day component and an after school component[~~;~~], including a special program[~~s~~] or activit[~~ies~~]y such as a program[~~s~~] for a gifted and talented student[~~s~~], a summer program[~~s~~], and a science [~~and~~]or history fair[~~s are co-curricular activities~~].

[~~E.~~](3) "Extracurricular activity" means an athletic program or activity sponsored by [~~the~~]a public school and offered, competitively or otherwise, to a public school student[~~s~~] outside of the regular school day or program.

[~~F. "Online school" means a school:~~

~~(1) that provides the same number of classes consistent with the requirement of similar public schools;~~

~~(2) that delivers course work via the internet;~~

~~(3) that has designated a readily accessible contact person; and~~

~~(4) that provides the range of services to public education students required by state and federal law.~~]

(4) "Online school" means a formally constituted public school that offers full-time education delivered primarily over the internet.

(5) "Qualifying school" means:

(a) for purposes of a charter school student, a school described in Subsection 53A-1a-519(1);

(b) for purposes of an online school student, a school described in Subsection 53A-2-214(2); and

(c) for purposes of a private or home school student, a school described in Subsection 53A-11-102.6(2)(c).

[~~G. "Pay to play fees" means the fees charged to a student to participate in a specific school-sponsored extracurricular or co-curricular activity. All fees shall be approved annually by the local board of education.~~]

[~~K.~~](6) “School participation fee” means the fee paid by the charter[~~/~~] or online school to [~~the boundary~~]a qualifying school consistent with Section R277-494-[~~4~~]3 for student participation in an extracurricular[~~ or co-curricular~~] activit[~~ies~~]y.

[~~H. “Student’s boundary school” means the school the student is designated to attend according to where the student’s legal guardian lives or the school where the student is enrolled under Section 53A-2-206.5 et seq.~~]

[~~I.~~](7) “Student’s school of enrollment” means the public school in which the student is enrolled consistent with Section 53A-11-101 et seq.

[~~J. “Student fee waivers” means all expenses for an activity that are waived for student participation in the activity consistent with Section 53A-12-103 et seq. and R277-407.~~]

[~~L.~~](8) “Student participation fee” means the fee charged to all participating[~~ charter/online and traditional school~~] students by [~~the boundary~~]a qualifying school for a designated extracurricular or co-curricular activit[~~ies~~]y consistent with Rule R277-407.

R277-494-3. [~~Requirements for Payment and Participation Integral to the Schedule~~]Charter and Online School Student Participation in Extracurricular Activities at Another Public School.

[~~A.~~](1) A charter or online school[~~ shall allow~~] student may participat[~~ion~~]e in an extracurricular activit[~~ies~~]y [~~designated under R277-494-1E upon~~]at a qualifying school if:

(a) the extracurricular activity is not offered by the student’s charter or online school;

(b) the student satisf[~~action of~~]ies the requirements[~~ and payments~~] of this rule;[~~ and~~]

(c) [~~satisfaction of school district~~]the student meets the qualifying school’s standards and requirements[~~.~~]; and

(d) the student's parent agrees to provide the student transportation to the qualifying school for the extracurricular activity.

(2)(a) A charter or online school of enrollment shall determine if the school will allow students to participate in extracurricular or co-curricular school activities at

qualifying schools.

(b) If a charter or online school allows one student to participate in a extracurricular or co-curricular activity at a qualifying school, the charter or online school shall allow all interested students to participate.

[~~B.~~](c) A charter or online school student's school of enrollment shall pay a school participation fee of $75.00 per student[~~ shall be paid by the student's school of enrollment~~] to the [~~boundary~~]qualifying school at which the charter or online school student desires to participate.

(d) Upon annual payment of the school participation fee, the student may participate in all extracurricular school activities [~~as defined in R277-494-1E~~]at the school during the school year for which the student is qualified and eligible.

(e) A charter or online school of enrollment shall cooperate fully with all qualifying schools:

(i) regarding students' participation in try-outs, practices, pep rallies, team fund raising efforts, scheduled games, and required travel; and

(ii) by providing complete and prompt reports of student academic and citizenship progress or grades, upon request.

[~~C.~~](3)(a) The school participation fee [~~paid by the charter or online school~~]described in Subsection (2)(c) is in addition to:

(i) [~~individual~~]a student participation fee[~~s~~] for a specific extracurricular activit[~~ies~~]y; and

(ii) the activity fee[~~s~~] charged to all students in [~~the~~]a [~~secondary~~]qualifying school to supplement a school activit[~~ies~~]y as assessed by the school consistent with this rule.

(4) Except as provided in Subsection (6), a charter or online school [~~S~~]student who participates in an extracurricular activity at a qualifying school shall pay a student participation fee[~~s~~] or required activity fee[~~s shall be paid~~] to the [~~boundary~~]qualifying school [~~by the participating student~~]in accordance with deadlines set by the qualifying school.

[~~D.~~](5) All fees, including school participation fees, student participation fees, and activity fees shall be paid prior to a charter or online school student's participation in an activity at the qualifying school.

[~~E.~~](6) If a participating charter or online school student qualifies for a fee waiver[~~s~~], in accordance with Rule R277-470, the charter or online student's school of enrollment shall pay all waived student participation fees[~~ shall be paid~~] to the [~~boundary~~]qualifying school[~~ by the student's school of enrollment~~] prior to the student's participation in an activity at the qualifying school.

R277-494-4. [~~Additional Provisions~~]Charter or Online School Student Participation in Co-Curricular Activities.

[~~A.~~](1)(a) A [~~C~~]charter[~~,~~] or online school [~~and traditional~~]may negotiate with another public school[~~s may negotiate~~] to allow a charter or online student to participat[~~ion~~]e in a co-curricular activit[~~ies~~]y at the other public school, [~~such as~~]including:

(i) a debate, drama, or choral program[~~s,~~];

(ii) a specialized course[~~s~~] or program[~~s~~] offered during the regular school day[~~,~~]; and

(iii) a school's [~~district~~]sponsored enrichment program[~~s~~] or activit[~~ies~~]y.

(b) [~~Participating charter/online students shall be required to~~]A student who participates in a co-curricular activity described in Subsection (1)(a) shall meet [~~all~~]the same attendance and course requirements expected of [~~all boundary~~]the public school's full-time students.

[~~B.~~](2) A charter [~~and~~]or online school student participating under this rule shall meet all eligibility requirements and timelines of the [~~boundary~~]public school.

R277-494-5. Private or Home School Student Participation in Extracurricular Activities.

(1) In accordance with Section 53A-11-102.6, a private or home school student may participate in an extracurricular activity at a qualifying school if:

(a) for a private school student, the extracurricular activity is not offered by the student's private school;

(b) the student satisfies the requirements of:

(i) Section 53A-11-102.6; and

(ii) this rule; and

(c) the student meets the qualifying school's standards and requirements.

(2) Except as provided in Subsection (3), a private or home school student shall pay a student participation fee or required activity fee to the qualifying school:

(a) before the student may participate in the extracurricular activity at the qualifying school; and

(b) in accordance with deadlines set by the qualifying school.

(3) If a private or home school student qualifies for a fee waiver in accordance with Rule R277-407, the qualifying school shall waive the student participation fee or required activity fee in accordance with the requirements of Rule R277-407, School Fees.

R277-494-6. Private or Home School Student Participation in Co-curricular Activities.

A private or home school student may participate in a co-curricular activity at a public school in accordance with the dual enrollment provisions of rule R277-438.

KEY: extracurricular, co-curricular, activities, student participation

Date of Enactment or Last Substantive Amendment: [~~December 9, 2013~~]2015

Notice of Continuation: [~~October 4, 2013~~]2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1a-519(6)(a); 53A-2-214(6)

Standards and Assessment Committee
1st Floor South Conference Room 156

Time for public comment may be provided prior to each item

ACTION: Standardized Template for Standards, and Revision Process	Tab 4-CC
ACTION: Utah Science and Engineering Education (SEEd) Standards– 90-day Public Feedback	Tab 4-DD
ACTION: Statewide Kindergarten Readiness Indicators	Tab 4-EE
ACTION: Seal of Biliterate Proficiency	Tab 4-FF
ACTION: R277-444 *Distribution of Funds to Arts and Science Organizations* (Repeal/Reenact)	Tab 4-GG
ACTION: R277-920 *Implementation of the School Turnaround and Leadership Development Act* (New)	Tab 4-HH
ACTION: R277-616 *Education for Homeless and Emancipated Students* (Continuation and Amendment)	Tab 4-II

Utah State Board of Education
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Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Standardized Template for Standards, and Revision Process

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Background:
The Utah Standards as currently written vary from content area to content area. In May 2015 the Utah State Board of Education requested the development of a consistent format for standards, and in June 2015 requested specific samples.

The Standards Review Process has been reviewed and revised in past meetings.

Key Points:
USOE Teaching and Learning staff have created one-page examples in several content areas for Board review.

The Standards Review Process will continue to be reviewed.

Anticipated Action:
The Standards and Assessment Committee will consider approving the new formatting for content standards, and will consider additional changes needed to the Standards Review Process. The Committee will forward recommendations to the Board.

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Standardized Templates for Standards

Prepared by the

Utah State Office of Education

August 6-7, 2015

Sydnee Dickson, Deputy Superintendent
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Organization of the Standards

The Utah core standards are organized into **strands**, which represent significant areas of learning within content areas. Depending on the core area, these strands may be designated by time periods, thematic principles, modes of practice, or other organizing principles.

Within each strand are **standards**. A standard is an articulation of the demonstrated proficiency to be obtained. A standard represents an essential element of the learning that is expected. While some standards within a strand may be more comprehensive than others, all standards are essential for mastery.

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Fine Arts – Secondary Dance

Strand 1 – Create: Students will conceptualize, generate, develop and organize artistic ideas and work. They will complete and refine dance works.

Standard 7-8.CR.1: Demonstrate openness, willingness, persistence and respect in trying new ideas, methods and approaches in creating dance.

Standard 7-8.CR.2: Implement movement from a variety of stimuli to develop dance content for an original dance study or dance.

Standard 7-8.CR.3: Identify and select personal preferences to create an original dance study or dance.

Standard 7-8.CR.4: Use genre-specific dance terminology to articulate and justify movement choices.

Standard 7-8.CR.5: Collaborate to select and apply a variety of choreographic devices and dance structures to choreograph an original dance study or dance with a clear artistic intent.

Standard 7-8.CR.6: Articulate the group process for making movement and structural choices.

Standard 7-8.CR.7: Define and apply artistic criteria to choreograph a dance that communicates personal or cultural meaning.

Standard 7-8.CR.8: Discuss how the criteria clarify or intensify the meaning of the dance.

Standard 7-8.CR.9: Revise choreography collaboratively or independently based on artistic criteria, self-reflection, and the feedback of others.

Standard 7-8.CR.10: Articulate the reasons for choices and revisions, and explain how they clarify and enhance the artistic intent.

Standard 7-8.CR.11: Experiment with aspects of a recognized system to document a section of a dance by using words, symbols, and/or media technologies.

Strand 2 – Perform: Students will analyze, interpret and select artistic work for performance. They will develop techniques and concepts to refine artistic work and express meaning through the presentation of dance works.

Standard 7-8.P.1: Sculpt the body in space, and design body shapes in relation to other dancers, objects and environment.

Standard 7-8.P.2: Use focus of eyes during complex floor and air patterns, or direct and indirect pathways.

Standard 7-8.P.3: Analyze and select metric, kinetic, and breath phrasing and apply appropriately to dance phrases.

Standard 7-8.P.4: Perform dance phrases of different lengths that use various timings within the same section.

Standard 7-8.P.5: Use different tempi in different body parts at the same time.

Standard 7-8.P.6: Direct energy and dynamics in such a way that movement is textured.

Standard 7-8.P.7: Incorporate energy and dynamics to technique exercises and dance performance.

Standard 7-8.P.8: Use energy and dynamics to enhance and project movements.

Standard 7-8.P.9: Embody technical dance skills to replicate, recall and execute spatial designs and musical or rhythmical dance phrases.

Standard 7-8.P.10: Evaluate personal healthful practices in dance activities and everyday life, including nutrition and injury prevention.

Standard 7-8.P.11: Discuss the choices made, the effects experienced, and methods for improvement.

Standard 7-8.P.12: Collaborate with peers to discover strategies for achieving performance accuracy, clarity and expressiveness.

Standard 7-8.P.13: Articulate personal performance goals and practice to reach goals.

Standard 7-8.P.14: Document personal improvement over time.

Standard 7-8.P.15: Demonstrate leadership qualities when preparing for performances.

Standard 7-8.P.16: Use performance etiquette and performance practices during class, rehearsal and performance.

Standard 7-8.P.17: Document efforts and create a plan for ongoing improvements.

Standard 7-8.P.18: Accept post-performance notes from choreographer and apply corrections to future performances.

Standard 7-8.P.19: Collaborate to design and execute production elements that would intensify and heighten the artistic intent of a dance performed on a stage, in a different venue, or for different audiences.

Standard 7-8.P.20: Explain reasons for choices using production terminology.

Strand 3 – Respond: Students will perceive and analyze artistic work and process. They will interpret intent and meaning and apply criteria to evaluate artistic work and process.

Standard 7-8.R.1: Describe, demonstrate and discuss patterns of movement and their relationships in dance in context of artistic intent.

Standard 7-8.R.2: Explain how the elements of dance are used in a variety of genres, styles, or cultural movement practices to communicate intent.

Standard 7-8.R.3: Use genre-specific dance terminology.

Standard 7-8.R.4: Select a dance and explain how artistic expression is achieved through relationships among the elements of dance, use of body, dance technique and context.

Standard 7-8.R.5: Cite evidence in the dance to support your interpretation using genre-specific dance terminology.

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Standard 7-8.R.6: Use artistic criteria to determine what makes an effective performance by considering content, context, genre, style, or cultural movement practice to comprehend artistic expression; and use genre-specific dance terminology.

Strand 4 – Connect: Students will synthesize and relate knowledge from personal and collaborative experience to make and receive art. They will relate artistic ideas and works with societal, cultural and historical context to deepen understanding.

Standard 7-8.CO.1: Discuss the relevance of the connections to the development of one's personal perspectives.

Standard 7-8.CO.2: Investigate two contrasting topics using a variety of research methods.

Standard 7-8.CO.3: Identify and organize ideas to create representative movement phrases.

Standard 7-8.CO.4: Create a dance study exploring contrasting ideas.

Standard 7-8.CO.5: Discuss how the research informed the choreographic process and deepened understanding of the topics.

Standard 7-8.CO.6: Analyze and discuss how dances from a variety of cultures, societies, historical periods, or communities reveal the ideas and perspectives of the people.

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Library Standards - Elementary

Reading engagement is a foundational skill for learning, personal growth, and enjoyment. The degree to which students can read and understand text in all formats and all contexts is a key indicator of success in school and in life. Teacher librarians actively promote reading. They provide equitable access to literary and informational texts in a variety of subjects, genres, and formats. Teacher librarians facilitate the acquisition of tools, knowledge and skills to allow every student to read for interpretation and the development of new understandings.

Strand 1: Reading for intellectual, personal, and emotional growth.

Standard LS 1.1: Establish reading behaviors for lifelong learning and growth.

a) Select texts from a variety of formats and genres to read for enjoyment, acquire knowledge, and answer questions.
b) Gain understanding and make connections while reading and interacting with text.
c) Demonstrate perseverance and stamina when reading or listening to a variety of texts.
d) Listen to, view, read, and integrate information to build a knowledge base.

Standard LS 1.2: Differentiate between literary (fiction) and informational (non-fiction) text.

a) Categorize text as literary or informational.
b) Use selection criteria (e.g., interest, content) when choosing materials for a defined purpose.
c) Apply appropriate reading strategies for comprehension of text. (e.g., text features, skim and scan)

Strand 2: Meaning of text through format and text features

Standard LS 2.1: Demonstrate knowledge of the physical features (e.g., cover, spine, title page, cursor, scroll bar) of reading materials, both electronic and print.

Standard LS 2.2: Read, view and listen for information presented in a variety of formats (e.g., textual, visual, media) and apply appropriate strategies to comprehend texts.

Standard LS 2.3: Identify the elements of story while analyzing how and why characters, events, and ideas develop and interact over the course of a text.

Standard LS 2.4: Identify the roles, tools, and purposes of authors, illustrators, and other contributors (e.g., website creators, editors, publishers) to a text.

Strand 3: Library purpose and function.

Standard LS 3.1: Exhibit library etiquette.

Standard LS 3.2: Understand the library layout, the library classification system, and the circulation process.

Standard LS 3.3: Contribute to a reading and learning community, including recommending reading materials to peers and respecting others' reading choices.

Standard LS 3.4: Make use of personal, community and global libraries, both physical and electronic.

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Mathematics – Elementary

Strand 4.MP – Mathematical Practices

The Standards for Mathematical Practice in Fourth Grade describe mathematical habits of mind that teachers should seek to develop in their students. Students become mathematically proficient in engaging with mathematical content and concepts as they learn, experience, and apply these skills and attitudes.

Standard 4.MP.1 : Make sense of problems and persevere in solving them. Explain the meaning of a problem, look for entry points to begin work on the problem, and plan and choose a solution pathway. When a solution pathway does not make sense, look for another pathway that does. Upon finding a solution, look back at the problem to determine if the solution is reasonable and accurate, often checking answers to problems using a different method or approach.

Standard 4.MP.2: Reason abstractly and quantitatively. Make sense of quantities and their relationships in problem situations. Contextualize quantities and operations by using images or stories. Interpret symbols as having meaning, not just as directions to carry out a procedure. Know and flexibly use different properties of operations, numbers, and geometric objects.

Standard 4.MP.3: Construct viable arguments and critique the reasoning of others. Explain the mathematical reasoning underlying a strategy, solution, or conjecture by using concrete referents such as objects, drawings, diagrams, and actions. Listen to or read the arguments of others, decide whether they make sense, ask useful questions to clarify or improve the arguments, and build on those arguments.

Standard 4.MP.4: Model with mathematics. Identify the mathematical elements of a situation and create a mathematical model that shows the relationships among them. Identify important quantities in a contextual situation, use mathematical models to show the relationships of those quantities, analyze the relationships, and draw conclusions.

Standard 4.MP.5: Use appropriate tools strategically. Consider the tools that are available when solving a mathematical problem, whether in a real-world or mathematical context. Choose tools that are relevant and useful to the problem at hand such as:

a) physical objects
b) drawings or diagrams
c) physical tools or technologies
d) mathematical tools such as estimation or a particular strategy or algorithm.

Standard 4.MP.6: Attend to precision. Communicate precisely to others by crafting careful explanations that communicate mathematical reasoning by:

a) referring specifically to each important mathematical element
b) describing the relationships among them, and
c) connecting their words clearly to their representations. C

Calculate accurately and efficiently and use clear and concise notation to record their work.

Standard 4.MP.7: Look for and make use of structure. Use structures such as:

a) place value
b) the properties of operations and other generalizations about the behavior of the operations, and
c) attributes of shapes to solve problems.

Standard 4.MP.8: Look for and express regularity in repeated reasoning. Look for regularities when solving multiple related problems. Identify and describe the regularities.

Strand 4.OA – Operations and Algebraic Thinking

Fourth grade students use the four operations with whole numbers (addition, subtraction, multiplication, and division) to solve problems. They gain familiarity with factors and multiples. They generate and analyze numeric and shape patterns.

Standard 4.OA.1: Interpret a multiplication equation as a comparison, for example, interpret 35 = 5 x 7 as a statement that 35 is 5 times as many as 7 and 7 times as many as 5. Represent verbal statements of multiplicative comparisons as multiplication equations.

Standard 4.OA.2: Multiply or divide to solve word problems involving multiplicative comparison, for example, by using drawings and equations with a symbol for the unknown number to represent the problem, distinguishing multiplicative comparison from additive comparison.

Standard 4.OA.3: Solve multistep word problems posed with whole numbers and having whole-number answers using the four operations, including problems in which remainders must be interpreted.

a) Represent these problems using equations with a letter standing for the unknown quantity.
b) Assess the reasonableness of answers using mental computation and estimation strategies including rounding.

Standard 4.OA.4: Find all factor pairs for a whole number in the range 1-100. Recognize that a whole number is a multiple of each of its factors. Determine whether a given whole number in the range 1-100 is a multiple of a given one-digit number. Determine whether a given whole number in the range 1-100 is prime or composite.

Standard 4.OA.5: Generate a number or shape pattern that follows a given rule. Identify apparent features of the pattern that were not explicit in the rule itself. *For example, given the rule "Add 3" and the starting number 1, generate terms in the resulting sequence and observe that the terms appear to alternate between odd and even numbers. Explain informally why the numbers will continue to alternate in this way.*

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Mathematics – Secondary

Strand 8.NS – Number System

Students will know that there are numbers that are not rational, and approximate them by rational numbers.

Standard 8.NS.1**:** Know that numbers that are not rational are called irrational. Understand informally that every number has a decimal expansion; for rational numbers show that the decimal expansion repeats eventually, and convert a decimal expansion which repeats eventually into a rational number.

Standard 8.NS.2: Use rational approximations of irrational numbers to compare the size of irrational numbers, locate them approximately on a number line diagram, and estimate the value of expressions (e.g., π^2). *For example, by truncating the decimal expansion of √2, show that √2 is between 1 and 2, then between 1.4 and 1.5, and explain how to continue on to get better approximations.*

Strand 8.EE – Expressions and Equations

Students will work with radical and integer exponents; understand the connections between proportional relationships, lines, and linear relationships; and analyze and solve linear equations and inequalities and pairs of simultaneous linear equations.

Standard 8.EE.1: Know and apply the properties of integer exponents to generate equivalent numerical expressions. For example, $3^2 \times 3^{-5} = 3^{-3} = 1/3^3 = 1/27$.

Standard 8.EE.2: Use square root and cube root symbols to represent solutions to equations of the form $x^2 = p$ and $x^3 = p$, where p is a positive rational number. Evaluate square roots of small perfect squares and cube roots of small perfect cubes. Know that √2 is irrational.

Standard 8.EE.3: Use numbers expressed in the form of a single digit times an integer power of 10 to estimate very large or very small quantities, and to express how many times as much one is than the other. For example, estimate the population of the United States as 3×10^8 and the population of the world as 7×10^9, and determine that the world population is more than 20 times larger.

Standard 8.EE.4: Perform operations with numbers expressed in scientific notation, including problems where both decimal and scientific notation are used. Use scientific notation and choose units of appropriate size for measurements of very large or very small quantities (e.g., use millimeters per year for seafloor spreading). Interpret scientific notation that has been generated by technology.

Standard 8.EE.5: Graph proportional relationships, interpreting the unit rate as the slope of the graph. Compare two different proportional relationships represented in different ways. For example, compare a distance-time graph to a distance-time equation to determine which of two moving objects has greater speed.

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Standard 8.EE.6: Use similar triangles to explain why the slope m is the same between any two distinct points on a non-vertical line in the coordinate plane; derive the equation y = mx for a line through the origin and the equation y = mx + b for a line intercepting the vertical axis at b.

Standard 8.EE.7: Solve linear equations in one variable.

a) Give examples of linear equations in one variable with one solution, infinitely many solutions, or no solutions. Show which of these possibilities is the case by successively transforming the given equation into simpler forms, until an equivalent equation of the form x = a, a = a, or a = b results (where a and b are different numbers).
b) Solve linear equations with rational number coefficients, including equations whose solutions require expanding expressions using the distributive property and collecting like terms.

Standard 8.EE.8: Analyze and solve pairs of simultaneous linear equations.

a) Understand that solutions to a system of two linear equations in two variables correspond to points of intersection of their graphs, because points of intersection satisfy both equations simultaneously.
b) Solve systems of two linear equations in two variables algebraically, and estimate solutions by graphing the equations. Solve simple cases by inspection. For example, 3x + 2y = 5 and 3x + 2y = 6 have no solution because 3x + 2y cannot simultaneously be 5 and 6.
c) Solve real-world and mathematical problems leading to two linear equations in two variables. For example, given coordinates for two pairs of points, determine whether the line through the first pair of points intersects the line through the second pair.

Strand 8.F – Functions

Students will define, evaluate, and compare functions and use functions to model relationships between quantities.

Standard 8.F.1: Understand that a function is a rule that assigns to each input exactly one output. The graph of a function is the set of ordered pairs consisting of an input and the corresponding output.[27]

Standard 8.F.2**:** Compare properties of two functions each represented in a different way (algebraically, graphically, numerically in tables, or by verbal descriptions). *For example, given a linear function represented by a table of values and a linear function represented by an algebraic expression, determine which function has the greater rate of change.*

Standard 8.F.3**:** Interpret the equation $y = mx + b$ as defining a linear function, whose graph is a straight line; give examples of functions that are not linear. *For example, the function* $A = s^2$ *giving the area of a square as a function of its side length is not linear because its graph contains the points (1,1), (2,4) and (3,9), which are not on a straight line.*

Standard 8.F.4**:** Construct a function to model a linear relationship between two quantities. Determine the rate of change and initial value of the function from a description of a relationship or from two *(x, y)* values, including reading these from a table or from a graph. Interpret the rate of change and initial value of a linear function in terms of the situation it models, and in terms of

its graph or a table of values.

Standard 8.F.5**:** Describe qualitatively the functional relationship between two quantities by analyzing a graph (e.g., where the function is increasing or decreasing, linear or nonlinear). Sketch a graph that exhibits the qualitative features of a function that has been described verbally.

[27] Function notation is not required in Grade

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Physical Education - Elementary

Strand 1- Students will achieve a level of competency in motor skills and movement patterns.

Skill development includes various locomotor and non-locomotor skills. Locomotor skills such as hopping, galloping, running, sliding, skipping, leaping, running, jumping and landing are the foundation of movement. Non-locomotor skills using balance and weight transfer include curling, stretching, twisting, and bending. Competency development progresses into manipulative skills such as catching, jump rope, underhand and overhand throw, dribbling ball with hands and feet, passing and receiving.

Standard 4.1.1: Use spring-and-step take-offs while jumping and landing.

Standard 4.1.2: Run for distance using a well-developed pattern.

Standard 4.1.3: Move into and out of balances with curling, twisting, and stretching actions.

Standard 4.1.4: Combine locomotor skills and movement concepts (levels, shapes, extensions, pathways, force, time, and flow) to create and perform a dance or rhythmic activity with a partner.

Standard 4.1.5: Combine locomotor movement patterns and dance steps to create and perform an original dance.

Standard 4.1.6: Use various motor skills in a variety of small group practice tasks.

Standard 4.1.7: Catch a thrown ball above the head, at chest/waist level and below the waist using a well-developed pattern in a non-dynamic environment.

Standard 4.1.8: Throw underhand to a partner or at a target with accuracy and increased distance.

Standard 4.1.9: Dribble with the hand in personal space with both the preferred and non-preferred hand using a well-developed pattern.

Standard 4.1.10: Dribble in general space with control of ball and body while increasing and decreasing speed.

Standard 4.1.11: Throw overhand using a well-developed pattern with accuracy.

Standard 4.1.12: Throw overhand to a partner or at a target at a reasonable distance.

Standard 4.1.13: Volley with a two-hand overhead pattern, sending a ball with consecutive hits.

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Standard 4.1.14: Dribble with feet in general space with control of ball and body while increasing and decreasing speed.

Standard 4.1.15: Receive and pass a ball with the insides of the feet to a moving partner in a non-dynamic environment.

Standard 4.1.16: Receive and pass a ball with the outsides and insides of the feet to a stationary partner, and returning the pass.

Standard 4.1.17: Combine traveling with the manipulative skills of dribbling, throwing, catching and striking in teacher and/or student designed small group activities (3-5 students) .

Standard 4.4.1.18: Create a jump rope routine with either a short or long rope.

Strand 2- Apply knowledge to attain efficient movement and performance

Students will use space, pathways, shapes, levels, speed, direction, force and strategy for effective movement in an activity setting.

Standard 4.2.1: Apply the concept of open spaces to combination skills, (e.g. getting open for a pass, dribbling to create space).

Standard 4.2.2: Apply the movement concepts of speed, endurance and pacing for running.

Standard 4.2.3: Combine movement concepts with skills in small group (3-5) activities and/or dance.

Standard 4.2.4: Apply the concepts of direction and force when striking an object with a short-handled implement, sending it toward a designated target.

Standard 4.2.5: Apply simple offensive strategies and tactics in chasing and fleeing activities.

Standard 4.2.6: Apply simple defensive strategies/tactics in chasing and fleeing activities.

Standard 4.2.7: Recognize the types of kicks needed for different games and sports situations.

Strand 3- Understands the components necessary to maintain a healthy level of fitness to support physical activity

Students will understand how knowledge of physical activity and nutrition and application can result in over-all wellness.

Standards 4.3.1: Analyze opportunities for participating in physical activity outside physical education class.

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Standards 4.3.2: Actively engage in the activities of physical education class, both teacher-directed and independent.

Standards 4.3.3: Identify the components of health-related fitness (cardiovascular fitness, muscular strength, muscular endurance, flexibility and body composition).

Standards 4.3.4: Demonstrate prescribed warm-up & cool- down relative to level of exercise.

Strand 4- Develops cooperative skills and positive personal behavior through communication and respect for self and others.

Students exhibit personal responsibility in a group setting by working well with others, accepting feedback, understanding how rules and etiquette contribute to a safe and enjoyable environment.

Standard 4.4.1: Exhibit responsible behavior in independent group situations.

Standard 4.4.2: Reflect on personal social behavior in physical activity.

Standard 4.4.3: Listen respectfully to corrective feedback from others (e.g., peers, adults).

Standard 4.4.4: Praise the movement performance of others both more and less skilled.

Standard 4.4.5: Accept students of all skill levels into the physical activity.

Standard 4.4.6: Exhibit etiquette and adherence to rules in a variety of physical activities.

Standard 4.4.7: Work safely with peers and equipment in physical activity settings.

Strand 5- Appraises the personal value of physical activity as a tool for wellness, challenges, and interacting with appropriate social skills with friends and family.

Standard 4.5.1: Examine the health benefits of participating in physical activity.

Standard 4.5.2: Rate the enjoyment of participating in challenging and mastered physical activities.

Standard 4.5.3: Rank the enjoyment of participating in different physical activities.

Standard 4.5.4: Describe/compare the positive social interactions when engaged in partner, small group and large group physical activities.

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Science – Secondary

Strand 8.1: The Cycling of Matter and Flow of Energy in the Physical World

Matter is describe in terms of the types of atoms present in their interactions. Matter can be described in terms of state (i.e., solid, liquid, gas, or plasma), properties (e.g., hardness conductivity), and reactions (both physical and chemical). Atoms may interact chemically with one another. Matter with different properties is suited to different uses. Designing new materials is based on the understanding of both physical and chemical properties of matter.

Standard 8.1.1: Develop models to describe the scale, proportion and quantity of simple molecules. Examples could be drawings, pictures, 3D modeling, ball and stick model, etc. Simple molecules could include water, NaCl in crystalline structures, or methane.

Standard 8.1.2: Gather, analyze and interpret patterns within data regarding the properties of substances before and after substances interact to determine if a chemical reach has occurred. Examples of properties could include density, melting point, boiling point, solubility, flammability, and odor.

Standard 8.1.3: Gather, read, and synthesize information from appropriate sources about how natural resources have been restructured to meet a particular function. Emphasis should be on natural resources that undergo chemical processes to form new materials like medicines, foods, alternative fuels, and building materials.

Standard 8.1.4: Develop a model that predicts and describes the cause and effect relationship between changes in the state of matter (solid liquid, and gas) and the amount of thermal energy within the system.

Standard 8.1.5: Develop a model to describe how quantity of matter (atoms) does not change in a chemical reaction (law of conservation of matter).

Standard 8.1.6: Create a design project to construct, test, and modify a device that either releases or absorbs thermal energy by chemical processes. The focus of the design project could be limited to amount, time, and temperature of substance used in the device.

a) Using the design project above, students will define the criteria and constraints of the design problem with sufficient precision to ensure successful solutions, taking into accounts relevant scientific principles, and resource limitations that may limit possible solutions.
b) Using the design projects above, students will analyze data from their tests to determine similarities and differences among several of the other design solutions to identify the best characteristics of each that could be combined into a new and more successful solution.

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UNITED STATES HISTORY I

Strand 1: The Columbian Exchange

The Columbian Exchange had a profound impact on the world. For thousands of years, complex and sophisticated civilizations had developed in North America, separated from developments in other parts of the world by vast bodies of water. When Europeans arrived, the lands of the Western Hemisphere were forever connected to the rest of the world. Patterns of trade, exploration, conquest, and settlement were altered—patterns whose ramifications continue to the present day.

Standard U.S.1 - 1.1: Use artifacts, oral histories, and primary sources to analyze life among the various American Indian nations prior to European exploration of the New World. (analyzing evidence)

Standard U.S.1 - 1.2: Analyze historians' interpretations of the motivation and conditions that led to European exploration. (analyzing secondary sources)

Standard U.S.1 - 1.3: Assess the continuities and changes that developed from the impact of European exploration on Africa, African slaves, American Indian nations, and the future culture of the Americas. (historical thinking—continuity and change)

Standard U.S.1 - 1.4: Make a claim as to the most significant effects of the Columbian Exchange, citing specific evidence to support the argument.

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Standards Revision Process for Utah State Board of Education

Recommendations to Utah State Board of Education

May 7, 2015

1. Notice of revision by Board
2. Standards Review Committee (SRC) meets to make initial recommendations
3. Report SRC recommendations to Board
4. Writing committee organized
5. Report revision recommendations and progress to Board
6. Meet with SRC to provide updates and receive input
7. Report periodically to Board with brief updates and check-ins during revision process
8. Submit to Board for approval for 90 day review
9. Public review with monthly brief updates to Board
10. Revision based on public input
11. Standards to Board for review/ adoption
12. Report implementation plan

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Utah Science and Engineering Education (SEEd) Standards - 90-day public feedback

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Background:

1. The Utah Science and Engineering Education (SEEd) Standards were released to the public April 10, 2015 to July 10, 2015 for a 90-day public feedback period. Members of the public were invited to provide feedback and suggestions through an online survey, public meetings throughout the state, and by email.
2. Writing teams have met, reviewed, and responded to all feedback and suggestions from the 90-day public review and based on their findings have prepared suggestions for how they would like to improve the standards in preparation of a final draft.

Key Points:

1. A summary of feedback from the 90-day public review will be presented with examples and suggestions on how the writing teams desire to move forward.
2. Approval of the suggestions made by the writing teams will give the direction needed to prepare a final draft of the Utah Science and Engineering Education (SEEd) Standards that will be presented for adoption in the October 2015 State Board of Education meeting.

Anticipated Action:

It is proposed that the Standards and Assessment Committee consider approving the suggestions made by writing teams so that a final draft of the Utah Science and Engineering Education (SEEd) Standards can be prepared and, if approved by the Committee, the Board will consider approving the suggestions for writing teams to move forward.

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Summary of 90-Day Review Period for Utah Science and Engineering Education Standards for Grades 6-8

Prepared by the

Utah State Office of Education

August 6-7, 2015

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Summary of 90-day Review Period for Utah Science and Engineering Education Standards for grades 6-8

Purpose and Time line of 90-day Review for Science

Utah law requires that any new core standards are released to the public for a 90-day review period and at least 3 public hearings are held throughout the state on the standards (HB 342). The 90-day review for the draft Utah Science and Engineering Education (SEEd) Standards for grades 6-8 occurred between April 10 and July 10, 2015. During this time feedback was collected from five public hearings and an online feedback tool as well as other forms of communication such as email, petitions, formal letters, and several news reports, articles, editorials, and op-eds.

Public Hearings on SEEd Standards

Five public meetings were held throughout the state focusing on the draft 6-8 SEEd Standards after approval at the April Board meeting.

April 23, 2015	St. George	abt. 50 in attendance
April 28, 2015	Vernal	abt. 35 in attendance
May 6, 2015	Provo	abt. 100 in attendance
May 13, 2015	Logan	abt. 40 in attendance
May 19, 2015	Salt Lake City	abt. 60 in attendance

Feedback from these meetings was added to feedback from the online feedback tool data for writing teams to review. Analysis, response and suggestions to the Board are included later in this report.

Online Feedback Tool Data

The feedback tool was made available through a link on the USOE website. There were a total of 1011 responses recorded using the online feedback tool. Of the total number or responses, 464 responses 45.8%) answered questions and gave feedback regarding the standards. There were however, 547 of the responses that only entered personal information and gave no feedback for the standards. Most of the feedback responses made with the online tool (65.2% of responses) were received in the first 30 days, 28.3% of responses came in the next 30 days, and only 6.5% of responses came in the last 30 days.

The online tool collected the following data:

- Location
- Primary role of the person reviewing the standards (e.g. teacher, parent, admin, etc.)
- For each section of each grade's standard document (Overview Paragraph, 3 Dimensions of Science Instruction, and each Root Question) the reviewer chose one of two options:
    - "I have read [Standards Section] and think it's appropriate"
    - "I have read [Standards Section] and suggest the following changes"
    - The reviewer was then given space to provide comments, feedback, and suggestions in a text box (limited to 1000 characters)

Based on the data collected from the online feedback tool there was strong support for the standards as they are written in the draft (see Tables 1-3). Moreover, based on the response options of the feedback tool there was no way to approve the standards and also provide feedback. There were many teachers who were in favor of the standards but wanted to provide feedback, therefore the overall approval rating is lower than would have been the case had there been an option to make suggestions and also approve. The overall weighted average of the 6th Grade SEEd Standards is 73.0%, 7th Grade is 72.8%, and 8th Grade is 74.4%.

Table 1 – Percent of 6th Grade SEEd Standard reviews that were are in favor of each section of the standard draft based on how each reviewer selected their primary role

	% of Responses	Avg. Approval as written	6th Overview	6th 3D Intro	6th Root 1	6th Root 2	6th Root 3	6th Root 4
6-8 Science Teacher	28.6%	58.4%	66.0%	68.0%	50.5%	58.8%	52.6%	54.6%
Teacher	9.4%	**62.0%**	59.4%	65.6%	65.6%	59.4%	59.4%	62.5%
Admin	2.4%	**97.9%**	100.0%	100.0%	100.0%	87.5%	100.0%	100.0%
Higher Ed	8.3%	**81.0%**	85.7%	85.7%	85.7%	75.0%	75.0%	78.6%
Informal Ed	4.7%	**87.5%**	81.3%	93.8%	81.3%	93.8%	87.5%	87.5%
Parent	31.3%	**76.3%**	73.6%	75.5%	84.0%	72.6%	78.3%	73.6%
Public	8.6%	**93.7%**	93.1%	96.6%	96.6%	93.1%	89.7%	93.1%
Vendor	0.9%	**88.9%**	100.0%	33.3%	100.0%	100.0%	100.0%	100.0%
Other	5.9%	**78.3%**	80.0%	85.0%	80.0%	75.0%	80.0%	70.0%
Weighted Total	100.0%	**73.0%**	**74.3%**	**76.7%**	**74.0%**	**71.1%**	**71.1%**	**70.5%**

Table 2 – Percent of 7th Grade SEEd Standard reviews that were are in favor of each section of the standard draft based on how each reviewer selected their primary role

	% of Responses	Avg. Approval as written	7th Overview	7th 3D Intro	7th Root 1	7th Root 2	7th Root 3	7th Root 4	7th Root 5
6-8 Science Teacher	29.3%	**57.3%**	60.8%	68.6%	55.9%	55.9%	58.8%	49.0%	52.0%
Teacher	11.8%	**64.8%**	61.0%	75.6%	58.5%	61.0%	70.7%	65.9%	61.0%
Admin	2.3%	**94.6%**	100.0%	100.0%	87.5%	75.0%	100.0%	100.0%	100.0%
Higher Ed	7.8%	**83.6%**	88.9%	85.2%	85.2%	88.9%	77.8%	85.2%	74.1%
Informal Ed	4.9%	**93.3%**	100.0%	94.1%	100.0%	94.1%	94.1%	82.4%	88.2%
Parent	30.7%	**77.2%**	76.6%	79.4%	73.8%	74.8%	76.6%	80.4%	78.5%
Public	7.2%	**96.6%**	96.0%	96.0%	100.0%	88.0%	100.0%	96.0%	100.0%
Vendor	0.9%	**61.9%**	33.3%	33.3%	100.0%	33.3%	100.0%	33.3%	100.0%
Other	5.2%	**76.2%**	72.2%	83.3%	83.3%	83.3%	72.2%	66.7%	72.2%
Weighted Total	100.0%	**72.8%**	**73.6%**	**78.4%**	**71.8%**	**70.7%**	**73.9%**	**70.4%**	**70.7%**

Table 3 – Percent of 8th Grade SEEd Standard reviews that were are in favor of each section of the standard draft based on how each reviewer selected their primary role

	% of Responses	Avg. Approval as written	8th Overview	8th 3D Intro	8th Root 1	8th Root 2	8th Root 3	8th Root 4	8th Root 5	8th Root 6
6-8 Science Teacher	29.6%	**59.5%**	61.7%	62.6%	58.3%	65.2%	60.0%	54.8%	56.5%	56.5%
Teacher	12.4%	**66.7%**	60.4%	75.0%	66.7%	70.8%	64.6%	66.7%	64.6%	64.6%
Admin	2.6%	**86.7%**	90.0%	90.0%	81.8%	81.8%	90.0%	90.0%	90.0%	80.0%
Higher Ed	8.0%	**86.7%**	83.9%	83.9%	87.1%	87.1%	87.1%	80.6%	90.3%	93.5%
Informal Ed	4.4%	**93.4%**	94.1%	100.0%	88.2%	100.0%	88.2%	94.1%	94.1%	88.2%
Parent	30.4%	**79.6%**	78.8%	78.0%	80.5%	81.4%	80.5%	74.6%	82.2%	80.5%
Public	7.2%	**93.3%**	92.9%	89.3%	92.9%	96.4%	96.4%	85.7%	96.4%	96.4%
Vendor	0.5%	**68.8%**	50.0%	50.0%	50.0%	100.0%	100.0%	50.0%	50.0%	100.0%
Other	4.9%	**80.9%**	89.5%	89.5%	78.9%	89.5%	78.9%	73.7%	78.9%	68.4%
Weighted Total	100.0%	**74.4%**	**74.2%**	**76.0%**	**73.8%**	**78.1%**	**74.7%**	**70.1%**	**74.5%**	**73.5%**

Online Tool Feedback Summary

Each grade level writing team, made up of teachers, district science specialists, and science higher education representatives from Utah universities, met and spent more than 14 hours carefully reviewing the feedback provided during the 90-day review. To help organize the feedback, take suggestions, and provide clear responses the writing teams chose to group all feedback into general categories. The percent of responses in each grade and category is provided in Table 4.

Table 4 – Percent of responses for each grade based on categories made by the writing teams. Teams felt that this data helped them to see where most of the suggested concerns came.

	6th Grade	7th Grade	8th Grade	**Average**
Shifts in Content	24.9%	28.5%	25.9%	**26.3%**
Clarity of Standards	27.0%	31.9%	18.6%	**25.7%**
Sequencing of Standards	4.7%	10.5%	20.9%	**11.7%**
Multiple Categories in a Response	10.9%	4.0%	12.1%	**9.3%**
Political Motivations	8.2%	4.8%	7.6%	**7.0%**
No Clear Response	6.2%	5.6%	5.8%	**5.9%**
Age Appropriateness	7.3%	4.8%	2.0%	**4.8%**
Positive/Supportive Comments	3.0%	6.5%	1.8%	**3.6%**
Resource Needs of Teachers	5.6%	0.6%	1.3%	**2.7%**
Nature of Science	1.1%	2.5%	2.0%	**1.8%**
Other	1.1%	0.3%	2.0%	**1.2%**

Generally, the writing teams describe the feedback from each category in the following ways and offer the following feedback for how they hope to make improvements. See Appendices A-C (pages 9-14) for the writing team leader feedback summary reports prepared after reviewing feedback with their teams.

Shifts in Content (26.3% of all feedback):
Many recognized that specific content ideas that are in one grade in the current Utah science standards are proposed to be in another; or, they commented about how different ideas should be tied together. We have worked hard to make sure that the organization of core scientific ideas all tie together within each grade. **We value keeping the courses organized around big ideas and integrated across disciplines, but we also are now considering how to incorporate ideas suggested to make the themes even more coherent.**

Clarity of Standards (25.7% of all feedback):
Most of the feedback referenced details of the performance expectations and either their meaning, their wording, or a lack of background information. For example, "models" and "modeling" can be interpreted in many different ways, and this is not clear in the standards documents. Individual performance expectations could be taught at lots of different levels or depths and how crosscutting concepts, practices, and core ideas are interrelated is not immediately clear. **We propose to clarify these issues and to consider different formats to display the standards that will provide more information about the expectations for student learning.**

Sequencing of Standards (11.7% of all feedback):
There are many different ways of sequencing standards from one grade to the next and many suggestions were given that could help the progression of science learning from 6th to 8th grade. **We have been striving to make sure that all the pieces fit into the broader context, but we are also considering all possible sequences to improve the over sequence of learning. More time will be spent on this topic based on feedback.**

Multiple Categories in a Single Response (9.3% of all feedback):
Some feedback contained comments and suggestions from multiple categories. These main ideas have been added to the general categories they belong to.

Political Motivations (7.0% of all feedback):
Some feedback questioned the motivation for the standards revision. The writing committee wanted to create the best set of standards possible, to help our own children to grow up in the 21st century with the skills they need to participate as citizens and in the workforce. We based our decision to deliberately use the K-12 Framework for Science Education (NRC), Taking Science to Schools (NRC), performance expectations from Next Generation Science Standards (NGSS Lead States), and other resources, because these represented the best, most comprehensive and up-to-date research available to us. **We've catered and adapted these to our own Utah needs, and we will continue to adapt these as we work on the next draft. As scientists and educators here in Utah, we want to make it clear that we are pulling in all of the best possible resources for our students and fellow Utahans.**

No Clear Response (5.9% of all feedback):
Some feedback was abbreviated or without context that made it impossible to understand what the reviewer was trying to say. Others simply copied and pasted the performance expectations without any description.

Age Appropriateness (4.8% of all feedback):
Some feedback questioned if some students would be capable of understanding content as presented in these standards. **We've based the standards documents on what is developmentally appropriate; however, we also have in mind the level at which these understandings are assessed. We are working to make sure that these are more clear and better fit the developmental understanding of students.**

Positive/Supportive Comments (3.6% of all feedback):
Those in favor of the standards did not need to make a comment but a few chose to do so. These include comments like: “Keep these standards strong and science based” or “I like the emphasis on using evidence to support arguments”.

Resource Needs of Teachers (2.7% of all feedback):
Some sentiments that came from teachers with fears of teaching new science content in a new and more engaging way. In particular, these comments pleaded for support from the state and their schools for resources and professional development to teach these standards effectively. **Although the writing teams cannot address these concerns directly, we empathize with them. The Utah State Board of Education and legislators should be aware of this significant need.**

The Nature of Science (1.2% of all feedback):
Some feedback had questions about our most current and useful understandings of science, especially with regards to evolution. Many of these comments suggested that evolution was "only a theory." "Theory," in science is the deepest and most useful level of explanation, based on all data, analysis, and tests to date. This is emphasized in current USOE policy, by science education scholars, and by practicing scientists in Utah and beyond. **We continue to emphasize these ideas and the practices of analyzing evidence, and we intend for students to engage in this process.**

Other (1.2% of all feedback):
Some feedback provided feedback to improve grammatical errors or made claims about the standards process such as “Adopting entire NGSS when we’ve only seen grades 6-8” or “We can’t change these standards if we adopt them”. **We clearly marked areas that had grammatical errors to make necessary changes. The Utah State Board of Education will be free to change and adapt any standards they choose to adopt.**

Feedback through other communication

Beyond feedback from the five public hearings and the online feedback tool, other communication was made with comments, support, or suggestions for the 6-8 SEEd standards.

- Email correspondence came with comments against using the NGSS standards, teaching Darwinian Evolution or Climate Change, and changing science content from where they are in the current standards. There were other emails that came in support of the standards and praise how the standards focus on learning by doing, importance of evidence in creating an argument, and promoting a more scientifically-literate society.
- A two page letter of support of the 6-8 SEEd standards came from the Deans of Science and Engineering Departments from six Utah institutes of higher learning (Salt Lake Community College, Southern Utah University, University of Utah, Utah State University, Utah Valley University, and Weber State University). In this letter they describe how the standards contain strong science content and are based on sound scientific education research.
- Two petitions were sent in favor of standards with a specific emphasis in teaching current science concepts like climate change. One included 239 and the other 112 signatures.
- There were several articles, news reports, editorials, and op-eds written about the standards with thousands of comments.

Main 3 areas of community discussion

Based on all forms of feedback regarding the Utah SEEd Standards three main topics became areas of discussion: The use of the Next Generation Science Standards, teaching climate change and environmental advocacy, and teaching evolution. There are two sides to each of these topics that are illustrated in Table 5.

Table 5 – shows arguments from both sides of the three main topics

Use of Next Generation Science Standards	
Against – - "Contains controversial content" - "The standards are not Utah written or Utah controlled" - "The NGSS show no evidence they improve student learning" - "The NGSS limit a parent's ability to help their child." - "NGSS proposes we deliberately teach less science content"	For – - "Inclusion of the Next-Generation-Science-Standards in Utah's science curriculum will prepare Utah students, like my son, for an ever-changing world and an increasingly competitive workforce." - "Science is an ever-evolving field. I was pleased to see the science standards updated and I feel these changes will lead students to a more accurate understanding of more scientific processes"
Climate Change and Environmental Advocacy	
Against – - "I do not think global warming and human impact on the environment should be core standards. There are much more important, fundamental concepts that should take priority over environmental education." - "I am philosophically opposed to what is in the SEEd standards, specifically, emphasis on of the still-debated theory of man-made climate change and assumption that this theory is fact"	For – - "I strongly support the teaching of evidence-based science about human-caused climate change. It's incredibly important that Utah students be taught the evidence about climate change, because it is an issue that is affecting us now, and will have a great impact on our children's future." - "I am very happy to see climate science and climate change being addressed and would encourage a non timid approach to studying the anthropogenic influence on climate."
Biological Evolution	
Against – - "The fossil record does not show the gradual branching tree that is usually shown in our science classes." - "Evolution is not fact and is only to be taught as a theory." - "So we are taking God out of the class room and teaching evolution of man as a fact. Get rid of it." - "Until and unless we observe a transformation through generations from one species to another, evolution remains a theory, and should be taught as such."	For – - "Evolution is a core principle in biology. It is so fundamental to understanding life. Students need to understand the process of evolution and the many lines of evidence which support it." - "I think biological evolution is a topic that should be touched on again in 8th grade. Many of the standards are taught in 2 grades, and as of now, biological evolution is only barely touched on in 7th grade." - "I am happy to see evolution in the new core."

Suggestions for SEEd Standards

The following bullets and tables contain the main public feedback and suggested changes that the writing teams propose be made to the Utah Science and Engineering Standards for grades 6-8. They ask the Standards and Assessment Committee and Entire State Board of Education approval to move forward. A final draft with these changes will be made in August and a final draft will be presented to the State Board of Education in the September board meeting.

- Clarity of Standards – many expressed a need for more clarity in the standards documents

Public Feedback	**Proposed suggestions in response**
An explanatory introduction that describes the new standards, process, and design is needed	Writing team has drafted an outline of the proposed introduction for SEEd standards. (See Table 6)
Individual standards are not clear as to what content needs to be taught to students	Writing team will work to clarify each standard so that it is clear what the expectation is for student learning
Engineering standards do not include content and so are difficult to integrate with the other standards	Writing team will add specific content that will give context and clarity to the engineering standards

Table 6 – Suggested Introduction materials

Introduction	A statement of how science is a way of knowing which leads to an introduction to the components of the standards document.
Students Doing Science	A discussion on: 1. How students do science. 2. Facts alone are not enough 3. Integration of learning
Understanding the three-dimensions of Science	Understanding the research base for three-dimensional science. This section will provide necessary background knowledge on the 8 practices of science and engineering, 7 crosscutting concepts, and Core Ideas.
How to read this document	How to read and use the standards document. This may include screen shots, graphics (Table of components), or short descriptions.
Grade Level Design	A specific grade level description of how the strands and standards are connected to each other (Grade specific Storyline). Clarify the specific practices, CCC, and DCIs for the particular grade level. Description of how Practices, CCC, and DCIs specifically integrate within this grade level to form a three-dimensional science experience.

- Shifts in Content and Sequencing of Standards – comments were made about how content is shifting from one grade to another and improving the sequence of standards to better help students

Public Feedback	**Proposed suggestions in response**
Teachers were concerned about the shifting of content in what they teach rendering their classroom lessons and materials useless	The shift in content was made to help improve the progression of students learning the main science concepts from grades 6 to 8. Progressions will remain strong in student learning while also working to move some concepts back to where they are found in our current standards.

- Political Motivations

Public Feedback	**Proposed suggestions in response**
Use of the Next Generation Science Standards	The science community and writing teams have heavily elected to use the Next Generation Science Standards as a reference for our state standards. Writing teams will change and improve the verbiage of some standards to best meet the needs of Utah students.

- Age Appropriateness

Public Feedback	**Proposed suggestions in response**
Debating climate change and human effects on the environment in 6th grade would not be age appropriate.	Writing teams agreed that all 6th grade students may not have the capacity for these topics and removed these topics leaving them only in the 8th grade standards.
6th grade standard topics should be more concrete science content to help elementary teachers that may not have a degree in science.	Writing teams will adjust content found in the 6th grade standards to help teachers be more successful

End of Suggested Changes

Appendix A - Feedback Report Summary from 6th Grade Team Leaders

To Whom It May Concern:

At the conclusion of the 90-day public review for the draft Utah SEEd standards, the 6th grade writing committee has met and analyzed all the responses provided during the public review. Numerous suggestions and positive comments were included from the public. This input is valuable in refining and revising the standard document. This input is appreciated. Some comments were very illuminating to the writing committee and those suggestions will be implemented. Other comments did little to provide concrete suggestions that improve science for Utah students.

Based on the analysis of the feedback (465 line items for 6th grade) the following themes emerged in frequency and importance:

- Lack of clarity (27%)-requests for additional information in the document including examples or format
- Fear of change (25%)-change in content as well as the need for resources and materials
- Progression and flow of standards
- Science as a way of knowing and understanding
- Political concerns regarding NGSS
- Age appropriateness for the 6th grade content

Based on the feedback, the writing team suggests the following changes to the 6th grade standards document.

- Additional clarification statements are needed in the document to help identify specifics within the content, vocabulary as well as connections to engineering.

- Introductory material that gives background information about the standards, the reasons behind integrating science disciplines, three-dimensional science understanding of cross cutting concepts, science and engineering practices as well as disciplinary core ideas.

- Recommendation to move human impact and climate change to older grade levels

Sincerely,

Max Longhurst
Stephanie Wood
6th Grade Writing Team Leaders

Appendix B - Feedback Report Summary from 7th Grade Team Leader

The 7th Grade Writing Team has reviewed all public comment generated during the 90-day review period. We appreciate the detailed, substantive comments that many individuals brought up, and we are using these in our work to improve the drafts. We were also heartened to see so much public support for the extensive work done so far and for the drafts as they are currently written.

As we have responded to each of the submitted comments, we have found that there are some general categories of concern. Those are as follows:

Clarity of Standards (112 of 359 comments):
Most of the feedback referenced details of the performance expectations and either the meaning of them, their wording, or a lack of background information. For example, "models" and "modeling" can be interpreted in many different ways, and this is not clear in the document. Individual performance expectations could be taught at lots of different levels or depths. And, how crosscutting concepts, practices, and core ideas are interrelated is not immediately clear. We propose to clarify these issues and to consider different formats to display the standards.

Shifts in Content (101 of 359 comments):
Many recognized that specific ideas that used to be in one grade are now in another; or, they commented about how different ideas should be tied together. We have worked hard to make sure that the organization of core scientific ideas all tie together within the 7th grade, as well as with the other grade levels. We value keeping the courses organized around big ideas and integrated across disciplines, but we also are now considering how to incorporate ideas suggested to make the themes even more coherent.

The Nature of Science (10 of 359 comments):
Some feedback had questions about our most current and useful understandings of science, especially with regards to evolution. Many of these comments suggested that evolution was "only a theory." "Theory," of course, is our deepest and most useful level of explanation in science, based on all data, analysis, and tests to date. This is emphasized in current USOE policy, by science education scholars, and by practicing scientists in Utah and beyond. We continue to emphasize these ideas and the practices of analyzing evidence, and we intend for students to engage in this process.

Sequencing of Standards (35 of 359 comments):
There are many different ways of sequencing standards from one grade to the next. We have been striving to make sure that the 7th grade pieces fit into the broader context, but we are also considering all possible sequences in concert with the 6th and 8th grade writing teams.

Age Appropriateness (16 of 359 comments):
Some feedback questioned if 7th graders were capable of understanding content as presented in these standards. We’ve based this document on what is developmentally appropriate, but we also have in mind the level at which these understandings are assessed. We are working to make sure that these are clearer.

Political Motivations (17 of 359 comments):
Some feedback questioned the motivation for the standards revision. To be clear, the writing committee wanted to create the best set of standards possible, to help our own children to grow up in

the 21st century with the skills they need to participate as citizens and in the workforce. We based our decision to deliberately use materials from Next Generation Science Standards (NGSS Lead States), the K-12 Framework for Science Education (NRC), Taking Science to Schools (NRC), and other resources, because these represented the best, most comprehensive and up-to-date research available to us. We've catered and adapted these to our own Utah needs, and we will continue to adapt these as we work on the next draft. As scientists and educators here in Utah, we want to make it clear that we are pulling in all of the best possible resources for our students and other fellow Utahans.

Resource Needs of Teachers (2 of 359 comments):
Though we were not informed of the sources for the comments, there were many sentiments that seemed to come from teachers with fears of teaching science in a new and more engaging way. In particular, these comments pleaded for support from the state and their schools for resources and professional development to teach these standards effectively. Although the writing teams cannot address these concerns directly, we empathize with them. The Utah State Board of Education and legislators should be aware of this significant need.

Next Steps:
To address the most substantive feedback from the public comment period, the7th Grade Writing Team is actively working on a redraft of the SEEd Standards that will add clarity for parents and educators. Along with the other writing teams, we intend to develop preface materials to explain the design, vocabulary, sequence, and use of the SEEd Standards. We can also work on edits of Performance Expectations to increase clarity and to ensure that design will be an asset to teachers, parents, stakeholders, and (especially) students. We have submitted these suggestions to the Utah State Office of Education.

Again, we're grateful that so many have given feedback and positive support for these standards. We are looking forward to continuing to move forward on continuing to revise these standards in the near future.

Adam Johnston
7th Grade Writing Team Leader

Appendix C - Feedback Report Summary from 8th Grade Team Leaders

Executive Summary of
8th Grade Science Writing Team
Review of Public Comments

July 14, 2015

To Whom It May Concern:

The 8th Grade Science Writing Team met on July 13th-14th at Thanksgiving Point for a total of 14 hours. During this time, we read and responded to the public comments that were received through the survey instrument used by the Utah State Office of Education during the 90-Day review period. The writing teams appreciate the detailed and substitutive comments received. There were several general themes within the feedback and the writing teams have developed a plan to address these issues. The themes are as follows:

Nature of Science Understanding: 2% of responses
These comments pertained to a misunderstanding of the nature of science as a way of knowing and understanding the natural world on the part of the reviewer. For example, a comment stated that Utah should refrain from teaching 'theories' and focus on only 'facts.' In these cases, it is clear that the reviewer does not understand how science uses these terms and that theories are heavily grounded to facts or data gathered through research. We feel that greater clarity in the SEEd Standards will help with this concern.

Political Motivations: 7.5% of responses
Comments of this nature referred to these new standards as a 'government takeover' or a United Nations conspiracy. These comments show a clear misinformation regarding the source of these standards, Next Generation Science Standards, and the current standards used in the state of Utah.

Shifts in Content: 25.5% of responses
Many recognized that specific ideas that used to be in one grade are now in another, or commented about how different ideas are tied together. We have worked hard to make sure that the organization of core ideas all tie together within the 7th grade, as well as with the other grade levels. We value keeping the courses organized around big ideas and integrated across disciplines, but we also are considering how to incorporate ideas suggested to make the themes even more coherent.

Age Appropriateness: 2% of responses
A few reviewers were concerned that the expectations placed upon 8th graders by these new standards are not appropriate. There is a significant body of research that states quite the opposite. The design of these proposed standards reflects these established findings and while they represent a significant 'raising of the bar' for Utah students, our teams are confident that students can reach these standards.

Clarity of Standards: 18% of responses
Most of the feedback referenced details of the performance expectations and either the meaning of them, their wording, or a lack of background information. For example, "models" and "modeling" can be interpreted in many different ways, and this is not clear in the document. Individual performance expectations could be taught at lots of different levels or depths. And, how crosscutting concepts, practices, and core ideas are interrelated is not immediately clear. We propose to clarify these issues and to consider different formats to display the standards.

Sequencing of Standards: 20% of responses
Many recognized that specific ideas that used to be in one grade are now in another, or commented about how different ideas are tied together. We have worked hard to make sure that the organization of core ideas all tie together within the 8th grade, as well as with the other grade levels. In fact, we are heavily considering grades K-5 and 9-12 while we construct and sequence these draft standards. We value keeping the courses organized around big ideas and integrated across disciplines, but we also are considering how to incorporate ideas suggested to make the themes even more coherent.

Resource Needs of Teachers: 1% of responses
Though we were not informed of the sources for the comments, a number of them obviously stemmed from teachers with fears of teaching science in a new and more engaging way. These comments pleaded for support from the state and their schools for resources and professional development to teach these standards effectively. While the Writing Teams cannot address these concerns directly, we felt that the State Board of Education and legislators should be aware of this significant need.

To address the most significant concerns with the drafts, the 8th Grade Writing Team suggests a rewrite of the SEEd Standards that add far more clarity for parents and educators. They include the creation of preface materials to explain the design, vocabulary, sequence, and use of the SEEd Standards. We also suggest that the Performance Expectations be edited to add greater clarity and to ensure that design will be highly beneficial to educators. We have submitted these suggestions to the Utah State Office of Education of appending to this document.

Sincerely,

John R. Taylor
Barbara Gentry
8th Grade Writing Team Leader

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Statewide Kindergarten Readiness Indicators

Background:
The Education Interim Committee discussed the topic of kindergarten assessment during the July 15, 2015 meeting. As a state we do not have a consistent measure across all districts and schools to assess "kindergarten readiness." LEAs were queried as to the instruments used to determine kindergarten readiness. LEAs and individual schools within an LEA have created their own assessments or have partnered with assessment vendors. Nationally, three quarters of all states have mandated kinder-readiness assessments.

Key Points:
There is no requirement at the present time for Utah schools/districts/charters to administer a kindergarten readiness and/or competency based assessment(s). Of the LEAs who formally assess students, some use DIBELS while others have developed their own assessment, use the USOE assessment, or have modified the USOE assessment.

Anticipated Action:
The Standards and Assessment Committee will consider the request for a statewide Kindergarten Readiness Assessment, bring to the Board for further discussion, and give direction to USOE staff.

Contact: Rich Nye, 801-538-7550
Jo Ellen Shaeffer, 801-538-7811

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2015-16 Kindergarten Readiness/Competency Assessment Tools by District

LEA	USOE Assessment	DIBELS	NWEA	Curriculum-Based Assessments	District Developed	PreK Screener	EGSI	PALS	U of U Reading Clinic
John Hancock Charter	Yes	Yes	Yes						
Bear River Charter	Modified Version	Yes		Yes--Reading Mastery					
Davis					Yes*				
Daggett						VMI and PLS-4			
Emery	Modified Version								
Canyon Grove Academy	Yes	Yes	Yes						
Provo		Yes			Yes				
Renaissance Academy					Yes**				
American Preparatory Academy		Yes		Yes--Reading Mastery					
Murray		Yes			Yes**				
Beaver		Yes		Yes-Envision Math	Yes				
Nebo					Yes				
Ogden Preparatory Academy					Yes**				
Reagan Academy							Yes		
Tooele					Yes*				
Cache		Yes			Yes**				
Spectrum Academy		Yes	Yes	Yes-Reading Mastery, iReady				Yes	
Scholar Charter									Yes
Washington County SD					Yes**				
Milliard		Yes			Yes				
Summit Academy	Yes	Yes	Yes		Yes				
Highmark Charter							Yes		

LEA	USOE Assessment	DIBELS	NWEA	Curriculum-Based Assessments	District Developed	PreK Screener	EGSI	PALS	U of U Reading Clinic
Carbon		Yes			Yes				
Grand							Yes		
South Summitt		Yes			Yes				
Sevier		Yes		Yes-iReady	Yes				
Provo					Yes**				
Alpine					Yes				
Noah Webster Academy		Yes		Yes-Reading Mastery					
Scholar Charter 2		Yes		Yes--DIBELS Math					
Kane		Yes		Yes--Spalding, Go Math, Teachers Pay Teachers					
Canyons		Yes (AIMSweb)							
Salt Lake		Yes			Yes				
Juab		Yes		Yes—Envision Math					
Iron		Yes			Yes				

*Have sample of items assessed

**Have sample of assessment

Survey sent out to all LEA Literacy Directors on July 16, 2015 with a closing submission date of July 20, 2015. The survey results showed:

- 22 of 41 school districts responded to the survey
- 13 charter schools responded to the survey
- About 58% of the LEAs that responded use DIBELS as their (or part of their) kindergarten readiness/competency assessment
- About 51% of the LEAs that responded have created their own kindergarten readiness/competency assessment
- About 15% are using the USOE kindergarten assessment, some with modifications

State by State Comparison of Kindergarten Readiness and/or Competency Tools

State	Description	State or Commercial Product	Commercial Assessment Website	State Website	Sample Available
Alabama	Pilot Program for 2015-16 School Year; Teaching Strategies Gold	Commercial	http://teachingstrategies.com/assessment/	https://www.alsde.edu/sites/memos/Memoranda/FY15-3037.pdf#search=kindergarten%20assessment	No
Alaska	2014-15; State Created Developmental Profile Assessment	State		https://education.alaska.gov/TLS/Assessments/Developmental.html	Yes
Arizona	2017-18; Currently in development with 10 other states; Kindergarten Development Inventory Assessment	State		http://www.azed.gov/english-language-learners/files/2014/02/pell-02-21-14-kindergarten-initiatives.pdf	No
Arkansas	Qualls Early Learning Inventory	Commercial	http://riverpub.com/products/qeli/	http://www.arkansased.gov/divisions/learning-services/assessment/k-2-assessment	No
California	None				No
Colorado	2015-16 School Year full implementation; Teaching Strategies Gold	Commercial	http://teachingstrategies.com/assessment/	http://www.cde.state.co.us/schoolreadiness/kindergarten	No
Connecticut	2007-2008; Fall Kindergarten Entrance Inventory	State		http://www.sde.ct.gov/sde/cwp/view.asp?a=2678&Q=320780	No
Delaware	Began in 2012; full implementation required by 2015-16	State		http://delcode.delaware.gov/sessionlaws/ga146/chp264.shtml; http://decc.delaware.gov/files/2012/02/Kindergarten-Readiness-Issue-Brief.pdf	No

State	Description	State or Commercial Product	Commercial Assessment Website	State Website	Sample Available
Florida	Florida Kindergarten Readiness Screener-Work Sampling System (FLKRS-WSS)	State		http://www.fldoe.org/academics/standards/just-read-fl/fair	No
Georgia	2014-15; Kindergarten Inventory of Developing Skills (GKIDS)	State		https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Assessment/Pages/GKIDS.aspx	Yes
Hawaii	2006-2007; School Readiness Assessment	State		http://arch.k12.hi.us/school/hssra/hssra.html	No
Idaho	2006-2007; Idaho Reading Indicator (IRI)	State		http://www.sde.idaho.gov/Statistics/testreports.asp	No
Illinois	Illinois Snapshots of Early Literacy (ISEL)	State		http://www.isbe.net/grants/reading/html/isel.htm	Yes
Indiana	2009-2010; Indiana Standards Tool for Alernate Reporting of Kindergarten Readiness (ISTAR-KR)	State		http://www.doe.in.gov/assessment/istar-kr	Yes
Iowa	None found				No
Kansas	2005-2006; Kansas Early Learning Inventory (KELI)--based on the Qualls Early Learning Inventory	State		Only word document available online	No
Kentucky	None found				No
Louisiana	None found				No
Maine	None found				No
Maryland	2014-15; Maryland Model for School Readiness	State		http://marylandpublicschools.org/msde/divisions/child_care/early_learning/MMSR.htm	No

State	Description	State or Commercial Product	Commercial Assessment Website	State Website	Sample Available
Massachusetts	2014-15; Massachusetts Early Learning and Development (MELD) Assessment system/Teaching Strategies GOLD	State/Commercial	http://teachingstrategies.com/assessment/	http://www.mass.gov/edu/birth-grade-12/early-education-and-care/mkea/	No
Michigan	2013 Pilot of Michigan's Kindergarten Entry Assessment (MKEA)/Teaching Strategies GOLD	State/Commercial	http://teachingstrategies.com/assessment/	http://www.michigan.gov/mde/0,4615,7-140-22709_65339---,00.html	No
Minnesota	Kindergarten Early Assesment since 2002	Commercial	http://www.education.state.mn.us/MDE/EdExc/EarlyChildRes/CurrAssessmentTrainers/index.htm	http://education.state.mn.us/mdeprod/idcplg?IdcService=GET_FILE&dDocName=059139&RevisionSelectionMethod=latestReleased&Rendition=primary	No
Mississippi	Mississippi K-3 Assessment Support System	State		http://www.mde.k12.ms.us/OSA/KRA	No
Missouri	2014-15 Desired Results Developmental Profile (DRDP) (Pre-K assessment)	State	http://www.cde.ca.gov/sp/cd/ci/desiredresults.asp	https://dese.mo.gov/quality-schools/early-learning/school-readiness-tool	No
Montana	None		-	http://opi.mt.gov/Curriculum/EarlyChildhood/Index.html	No
Nebraska	None			http://www.education.ne.gov/assessment/	No
Nevada	pilot spring 2015; Kindergarten Early Assesment & Early Childhood Data System (KEDS)	State		http://www.doe.nv.gov/search.aspx?q=kindergarten+readiness+assessment&t=site	No

State	Description	State or Commercial Product	Commercial Assessment Website	State Website	Sample Available
New Hampshire	None			http://education.nh.gov/instruction/curriculum/early_learning.htm	No
New Jersey	2015-16; New Jersey Kindergarten Entry Assessment (NJKEA)	Commercial	http://teachingstrategies.com/assessment/	http://www.state.nj.us/education/ece/rttt/njkea/	No
New Mexico	2015-16; New Mexico has issued an RFP to identify a vendor to develop a KEA based on the observation rubrics in their ELGs.	Commercial	TBD	http://ped.state.nm.us/ped/LiteracyEarlyChildhoodEd_PreK_index.html	No
New York	2013-14; New York State Prekindergarten Foundation for the Common Core	Commercial	http://teachingstrategies.com/content/pageDocs/NY-Common-Core-GOLD-Alignment-Pre-K-Foundation-2013.pdf	http://schools.nyc.gov/Academics/EarlyChildhood/educators/screening.htm	No
North Carolina	2014-15 Pilot Year for Kindergarten Entry Assessment	Commercial	http://teachingstrategies.com/assessment/	http://www.ncpublicschools.org/earlylearning/	No
North Dakota	Require an assessment, but have not selected one universal tool statewide				No
Ohio	2015-16; Ohio's Kindergarten Readiness Assessment	State		http://education.ohio.gov/Topics/Early-Learning/Guidance-About-Kindergarten/Ohios-Kindergarten-Readiness-Assessment	No
Oklahoma	Early Literacy Quick Assessment (ELQA)	Commercial --University of Oklahoma	https://elqa.outreach.ou.edu/	http://www.ok.gov/sde/early-childhood-and-family-education	60 Day Free Trial Available

State	Description	State or Commercial Product	Commercial Assessment Website	State Website	Sample Available
Oregon	2013-14; Statewide Kindergarten Assessment	State		http://www.ode.state.or.us/search/page/?id=3908	No
Pennsylvania	2015-16--districts are invited to use--Kindergarten Entry Inventory (KEI)	State		http://www.education.pa.gov/K-12/Assessment%20and%20Accountability/Pages/Kindergarten-Entry-Inventory.aspx#.Va2LtvlViko	No
Rhode Island	2015-16: Teaching Strategies Gold	Commercial	http://teachingstrategies.com/assessment/	http://www.ride.ri.gov/InstructionAssessment/Assessment/EarlyChildhoodAssessment.aspx#22981-teaching-strategies-gold	No
South Carolina	2015-16; Developmental Reading Assessment 2nd Edition	Commercial	http://www.pearsonschool.com/index.cfm?locator=PSZw5u&PMDbSiteId=2781&PMDbSolutionId=6724&PMDbSubSolutionId=&PMDbCategoryId=3289&PMDbSubCategoryId=28139&PMDbSubjectAreaId=&PMDbProgramId=23661	https://ed.sc.gov/agency/programs-services/208/	No
South Dakota	None				No
Tennessee	2014-15; Kindergarten Running Record Tool (Math)	State		http://tncore.org/math/assessment/kindergarten_rrtool.aspx	Yes
Texas	2012-13; Menu of Options	Commercial	Multiple Vendors	http://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Compliance_with_Kindergarten_Reading_Assessment_Data_Submission/	No
Vermont	No assessment--survey of LEAs			http://education.vermont.gov/early-education/kindergarten-readiness	No

State	Description	State or Commercial Product	Commercial Assessment Website	State Website	Sample Available
Virginia	2015-16; PALS	Commercial	https://pals.virginia.edu/tools-k.html	http://www.doe.virginia.gov/administrators/superintendents_memos/2015/151-15.shtml	No
Washington	2013-14;Washington Kindergarten of Inventory of Developing Skills(WaKIDS)	State		http://www.k12.wa.us/wakids/	No
West Virginia	None				No
Wisconsin	2012-13; PALS	Commercial	https://pals.virginia.edu/tools-k.html	https://oea.dpi.wi.gov/assessment/PALS	No
Wyoming	None				

A review of the each state's kindergarten assessment processes was conducted in July 2015. State websites and phone calls to Departments of Education were conducted to gather the details presented in the table above. Some general conclusions include:

- 38 of the 50 states have a state mandated kindergarten readiness or competency assessment tool
- 18 states have created their own assessment tool
- 17 states have adopted a commercial product(s); 8 of these states use Teaching Strategies Gold
- 3 states are currently seeking an assessment tool

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Seal of Biliterate Proficiency

Background:
Learning languages is an important component of 21st century skills. Being fluent in a second language will enable Utah's next generation to be career and college ready. A Seal of Biliterate Proficiency (Seal) is an excellent example of K-12 practices that will continue to grow Utah's economic capacity in the 21st century.

Key Points:
A seal on a high school diploma is visible evidence to students, parents, administrators, college admissions officials, and employers of the importance of learning languages. The seal is designed to encourage all Utah elementary, middle school, and high school students to develop high proficiency in English and another language leading to the Seal of Biliterate Proficiency upon high school graduation.

Anticipated Action:
The Board will consider the creation of a Seal of Biliterate Proficiency and if directed, staff will prepare a draft of a Board rule for the Seal for the September Board meeting.

Contact: Sydnee Dickson, 801-538-7515
Diana Suddreth, 801-538-7739
Jennifer Throndsen, 801-538-7893
Gregg Roberts, 801-538-7743

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

Seal of Biliterate Proficiency

Prepared by the

Utah State Office of Education

August 6-7, 2015

Sydnee Dickson, Deputy Superintendent
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Seal of Biliterate Proficiency

The State School Board shall establish for a student who is proficient in English and one or more World Languages a *Seal of Biliterate Proficiency* on the student's high school diploma.

A "*Seal of Biliterate Proficiency*" means a seal placed electronically on a student's high school diploma that indicates a student has achieved, in a world language grades 1-12, a level of proficiency described in the following three categories, which align to the Utah World Language Core Standards (see indicators below):

A. Bronze – Novice High
B. Silver – Intermediate Mid
C. Gold – Advanced Low

A "world language" means a language other than English, including: American Sign Language; a classical language (i.e. Latin); or an indigenous language (i.e. Navajo).

English proficiency would be demonstrated by completing all English language arts graduation requirements with an overall grade point average of 2.0 or above in English Language Arts classes; and passing the Utah Performance Assessment System in English Language Arts administered in grade 11 at the proficient level or above.

The State School Board shall require an LEA to determine through a proficiency assessment of the LEA choice if a student meets the requirements for the *Seal of Biliterate Proficiency* (see level indicators below). If a student qualifies to receive a *Seal of Biliterate Proficiency*, a LEA shall place the seal electronically on the student's high school diploma, indicating the student's category of world language proficiency as based upon the Utah World Language Core Standards; and indicate on the student's high school transcript the category of biliterate proficiency seal the student has received.

This *Seal of Biliterate Proficiency* approach to learning languages prepares students to be college and career ready and builds state and national language capacity to improve economic competitiveness and strengthen national defense strategies. Equally, it answers the growing need for the critical skills of language and cultural competencies for relationship building—a keystone for success in global business and diverse social environments

- **Why does the *Seal of Biliterate Proficiency* apply to all learners regardless of grade level?**

Learners begin new language experiences at different ages and progress toward proficiency at different rates. The amount of quality time spent in the target language (i.e., dual language immersion vs. high school level I) is a determining factor in the proficiency level that learners will reach. Learners at similar ages frequently demonstrate varying proficiency levels when assessed.

- **How does the *Seal of Biliterate Proficiency* apply to ELs and heritage users?**

Learners bring a variety of languages and cultures to Utah. They may have learned a language at home, in another country, or through local communities. Some may decide to pursue the study of their native language, while others may decide to study a different language. When ELs and heritage users choose to continue their native language, differentiated learning must take place to meet their needs.

ADVANCED LOW: Gold Seal

Students at the Advanced Low sublevel are able to handle a variety of communicative tasks. They are able to participate in most informal and some formal conversations on topics related to school, home, and leisure activities. They can also speak about some topics related to employment, current events, and matters of public and community interest.

Advanced Low users demonstrate the ability to narrate and describe in the major time frames of past, present, and future in paragraph-length discourse with some control of aspect. In these narrations and descriptions, Advanced Low users combine and link sentences into connected discourse of paragraph length, although these narrations and descriptions tend to be handled separately rather than interwoven. They can handle appropriately the essential linguistic challenges presented by a complication or an unexpected turn of events.

Responses produced by Advanced Low users are typically not longer than a single paragraph. The speaker's dominant language may be evident in the use of false cognates, literal translations, or the oral paragraph structure of that language. At times their discourse may be minimal for the level, marked by an irregular flow, and containing noticeable self-correction. More generally, the performance of Advanced Low users tends to be uneven.

Advanced Low usage is typically marked by a certain grammatical roughness (e.g., inconsistent control of verb endings), but the overall performance of the Advanced-level tasks is sustained, albeit minimally. The vocabulary of Advanced Low users often lacks specificity. Nevertheless, Advanced Low users are able to use communicative strategies such as rephrasing and circumlocution.

Advanced Low users contribute to the conversation with sufficient accuracy, clarity, and precision to convey their intended message without misrepresentation or confusion. Their language usage can be understood by native users unaccustomed to dealing with non-natives, even though this may require some repetition or restatement. When attempting to perform functions or handle topics associated with the Superior level, the linguistic quality and quantity of their usage will deteriorate significantly.

INTERMEDIATE MID: Silver Seal

Students at the Intermediate Mid sublevel are able to handle successfully a variety of uncomplicated communicative tasks in straightforward social situations. Conversation is generally limited to those predictable and concrete exchanges necessary for survival in the target culture. These include personal information related to self, family, home, daily activities, interests and personal preferences, as well as physical and social needs, such as food, shopping, travel, and lodging.

Intermediate Mid users tend to function reactively, for example, by responding to direct questions or requests for information. However, they are capable of asking a variety of questions when necessary to obtain simple information to satisfy basic needs, such as directions, prices, and services. When called on to perform functions or handle topics at the Advanced level, they provide some information but have difficulty linking ideas, manipulating time and aspect, and using communicative strategies, such as circumlocution.

Intermediate Mid users are able to express personal meaning by creating with the language, in part by combining and recombining known elements and conversational input to produce responses typically consisting of sentences and strings of sentences. Their usage may contain pauses, reformulations, and self-corrections as they search for adequate vocabulary and appropriate language forms to express themselves. In spite of the limitations in their vocabulary and/or pronunciation and/or grammar and/or syntax, Intermediate Mid users are generally understood by sympathetic interlocutors accustomed to dealing with non-natives.

Overall, Intermediate Mid users are at ease when performing Intermediate-level tasks and do so with significant quantity and quality of Intermediate-level language.

NOVICE HIGH: Bronze Seal

Students at the Novice High sublevel are able to handle a variety of tasks pertaining to the Intermediate level, but are unable to sustain performance at that level. They are able to manage successfully a number of uncomplicated communicative tasks in straightforward social situations. Conversation is restricted to a few of the predict able topics necessary for survival in the target language culture, such as basic personal information, basic objects, and a limited number of activities, preferences, and immediate needs. Novice High users respond to simple, direct questions or requests for information. They are also able to ask a few formulaic questions.

Novice High users are able to express personal meaning by relying heavily on learned phrases or recombinations of these and what they hear from their interlocutor. Their language consists primarily of short and some times incomplete sentences in the present, and may be hesitant or inaccurate. On the other hand, since their language often consists of expansions of learned material and stock phrases, they may sometimes sound surprisingly fluent and accurate. Pronunciation, vocabulary, and syntax may be strongly influenced by the first language. Frequent misunderstandings may arise but, with repetition or rephrasing, Novice High users can generally be understood by sympathetic interlocutors used to non-natives. When called on to handle a variety of topics and perform functions pertaining to the Intermediate level, a Novice High speaker can sometimes respond in intelligible sentences, but will not be able to sustain sentence-level discourse.

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-444 *Distribution of Funds to Arts and Science Organizations* (Repeal/Reenact)

Background:
R277-444 is repealed/reenacted to provide new language for clarification of the RFP process for new organizations and the reapplication process for existing organizations. The reenacted rule also provides numerous technical and conforming changes and corrections.

Key Points:
The changes to R277-444 provide additional details to inform USOE staff about policies and procedures related to the RFP process, reapplication, reporting, and budget, and provide numerous technical changes.

Anticipated Action:
It is proposed that the Standards and Assessment Committee consider approving R277-444, as repealed and reenacted, on first reading and, if approved by the Committee, the Board consider approving R277-444, as repealed and reenacted, on second reading.

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R277. Education, Administration.

[~~**R277-444. Distribution of Funds to Arts and Science Organizations.**~~

~~**R277-444-1. Definitions.**~~

~~A. "Arts organization (organization)" means a non-profit professional artistic organization that provides artistic (dance, music, drama, art) services, performances or instruction to the Utah community.~~

~~B. "Arts and science subsidy program" means groups that have participated in the RFP program and have been determined by the Board to be providing valuable services in the schools. They do not qualify as professional outreach programs.~~

~~C. "Board" means the Utah State Board of Education.~~

~~D. "Cost effectiveness" means maximization of the educational potential of the resources available through the professional organization, not using POPS funding for costs that would be expended necessarily for the maintenance and operation of the organization.~~

~~E. "Educational soundness" means that learning activities or programs:~~

~~(1) are designed for the community and grade level being served, including suggested preparatory activities and Core-relevant follow-up activities;~~

~~(2) feature literal interaction of students and teachers with professional artists and scientists;~~

~~(3) focus on those specific Life Skills and Arts or Science Core Curricula concepts and skills; and~~

~~(4) show continuous improvement of services guided by analysis of evaluative tools.~~

~~F. "Hands-on activities" means activities that include active involvement of students with presenters, ideally with materials provided by the organization.~~

~~G. "Non-profit organization" means an organization no part of the income of which, is distributable to its members, directors or officers; a corporation organized for other than profit-making purposes.~~

~~H. "Professional excellence" means the organization:~~

~~(1) has been juried or reviewed, based on criteria for artistic or scientific excellence, by a panel of recognized and qualified critics in the appropriate discipline;~~

~~(2) has received recognitions of excellence through an award, a prize, a grant, a commission, an invitation to participate in a recognized series of presentations in a well-known venue; and~~

~~(3) includes a recognized and qualified professional in the appropriate field who has created an artistic or scientific project or composition specifically for the organization to present; or~~

~~(4) any combination of criteria.~~

~~I. "Professional outreach programs (POPS) in the schools" means those established arts and science organizations which received line item funding directly from the Utah State Legislature prior to 2004. These organizations have demonstrated the capacity to mobilize programmatic resources and focus them systematically in improving teaching and learning in schools statewide.~~

~~G. "Request for proposal (RFP)" means a competitive application process used to identify programs that best meet requirements established by the Board.~~

~~H. "RFP program" means arts and science organizations that receive one-time funding through application to the USOE.~~

~~I. "School visits" means performances, lecture demonstrations/presentations, in-depth instructional workshops, residencies, side-by-side mentoring, and exhibit tours by~~

~~professional arts and science groups in the community.~~

~~J. "Science organization (organization)" means a non-profit professional science organization that provides science-related services, performances or instruction to the Utah community.~~

~~K. "State Core Curriculum" means those standards of learning that are essential for all Utah students, as well as the ideas, concepts, and skills that provide a foundation on which subsequent learning may be built, as established by the Board.~~

~~L. "USOE" means the Utah State Office of Education.~~

~~R277-444-2. Authority and Purpose.~~

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of the arts and science program is to provide opportunities for students to develop and use the knowledge, skills, and appreciation defined in the arts and science Core curricula through in-depth school instructional services, performances or presentations in school and theatres, or arts or science museum tours.~~

~~C. This rule also provides criteria for the distribution of funds appropriated by the Utah Legislature for this program.~~

~~R277-444-3. Criteria for Eligibility, Applications, and Funding for POPS Organizations.~~

~~A. Established professional outreach program in the schools (POPS) organizations shall be eligible for funding under the POPS program applications and funding criteria and not eligible to apply for the RFP or arts and science subsidy programs.~~

~~B. Documentation of an organization's non-profit status, shall be provided in the annual evaluation report described in R277-444-6.~~

~~C. Every four years, beginning in July 1998, all POPS organizations shall reapply to the USOE to reestablish their continuation and amount of funding. Re-application materials shall be provided by the USOE.~~

~~D. When there are changes in the program funding from the Utah State Legislature, allocations shall be at the discretion of the Board.~~

~~E. Funds shall be distributed annually beginning in August.~~

~~R277-444-4. Criteria for Eligibility, Applications, and Funding for RFP Organizations.~~

~~A. Non-profit professional arts and science organizations that have existed for at least three years prior to application with a track record of proven fiscal responsibility, of demonstrated excellence in their discipline, and with the ability to share their discipline creatively and effectively in educational settings shall be eligible to apply for RFP funding.~~

~~B. Documentation of an organization's non-profit status, professional excellence or educational soundness may be required by the USOE prior to receipt of application from these organizations.~~

~~C. RFP organizations that can demonstrate successful participation in the RFP Program for three years, have an education staff, and the capacity to reach out statewide may apply to the Board to become a POPS organization.~~

~~D. Organizations funded through an RFP process shall submit annual applications to the USOE. Applications shall be provided by the USOE.~~

~~E. The designated USOE specialist(s) shall make final funding recommendations following a review of applications by designated community representatives to the Board by August 31 of the school year in which the money is available.~~

~~F. Application for eligible organizations to become a POPS organization is possible every year through the following process:~~

~~(1) Organizations submit a letter of intent and a master plan for servicing the schools to the designated USOE specialist(s) by the first day of October to determine eligibility and accordingly respond with an invitation to meet and complete the application and evaluation process required of all established POPS and arts and science subsidy organizations in their re-application procedure every four years.~~

~~(2) The completed application, original letter of intent, and recommendations based on the evaluation are submitted to the Board through the designated USOE specialist(s) by June 1.~~

~~(3) The Board or designee meets with the designated USOE specialist(s) to determine whether or not to approve the applicant as a candidate to become a POPS organization.~~

~~(4) The Board shall request new money for a new POPS organization from the Utah State Legislature if the application is approved, prior to providing funds to the newly approved organization.~~

~~(5) The same procedure would be followed for organizations desiring to apply to be arts and science subsidy organizations, and to re-apply to establish their funding level and standing as an arts and science subsidy group.~~

~~(6) Arts and science organizations meeting the arts and science subsidy criteria may apply for the arts and science subsidy program, but may not apply for RFP funding.~~

~~G. When there are changes in the program funding from the Utah State Legislature, allocations shall be at the discretion of the Board.~~

~~H. Funds shall be distributed annually beginning in August.~~

~~R277-444-5. Process for Continued Funding of Arts and Science Subsidy Program Organizations.~~

~~A. Scientists, artists, or entities hired or sponsored for services in the schools, directly or indirectly through coordinating organizations, shall be subject to the same review and approval for funding process.~~

~~B. Every four years, beginning in 2010, all arts and science subsidy program organizations shall reapply to the USOE to reestablish the continuation and amount of funding. Re-application materials shall be provided by the USOE.~~

~~C. When there are changes in the program funding from the Utah State Legislature, annual allocations shall be at the discretion of the Board.~~

~~D. Funds shall be distributed annually beginning in August.~~

~~R277-444-6. Criteria for Evaluation and Accountability of Funding.~~

~~A. Arts and science organizations qualifying for POPS or RFP funding may not charge schools for services funded under those programs.~~

~~B. Organizations may be visited by USOE staff prior to funding or at school presentations during the funding cycle to evaluate the effectiveness and preparation of the organization.~~

~~C. Organizations that receive arts and science funding shall submit annual evaluation reports to the USOE by July 1.~~

~~D. The year-end report shall include:~~

~~(1) a budget expenditure report and income source report using a form provided by the USOE, including a report and accounting of fees charged, if any, to recipient schools, districts, or organizations; and~~

~~(2) record of the dates and places of all services rendered, the number of instruction and performance hours per district, school, and classroom service, as applicable, with the number of students and teachers served, including:~~

~~(a) documentation that all school districts and schools have been offered opportunities for participation with all organizations over a three year period consistent with the arts and science organizations' plans and to the extent possible; and~~

~~(b) documentation of collaboration with the USOE and school communities in planning visit preparation/follow up and content that focuses on the state Core curriculum; and~~

~~(c) arts or science and their contribution(s) to students' development of life skills; and~~

~~(3) a brief description of services provided by the organizations through the fine arts and science POPS, RFP, or arts and science subsidy programs, and if requested, copies of any and all materials developed; and~~

~~(4) a summary of organization's evaluation of:~~

~~(a) cost-effectiveness;~~

~~(b) procedural efficiency;~~

~~(c) collaborative practices;~~

~~(d) educational soundness;~~

~~(e) professional excellence; and~~

~~(f) the resultant goals, plans, or both, for continued evaluation and improvement.~~

~~E. The USOE may require additional evaluation or audit procedures from organizations to demonstrate use of funds consistent with the law and this rule.~~

~~F. Funding and levels of funding to POPS, RFP, and arts and science subsidy programs are continued at the discretion of the Board based on review of information collected in year-end reports.~~

~~R277-444-7. Variations or Waivers.~~

~~A. No deviations from the approved and funded arts or science proposals shall be permitted without prior approval from the designated USOE specialist(s) or designee.~~

~~B. The USOE may require requests for variations to be submitted in writing.~~

~~C. The nature and justification for any deviation or variation from the approved proposal shall be reported in the year-end report.~~

~~D. Any variation shall be consistent with law and the purposes of this rule.~~]

R277-444. Distribution of Money to Arts and Science Organizations.

R277-444-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system with the Board;

(b) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities; and

(c) Section 53A-1-402, which directs the Board to establish rules and standards for the public schools, including curriculum and instruction requirements.

(2) The purpose of this rule is to provide for the distribution of money appropriated by the state to an arts or science organization that:

(a) provides an educational service to a student or teacher; and

(b) facilitates a student developing and using the knowledge, skills, and appreciation defined in an arts or science core standard.

R277-444-2. Definitions.

(1) "Arts organization" means a professional artistic organization that provides an educational service related to dance, music, drama, art, visual art, or media art in the state.

(2) "Community" means the group of persons that have an interest or involvement in the education of a person in kindergarten through grade 12, including:

(a) a student, parent, teacher, and administrator; and

(b) an association or council that represents a person described in Subsection (2)(a).

(3) "Core standard" means a standard:

(a) established by the Board in Rule R277-700 as required by Section 53A-1-402; and

(b) that defines the knowledge and skills a student should have in kindergarten through grade 12 to enable a student to be prepared for college or workforce training.

(4) "Cost effectiveness" means:

(a) maximization of the educational potential of the resources available

through the organization; and

(b) not using money received through a program for the necessary maintenance and operational costs of the organization.

(5) “Educational service” means an in-depth instructional workshop, demonstration, presentation, performance, residency, tour, exhibit, teacher professional development, side-by-side mentoring, or hands-on activity that:

(a) relates to an arts or science core standard; and

(b) takes place in a public school, charter school, professional venue, or a facility.

(6) “Educational soundness” means an educational service that:

(a) is designed for the community and grade level being served, including a suggested preparatory activity and a follow-up activity that are relevant to a core standard;

(b) features literal interaction of a student or teacher with an artist or scientist;

(c) focuses on a specific core standard; and

(d) shows continuous improvement guided by analysis of an evaluative tool.

(7) “Hands-on activity” means an activity that includes active involvement of a student with an artist or scientist, ideally with material provided by the organization.

(8) “Informal Science Education Enhancement program” or “iSEE program” means a program described in Section R277-444-7 for which a science organization may apply to receive money appropriated by the state.

(9) “Organization” means:

(a) a nonprofit corporation organized under:

(i) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act; or

(ii) Section 501(c)(3), Internal Revenue Code; and

(b)(i) an arts organization; or

(ii) a science organization.

(10) “Procedural efficiency” means the organization delivers the educational service without wasting money or other resources.

(11) “Professional excellence” means the organization:

(a) has been juried or reviewed, based on criteria for artistic or scientific excellence, by a panel of recognized and qualified critics in the appropriate

discipline;

(b) has received a recognition of excellence through an award, a prize, a grant, a commission, or an invitation to participate in a recognized series of presentations in a well-known venue;

(c) includes a recognized and qualified professional in the appropriate discipline who has created an artistic or scientific project or composition specifically for the organization to present; or

(d) any combination of criteria described in Subsections (11)(a) through (c).

(12) "Professional outreach programs in the schools program" or "POPS program" means a program described in Section R277-444-7 for which an arts organization may apply to receive money appropriated by the state.

(13)(a) "Program" means the system through which the Board grants money appropriated by the state to an organization to enable the organization to provide its expertise and resources through an educational service in the teaching of a core standard.

(b) "Program" includes:

(i) the Provisional program;

(ii) the POPS program;

(iii) the iSEE program;

(iv)the Science Enhancement program;

(v) the Integrated Student and New Facility Learning program; and

(vi) the Subsidy program.

(14) "Science organization" means a professional science organization that provides a science-related educational service in the state.

R277-444-3. Program Application.

(1)If the state appropriates money for a program, an organization may apply to receive money from a program:

(a) on an application form provided by the Superintendent; and

(b) by May 30 of the fiscal year immediately prior to the fiscal year in which the organization is to receive the money.

(2) The application shall include:

(a) documentation that the organization is:

(i) a non-profit corporation that has existed at least three consecutive years prior to the date of the application;

(ii) an arts organization or a science organization that has attained professional excellence in the discipline; and

(iii) fiscally responsible;

(b) a description of the matching funds required by Subsection R277-444-4(3); and

(c) an educational service plan, which describes:

(i) the educational service that the organization will use the program money to provide; and

(ii) a plan to creatively and effectively provide the educational service.

(3)(a) The Superintendent shall evaluate an application with community representatives and make a recommendation on the application to the Board at the Board's August meeting.

(b) The Board shall approve or deny an application based on:

(i) whether the organization meets the requirements of this rule; and

(ii) how well the organization's educational service plan meets the purpose of this rule.

R277-444-4. Grant General Provisions and Disbursement.

(1)(a) The Superintendent shall make a recommendation to the Board at the Board's August meeting on the grant amount for an organization based on:

(i) the annual appropriation for a program;

(ii) the grant amount an organization received in a previous fiscal year, if any;

(iii) an organization's year-end report, if any; and

(iv) how well the organization's educational service plan meets the purpose of this rule relative to the other organizations participating in the program.

(b) If the state reduces the amount of money appropriated for a program from the previous fiscal year, the Board may use its discretion to allocate the money among the organizations participating in the program.

(2)(a) The Superintendent shall notify an organization of the grant amount by

126 August 30.

127 (b) (i) The Superintendent shall disburse the money to an organization after
128 an organization submits a request for reimbursement on a form provided on the
129 USOE website.

130 (ii) An organization shall submit a reimbursement form on or before July 10
131 for an expense incurred by an organization through the implementation of an
132 educational service plan.

133 (3) An organization that receives money from a program shall have equal
134 matching money from another source to support its delivery of an educational
135 service.

136 (4)(a) Except as provided by Subsection (4)(b), an organization may not
137 charge the school, teacher, or student a fee for the educational service for which the
138 organization receives program money.

139 (b) An organization that receives money from the Subsidy program may
140 charge a fee for an educational service.

141 (5) A scientist, artist, or entity hired or sponsored by an organization to provide
142 an educational service shall comply with the procedures and requirements of this
143 rule.

144 **R277-444-5. Year-end Report - Evaluation – Accountability – Variations.**

145 (1) (a) An organization that receives money from a program shall submit a
146 year-end report to the Superintendent by July 10.

147 (b) The year-end report shall include:

148 (i) documentation of the organization's non-profit status;

149 (ii) a budget expenditure report and income source report using a form
150 provided by the Superintendent, including a report and accounting of matching funds
151 and a fee charged, if any, for an educational service;

152 (iii) a record of the dates and places of all educational services rendered, the
153 number of hours of educational service per LEA, school, and classroom, as
154 applicable, with the number of students and teachers served, including:

(A) documentation of the schools that have been offered an opportunity to receive an educational service over a three year period, to the extent possible and consistent with the organization's plan;

(B) documentation of collaboration with the Superintendent and the community in planning the educational service, including the content, a preparatory activity, and a follow-up activity that are relevant to a core standard;

(C) a brief description of the educational service provided through the program, and if requested, copies of any material developed; and

(D) a description of how the educational service contributed to a student developing and using the knowledge, skills, and appreciation defined in an arts or science core standard;

(iv) a summary of the organization's evaluation of:

(A) cost-effectiveness;

(B) procedural efficiency;

(C) collaborative practices;

(D) educational soundness; and

(E) professional excellence; and

(v) a description of the resultant goal or plan for continued evaluation and improvement.

(2) The Superintendent may visit an organization to evaluate the effectiveness and preparation of the organization:

(a) before the Board approves an application;

(b) before disbursing money; and

(c) during an educational service.

(3)(a) In addition to the year-end report required by Subsection (1), the Superintendent may require an evaluation or an audit procedure from an organization demonstrating use of money consistent with state law and this rule.

(b)If the Board finds that an organization did not use money received from a program consistent with state law and this rule, the Board may:

(i) require the organization to return the money;

(ii) reduce or eliminate the grant to the organization in the current fiscal year;

186 (iii) deny an organization's participation in a program in a future fiscal year;
187 or
188 (iv) impose any other consequence the Board deems necessary to ensure the
189 proper use of public funds.
190 (4)(a) An organization may not deviate from the approved educational service
191 plan for which the organization receives money unless:
192 (i) the organization submits a written request for variation to the
193 Superintendent;
194 (ii) the organization receives approval from the Superintendent for the
195 variation; and
196 (iii) the variation is consistent with state law and this rule.
197 (b) An organization shall describe the nature and justification for a variation
198 approved under Subsection (4)(a) in a year-end report.
199 (5) The Superintendent shall ensure that participating LEAs receive
200 educational services in a balanced and comprehensive manner over a three year
201 period.

202 **R277-444-6. Provisional Program Requirements**.
203 (1) Through the Provisional program, the Board may grant an organization
204 money to enable the organization to:
205 (a) further develop an educational service that is sound;
206 (b) increase the number of students or teachers who receive an educational
207 service; or
208 (c) expand the geographical location in which the educational service is
209 delivered.
210 (2) The Board may grant money from the Provisional program to an
211 organization for one year.
212 (3) An organization may apply for a grant each year for up to five years if the
213 organization demonstrates an increase in the educational service between the year-
214 end report and the proposed educational service plan described in the application.

215 **R277-444-7. POPS and iSEE Program Requirements**.

(1)(a) Through the POPS program, the Board may grant money to an arts organization to provide an educational service state-wide.

(b) Through the iSEE program, the Board may grant money to a science organization to provide an educational service state-wide.

(c)A grant from the POPS program or iSEE program is on-going, subject to the review required by Subsection (4).

(2)(a) An arts organization may apply for the POPS program and a science organization may apply for the iSEE program if the organization:

(i)has successfully participated in the Provisional program for three consecutive years in which the state appropriates money to the Provisional program;

(ii) has educational staff and the capacity to deliver an educational service state-wide; and

(iii) demonstrates during participation in the Provisional program:

(A) the quality and improvement of an educational service; and

(B) fiscal responsibility.

(b) An organization shall submit a letter of intent to transition from the Provisional program to the POPS program or the iSEE program to the Superintendent by October 1 of the calendar year immediately before the calendar year in which the organization submits the application for the POPS program or the iSEE program.

(3) An organization that receives money from the POPS program or iSEE program may not receive money from the Provisional program or the Subsidy program in the same fiscal year.

(4)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the POPS program and the iSEE program, which may include:

(i) evaluation of an educational service plan, year-end report, reimbursement form, or audit; and

(ii) attendance at an educational service or a site visit.

(b) The Superintendent shall:

(i) report to the Board the results of the review and evaluation; and

(ii) make a recommendation to the Board regarding an organization's continued participation in the program based on how well the organization fulfills the purpose of this rule.

R277-444-8. Science Enhancement Program Requirements.

(1)(a) Through the Science Enhancement program, the Board may grant money to a science organization to provide a teacher with resources materials or professional development related to a science core standard.

(b)A grant from the Science Enhancement program is on-going, subject to the review required by Subsection (4).

(2) A science organization that participates in the iSEE program may apply for the Science Enhancement program.

(3) The Board may approve an application to participate in the Science Enhancement program if the science organization demonstrates a likely increase in:

(a) the number of teachers or students the organization serves; or

(b) the quality or quantity of the resource materials or professional development the organization delivers.

(4)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the Science Enhancement program, which may include evaluation of the resource materials, professional development plan, year-end report, reimbursement form, or audit.

(b) The Superintendent shall:

(i) report to the Board the results of the review and evaluation; and

(ii) make a recommendation to the Board regarding an organization's continued participation in the Science Enhancement program based on how well the organization fulfills the purpose of this rule.

R277-444-9. Integrated Student and New Facility Learning Program Requirements.

(1)Through the Integrated Student and New Facility Learning program, the Board may grant money to a science organization to enable the science organization

to provide an educational service integrated with the science organization's new or significantly re-designed capital facility.

(2) An science organization that participates in the iSEE program may apply for the Integrated Student and New Facility Learning program.

(3) The Board shall determine the length of the grant and how often the Superintendent shall review and evaluate an organization's continued participation in the program.

(4) The science organization may use the money to:

(i) develop an educational service integrated with the capital facility; and

(ii) cover its costs associated with increasing the number of students who visit the capital facility.

(5) The Superintendent may not disburse money until the science organization completes the capital facility.

R277-444-10. Subsidy Program Requirements.

(1)(a) Through the Subsidy program, the Board may grant money to an organization that provides a valuable education service but does not qualify for participation in another program.

(b) A grant from the Subsidy program is on-going, subject to the review required by Subsection (5).

(2)(a)An organization may apply to receive money through the Subsidy program if the organization has successfully participated in the Provisional program for three consecutive years in which the state appropriated money to the Provisional program.

(b) An organization shall submit a letter of intent to transition from the Provisional program to the Subsidy program to the Superintendent by October 1 of the calendar year immediately before the calendar year in which the organization submits the application for the Subsidy program.

(3)The Board may approve an application to participate in the Subsidy program if the Board finds the organization:

(a) has successfully provided a valuable educational service during its participation in the Provisional program; and

(b) does not meet the requirements to participate in the POPS program or iSEE program because the organization:

(i) delivers an educational service regionally instead of state-wide; or

(ii) charges a fee for an educational service.

(4) An organization that receives money from the Subsidy program may not receive money from the another program in the same fiscal year.

(5)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the Subsidy program, which may include:

(i) evaluation of an educational service plan, year-end report, reimbursement form, or audit; and

(ii) attendance at an educational service or a site visit.

(b) The Superintendent shall:

(i) report to the Board the results of the review and evaluation; and

(ii) make a recommendation to the Board regarding an organization's continued participation in the Subsidy program based on how well the organization fulfills the purpose of this rule.

KEY: arts, science, core standards

Date of Enactment or Last Substantive Amendment: [~~July 18, 2005~~]2015

Notice of Continuation: [~~September 24, 2010~~]2015

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

UTAH STATE BOARD OF EDUCATION

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-920 *Implementation of the School Turnaround and Leadership Development Act* (New)

Background:
This new rule is in response to S.B. 235 *Education Modifications*, 2015 Legislative Session. The purpose of this rule is to implement and administer the School Turnaround and Leadership Development Act.

Key Points:
R277-920 defines low performing schools, provides procedures for submission and approval of a school turnaround plan, establishes an appeals process for a denial of a school turnaround plan, establishes consequences for a low performing school that fails to raise the school's grade, and provides procedures for the School Leadership Development Program.

Anticipated Action:
It is proposed that the Standards and Assessment Committee consider approving R277-920 on first reading and, if approved by the Committee, the Board consider approving R277-920 on second reading.

Contact: Brad Smith, 801-538-7510
Angie Stallings, 801-538-7550
Rich Nye, 801-538-7550
Ann White, 801-538-7827

R277. Education, Administration.

R277-920. Implementation of the School Turnaround and Leadership Development Act.

R277-920-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities; and

(c) Title 53A, Chapter 1, Part 12, School Turnaround and Leadership Development Act, which requires the Board to make rules to establish:

(i) outcome-based measures to designate a low performing school;

(ii) an appeal process for the denial of a school turnaround plan;

(iii) consequences for a low performing school; and

(iv) eligibility criteria, application procedures, selection criteria, and procedures for awarding incentive pay for the School Leadership Development Program.

(2) The purpose of this rule is to implement and administer the School Turnaround and Leadership Development Act.

R277-920-2. Definitions.

(1) “Appeal committee” means the committee established by Section R277-920-5.

(2) “Committee” means a school turnaround committee established in accordance with Subsection 53A-1-1204(1) or 53A-1-1205(4).

(3) “Eligible school” means the same as that term is defined in Section 53A-1-1208.

(4) "Low performing school" means a school in the lowest performing:

(a) 3% of the high schools statewide according to the percentage of possible points earned under the school grading system; and

(b) 3% of the elementary, middle, and junior high schools statewide according to the percentage of possible points earned under the school grading system.

(5) “Plan” means a school turnaround plan described in Subsection 53A-1-

1204(3).

(6) “School improvement grant” means a Title I grant under the Elementary and Secondary Education Act, 20 U.S.C. Sec. 6303(g).

(7) “School leader” means the same as that term is defined in Section 53A-1-1209.

(8) “School turnaround program” means the school turnaround program described in:

(a) Sections 53A-1-1203 through 53A-1-1207; and

(b) Sections R277-920-3 through R277-920-7.

R277-920-3. Superintendent’s Designation of Low Performing Schools and Waiver Authority.

(1) The Superintendent may issue a waiver and exclude a low performing school from participating in the school turnaround program if the low performing school:

(a) has been designated a priority school by the Superintendent;

(b) received school improvement grant money for the school year immediately following the school year for which the school is being graded; and

(c) is already working with a turnaround expert through the school improvement grant.

(2) If the Superintendent excludes a low performing school from the school turnaround program as described in Subsection (1), the Superintendent shall designate additional schools, outside of the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school grading system, until the school turnaround program includes at least 3% of the total public schools statewide.

(3) When selecting an additional school described in Subsection (2), the Superintendent shall include the next lowest performing schools according to the percentage of possible points earned under the school grading system.

R277-920-4. School turnaround plan submission and approval process.

(1) (a) A local school board or charter school governing board may approve

or deny a plan in whole or in part, if the part of the plan the board denies is severable from the part of the plan the board approves.

(b) A local school board or charter school governing board shall give a reason for a denial of each part of a plan.

(2) A local school board or charter school governing board shall submit a plan in accordance with Subsection 53A-1-1204(5)(b) or 53A-1-1205(7)(b) to the Superintendent.

(3)(a) In accordance with Subsection 53A-1-1206(4), the Superintendent shall review and approve or deny a plan in whole or in part, if the part of the plan the Superintendent denies is severable from the part of the plan the Superintendent approves.

(b)The Superintendent shall give a reason for a denial of each part of a plan.

R277-920-5. Appeal process for denial of a school turnaround plan.

(1) A committee, local school board, or charter school governing board may appeal the denial of a plan, in whole or in part, by following the procedures and requirements of this section.

(2) An appeal authorized by this rule:

(a) is an informal adjudicative proceeding under Section 63G-4-203; and

(b) shall be resolved by the date specified in Subsection 53A-1-1206(5)(b).

(3) (a) A principal, on behalf of a committee, may request that the local school board or the charter school governing board reconsider the denial of a plan:

(i) by electronically filing the request:

(A) with the chair of the local school board or the charter school governing board; and

(B) on a form provided on the USOE website; and

(ii) within 5 calendar days of the denial.

(b) The reconsideration request may include a modification to the plan if the committee approves the modification.

(c) The local school board or the charter school governing board shall respond to the request within 10 calendar days by:

(i) refusing to reconsider its action;

(ii) approving a plan, in whole or in part; or

(iii) denying a plan modification.

(d) The principal may appeal the denial of a plan under this Subsection (3):

(i) by electronically filing an appeal with the Superintendent on a form provided on the USOE website; and

(ii) within 5 calendar days of the denial.

(e) An appeal filed under this subsection shall be resolved in accordance with Subsections (5) and (6).

(4) A district superintendent, on behalf of a local school board, or a charter school governing board chair, on behalf of a charter school governing board, may appeal the Superintendent's denial of a plan:

(a) by electronically filing an appeal with the Superintendent on a form provided on the USOE website; and

(b) within 5 calendar days of the denial.

(5)(a) At least three members of a Board committee, appointed by the Board as the appeal committee, shall review the written appeal.

(b) The appeal committee may ask the principal, district superintendent, local school board chair, or charter school governing board chair to:

(i) provide additional written information; or

(ii) appear personally and provide information.

(c) The appeal committee shall make a written recommendation within 5 business days of receipt of the appeal request to the Board to accept, modify, or reject the plan and give a reason for the recommendation.

(6) The Board may accept or reject the appeal committee's recommendation and the Board's decision is the final administrative action.

R277-920-6. Consequences for a low performing school.

(1) The Board may impose a consequence described in this section if a low performing school does not improve the school's grade one letter grade or better within the time described in Subsection 53A-1-1207(3).

(2) The Board may restructure a low performing district school by taking over the low performing district school, or by other means as the Board deems

124 appropriate.
125 (3) The Board may restructure a low performing charter school by taking over
126 the low performing charter school, or by:
127 (a) closing the low performing charter school; or
128 (b) other means as the Board deems appropriate.

129 **R277-920-7. Hearing and procedure requirements related to the Board's**
130 **imposition of a consequences for low performing schools.**
131 On or before December 1, 2016, the Superintendent shall make
132 recommendations to the Board for changes to this rule regarding hearing and
133 procedure requirements related to the Board's imposition of a consequence as
134 described in Section R277-920-6.

135 **R277-920-8. School Leadership Development Program.**
136 (1) A school leader of a low performing school shall participate in the School
137 Leadership Development Program.
138 (2)(a) A school leader other than a school leader described in Subsection (1)
139 may apply to participate in the School Leadership Development Program.
140 (b) A school leader described in Subsection (2)(a) may apply to participate in
141 the School Leadership Development Program if the school leader:
142 (i) is assigned to a priority school as designated by the Superintendent; or
143 (ii) is nominated by the school leader's district superintendent or charter
144 school governing board to participate.
145 (3) A school leader who meets the requirements of Subsection (2) may apply
146 to participate in the School Leadership Development Program by electronically
147 submitting an application to the Superintendent on a form provided on the USOE
148 website by the date specified on the USOE website.
149 (4)(a) The Superintendent shall select a school leader to participate in the
150 School Leadership Development Program based on the following selection criteria:
151 (i) first priority is given to a school leader who is assigned to a low performing
152 school;
153 (ii) second priority is given to a school leader who is assigned to a priority

154 school as designated by Superintendent; and
155 (iii) third priority is given to a school leader who is nominated by the school
156 leader's district superintendent or charter school governing board.
157 (b) Notwithstanding Subsection (4)(a), the Superintendent may give priority
158 to a school leader who has not received prior leadership training before selecting a
159 school leader who has received prior leadership training.
160 (5) A district superintendent of a school leader participating in the School
161 Leadership Development Program shall also participate in the School Leadership
162 Development Program to:
163 (a) support the school leader participating in the School Leadership
164 Development Program; and
165 (b) assist the school district's local school board to fulfill the requirements of
166 Subsection 53A-1-1204(4).
167 (6)(a) In accordance with Subsection 53A-1-1209(4), the Superintendent shall
168 award incentive pay to a school leader within 30 days after the school leader:
169 (i) completes the School Leadership Development Program; and
170 (ii) submits a written agreement to the Superintendent to work as described
171 in Subsection 53A-1-1209(4).
172 (b) The Superintendent shall evenly divide the appropriation among the
173 school leaders who meet the requirements of this Subsection (6).
174 (7) The Superintendent may award incentive pay to a school leader described
175 in Subsection (6) for up to five years.

176 **R277-920-9. School Recognition and Reward Program.**
177 (1) The Superintendent shall distribute school recognition and reward program
178 money to the principal of an eligible school:
179 (a) in accordance with Section 53A-1-1208; and
180 (b) within 30 days of the Board's official release of school grades for the year
181 the eligible school is eligible for an award of money.
182 (2) The Superintendent shall notify the principal of an eligible school within 15
183 days of the Board's official release of school grades:
184 (a) that the eligible school is eligible for an award of money pursuant to

185 Section 53A-1-1208; and

186 (b) of the amount of the award that the eligible school will receive.

187 (3) In accordance with Section 53A-1-1208, the principal shall distribute the

188 money received under Subsection (1):

189 (a) to each educator assigned to the school for all of the years the school

190 participated in the school turnaround program; and

191 (b) in a pro-rated manner to each educator assigned to the school for less

192 time than the school participated in the school turnaround program.

193 **KEY: school, improvement, leader**

194 **Date of Enactment of Last Substantive Amendment: 2015**

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

196 **Title 53A-1-12**

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Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: R277-616 *Education for Homeless and Emancipated Students*
(Continuation and Amendment)

Background:

1. R277-616 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 November 8, 2015. Staff have reviewed R277-616 and determined that the rule continues to be necessary.
2. R277-616 is amended to provide technical and conforming changes.

Key Points:

1. R277-616 continues to be necessary because it provides criteria for LEAs to follow to ensure that homeless children and youth have the opportunity to attend school with as little disruption as reasonably possible.
2. Technical and conforming changes are made throughout the rule.

Anticipated Action:

1. It is proposed that the Standards and Assessment Committee consider approving R277-616 for continuation on first reading and, if approved by the Committee, the Board consider approving R277-616 for continuation on second reading.
2. It is proposed that the Standards and Assessment Committee consider approving R277-616, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-616, as amended, on second reading.

Contact: Angie Stallings, 801-538-7550
Ann White, 801-538-7827
Jeff Ojeda, 801-538-7945

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

R277. Education, Administration.

R277-616. Education for Homeless and Emancipated Students.

R277-616-[~~2~~]1. Authority and Purpose.

[~~A.~~](1) This rule is authorized [~~under~~]by:

(a) Utah Constitution Article X, Section 3, [~~of the Utah State Constitution,~~]which vests general control and supervision of the public school system under the Board;

(b) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities[~~,~~];

(c) Section 53A-11-101.5, which requires that minors between the ages of 6 and 18 attend school during the school year[~~,~~];

(d) Subsection 53A-2-201(5), which makes each school district or charter school responsible for providing educational services for all children of school age who reside in the school district or attend the school[~~,~~]; and

(e) the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435.

[~~B.~~](2) The purpose of this rule is to ensure that homeless children/youth have the opportunity to attend school with as little disruption as reasonably possible.

R277-616-[~~1~~]2. Definitions.

[~~A. "Board" means the Utah State Board of Education.~~]

[~~B.~~](1) "Domicile" means the place which a person considers to be the permanent home, even though temporarily residing elsewhere.

[~~C.~~](2) "Emancipated minor" means:

([~~1~~]a) a child under the age of 18 who has become emancipated through marriage or by order of a court consistent with Section 78A-6-801 et seq.; or

([~~2~~]b) a child recommended for school enrollment as an emancipated or independent or homeless child/youth by an authorized representative of the Utah State Department of Social Services.

[~~D.~~](3) "Enrolled" for purposes of this rule means a student has the opportunity to attend classes and participate fully in school and extracurricular activities based on academic and citizenship requirements of all students.

[~~E.~~](4) “Homeless child[~~/~~]” or “homeless youth” means a child who:

([~~1~~]a) lacks a fixed, regular, and adequate nighttime residence;

([~~2~~]b) has primary nighttime residence in a homeless shelter, welfare hotel, motel, congregate shelter, domestic violence shelter, car, abandoned building, bus or train station, trailer park, or camping ground;

([~~3~~]c) sleeps in a public or private place not ordinarily used as a regular sleeping accommodation for human beings;

([~~4~~]d) is, due to loss of housing or economic hardship, or a similar reason, living with relatives or friends usually on a temporary or emergency basis due to lack of housing; or

([~~5~~]e) is a runaway, a child or youth denied housing by his family, or school-age unwed mother living in a home for unwed mothers, who has no other housing available.

[~~F. “Parent” means a parent or guardian having legal custody of a minor child.~~]

[~~G.~~](5) “School district of residence for a homeless child/youth” means the school district in which the student or the student's legal guardian or both currently resides or the charter school that the student is attending for the period that the student or student's family satisfies the homeless criteria.

[~~H. “USOE” means the Utah State Office of Education.~~]

R277-616-3. Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School.

[~~A.~~](1) Under the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435, homeless [~~students~~]children are entitled to immediate enrollment and full participation even if they are unable to produce records which may include medical records, birth certificates, school records, or proof or residency normally required for enrollment.

[~~B.~~](2) A homeless [~~student~~]child or homeless youth shall:

([~~1~~]a) be immediately enrolled even if the [~~student~~]homeless youth does not have documentation required under Sections 53A-11-201, 301, 302, 302.5 and Section 53A-2-201 through 213;

([~~2~~]b) be allowed to continue to attend his school of origin, to the extent feasible, unless it is against the parent[~~/guardian~~]'s wishes;

(c) be permitted to remain in the student's school of origin for the duration of the homelessness and until the end of any academic year in which the student moves into permanent housing; or

([~~3~~]d) transfer to the school district of residence or charter school if space is available as defined under Subsection R277-616-1I.

[~~B.~~](2) A [~~D~~]determination of a residence or domicile for a homeless youth or emancipated minor may include consideration of the following criteria:

([~~1~~]a) the place, however temporary, where the child actually sleeps;

([~~2~~]b) the place where an emancipated minor or an unaccompanied [~~child/~~]youth or accompanied [~~child's/~~]youth's family keeps [~~its~~]the family's belongings;

([~~3~~]c) the place which an emancipated minor or an unaccompanied [~~child/~~]youth or accompanied [~~child's/~~]youth's parent considers to be home; or

([~~4~~]d) such recommendations concerning a child's domicile as made by the State Department of Human Services.

[~~C.~~](3) Determination of a residence or domicile for a homeless youth or emancipated minor may not be based upon:

([~~1~~]a) rent or lease receipts for an apartment or home;

([~~2~~]b) the existence or absence of a permanent address; or

([~~3~~]c) a required length of residence in a given location.

[~~D.~~](4) If there is a dispute as to the residence or the status of an emancipated minor or an unaccompanied [~~child/~~]youth, the issue may be referred to the [~~USOE~~]Superintendent for resolution.

[~~E.~~](5) The purpose of federal homeless education legislation is to ensure that a child's education is not needlessly disrupted because of homelessness.

(6) If a child's residence or eligibility is in question, the child shall be admitted to school until the issue is resolved.

R277-616-4. Transfer of Guardianship.

[~~A.~~](1) If guardianship of a minor child is awarded to a resident of a school

district by action of a court or through appointment by a school district under Section 53A-2-202, the child becomes a resident of the school district in which the guardian resides.

[~~B.~~](2) If a child's residence has been established by transfer of legal guardianship, no tuition may be charged by the new school district of residence.

KEY: compulsory education, students' rights

Date of Enactment or Last Substantive Amendment: [~~August 8, 2011~~]2015

Notice of Continuation: [~~November 10, 2010~~]2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-2-201(5); 53A-2-202

Board Meeting

8:00 a.m. to 8:15 a.m.

5. **Opening Business**
    - Pledge of Allegiance
    - Swearing in of Stan Lockhart
    - Board Member Message
    - Recognition of Former Board Member
    - Introduction of New Employees

8:15 a.m. to 8:30 a.m.

6. **Public Participation/Comment**

    Priority shall be given to those individuals or groups, who, prior to the day of the meeting, have submitted a request to address the Board. Sign up is available the day of the meeting before 8:00 a.m.

8:30 a.m. to 8:40 a.m.

7. **ACTION:** General Consent Calendar (backup furnished electronically at http://www.schools.utah.gov/board/Meetings.aspx). Tab 7

8:40 a.m. to 8:55 a.m.

8. **ACTION:** Monthly Budget Report - Year End Close Tab 8

8:55 a.m. to 9:15 a.m.

9. **ACTION:** Options regarding SAGE Licensing by Other Vendors Tab 9

9:15 a.m. to 9:30 a.m.

10. **INFORMATION:** 2015 Report of the Public Educator Evaluation Committee Tab 10

9:30 a.m. to 9:45 a.m.

11. **ACTION:** Superintendent's Report

9:45 a.m. to 10:00 a.m.

12. Audit Committee Report

    ACTION: 2016 Prioritized Audit Plan Tab 12-1

    ACTION: Internal Audit Request for SFY17 Funding Priorities Tab 12-2

    ACTION: Request for Change to Utah Code 63I-5 *Internal Audit Act* Tab 12-3

10:00 a.m. to 10:15 a.m.

BREAK

10:15 a.m. to 12:00 p.m.

13. **ACTION:** Standing Committee Reports
    - Finance Committee — Tabs 4-A through 4-P
    - Law and Licensing Committee — Tabs 4-Q through 4-BB
    - Standards and Assessment Committee — Tabs 4-CC through 4-II

12:00 p.m. to 12:45 p.m.

LUNCH

12:45 p.m. to 1:00 p.m.

15. **INFORMATION:** Board Chair's Report
    - Legislative Update

1:00 p.m. to 1:15 p.m.

16. **INFORMATION:** Board Member Comments

1:15 p.m. to 2:15 p.m.

17. **EXECUTIVE SESSION**

2:15 p.m. to 2:30 p.m.

18. **ACTION:** Executive Session Items
    - Licensing Actions and UPPAC Recommendations — Tab 18
    - Appointments

2:30 p.m.

19. **ADJOURNMENT**

General Consent Calendar
August 7, 2015

Backup furnished electronically at http://www.schools.utah.gov/board/Meetings/Agenda.aspx

A. Minutes of Previous Meeting Tab A

Minutes of the Utah State Board of Education meeting held June 18-19, 2015 are presented for approval.

B. Contracts Tab B

It is proposed that the Board approve the following contracts:

1. Evaluation and Training Institute, $947,760, 08/15/2015 to 12/31/2019

   To provide independent external evaluation of the UPSTART program.

2. Multiple vendors to be determined based on RFP solicitation BC16001 process that closed July 16, 2015, $8,000,000, 08/15/2015 to 08/14/2020

   To provide a data analysis component for the USOE's chosen diagnostic assessment system for reading for students in kindergarten through grade three.

3. ESP Solutions Group, Inc., $441,150, 09/01/2015 to 08/31/2020

   To license the Vertical Reporting Framework (VRF) software for the Utah Transcript and Record Exchange (UTREx).

4. Kimono, LLC, $850,000, 09/01/2015 to 09/01/2020

   To provide Student Locator Framework (SIFWorks SLF) and Zone Integration Server (SIFWorks ZIS) software for the Utah Transcript and Record Exchange (UTREx).

5. Snapp Studios, LLC, $1,237,518, 09/01/2015 to 08/31/2020

   To provide Drivers Education training software.

6. Utah Statewide Independent Living Council, $175,567, 10/01/2015 to 09/30/2016, Amendment

   To provide resources to the Independent Living Program in accordance with federal Title VII Part B and the State Plan for Independent Living.

C. Contract Reports Tab C

It is proposed that the Board receive the following reports: *Contracts approved by State Superintendent or USOR Director (less than $100,000)* and *USOE/USOR Expiring Contracts with Renewals*.

D. Qualified Zone Academy Bond (QZAB) Tab D

The State Board of Education was awarded $2,849,000 of QZAB authorization for calendar year 2014 under 54E(c)(2) of the Internal Revenue Code. Qualified Zone Academy Bonds provide a financial tool that can be used by state education agencies to encourage formation of partnerships between public schools and local businesses to enhance academic curriculum, increase graduation rates, and to better prepare students for the rigors of college and the workforce. More information can be found at http://www.schools.utah.gov/finance/A-Z-Directory/QZAB-QSCB.aspx.

Applications were requested from qualifying LEAs in April 2015. One LEA submitted a complete application and demonstrated compliance with all eligibility criteria. The LEA has a favorable bond rating, has demonstrated a history of full utilization of their previous QZAB awards, and it is certain the LEA will be able to sell bonds under this QZAB authorization. The application substantiates a plan to utilize the bond proceeds in compliance with QZAB criteria.

It is proposed that the Board approve the awarding of the entire $2,849,000 QZAB funds to Ogden City School District in August 2015.

E. National Association of State Boards of Education (NASBE) Dues Tab E

It is proposed that the Board approve payment of NASBE 2016 dues in the amount of $23,556, broken out as follows: $23,406 - NASBE; $130 - National Council of State Education Attorneys (NCOSEA); $20 - standard subscription.

F. R277-116 *Utah State Board of Education Internal Audit Procedure* Tab F

In its June 19, 2015 meeting, the Board approved amendments to R277-116 on second reading. Amendments were made to ensure consistency with the Utah Internal Audit Act, Board intent, and internal auditing standards. No substantive changes have been made since that time.

It is proposed that the Board approve R277-116 *Utah State Board of Education Internal Audit Procedure*, as amended, on third and final reading.

G. R277-406 *K-3 Reading Improvement Program and the State Reading Goal* Tab G

In its June 19, 2015 meeting, the Board approved R277-406 on second reading. The rule was amended to take into account the proposed approach to calculating the uniform growth goals for LEAs based on DIBELS data and student growth. No substantive changes have been made since that time.

It is proposed that the Board approve R277-406 *K-3 Reading Improvement and the State Reading Goal*, as amended, on third and final reading.

H. R277-444 *Distribution of Funds to Arts and Sciences Organizations* Tab H

In its June 19, 2015 meeting, the Board approved continuation of R277-444 on second reading, consistent with the Utah Administrative Rulemaking Act five-year review requirement. No substantive changes have been made to the rule since that time.

It is proposed that the Board approve continuation of R277-444 *Distribution of Funds to Arts and Sciences Organizations* on third and final reading.

I. R277-497 *School Grading System* Tab I

In its June 19, 2015 meeting, the Board approved amendments to R277-497 on second reading. The rule was amended to make it consistent with S.B. 245 *School Grading Amendments* (2015 Legislative Session). No substantive changes have been made since that time.

It is proposed that the Board approve R277-497 *School Grading System*, as amended, on third and final reading.

J. R277-498 *Grant for Math Teaching Training* Tab J

In its June 19, 2015 meeting, the Board approved continuation of R277-498 consistent with its rulemaking process. No substantive changes to the rule have been made since that time.

It is proposed that the Board approve continuation of R277-498 *Grant for Math Teaching Training* on third and final reading.

K. R277-602 *Special Needs Scholarship - Funding and Procedures* Tab K

In its June 19, 2015 meeting, the Board approved amendments to R277-602 on second reading. The rule was amended in response to 2015 legislation, S.B. 270 *Carson Smith Scholarship Amendments*. No substantive changes have been made since that time.

It is proposed that the Board approve R277-602 *Special Needs Scholarship - Funding and Procedures*, as amended, on third and final reading.

L. List of Educator Licenses Processed Tab L

Summaries of the total number of educator licenses and license areas processed in June and July 2015 are provided for Board information. It is proposed that the Board receive the report.

M. Adoption of Per Diem Rates Tab M

It is proposed that the Board adopt, in accordance with its Bylaws, the per diem rates for boards established by the director of the State Division of Finance [63A-3-106 and 107]. The rates established for FY 2016 are listed in Utah Administrative Code R25-5-4.

DRAFT

UTAH STATE BOARD OF EDUCATION
MEETING MINUTES

June 18-19, 2015

STUDY SESSION - Thursday, June 18, 2015

A study session of the Utah State Board of Education was held June 18, 2015 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah. Chair David Crandall conducted.

Board members present included Chair David Crandall, First Vice Chair David Thomas, Second Vice Chair Jennifer Johnson, and Members Dixie Allen, Laura Belnap, Leslie Castle, Barbara Corry, Brittany Cummins, Linda Hansen, Mark Huntsman, Jefferson Moss, Spencer Stokes, and Terryl Warner.

Staff present included Brad Smith, Sydnee Dickson, Scott Jones, Lorraine Austin, Debbie Davis, Nicole Call, Brian Ipson, Jennifer Roth, Mark Peterson, Joseph Borrack, Tori Jensen, Kathleen Olson, Carri Forsgren, Kellie Tyrrell, Jerry Winkler, Emilie Wheeler, Keith Lawrence, Thalea Longhurst, Diane Sutton, Marty Kelly, Tim Donaldson, Marlies Burns, Travis Rawlings, Susan McRay, Diana Suddreth, Leah Voorhies, Aaron Brough, Natalie Grange, Glenna Gallo, Ann White, Sandra Grant, Ben Rasmussen, Stacey Cummings, Julie Quinn, and Richard Gomez.

Others present included Jake Dinsdale, OLAG; Jacob Wright, Governor's Office of Management and Budget; Lisa Nentl-Bloom, Jay Blain, and Chase Clyde - Utah Education Association; Allison Riddle, Davis School District; Rich Nelson, Utah Technology Council; and Tina Smith, Utah Association of Public Charter Schools.

First Vice Chair David Thomas called the meeting to order at 2:35 p.m.

Fiscal Year 2016 Budget Review

Associate Superintendent Scott Jones reviewed the proposed FY 2016 budget for the Utah State Office of Education (USOE). He and staff from the Office of Education and Utah State Office of Rehabilitation (USOR) answered questions from Board members.

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Risk Assessment Process

Board Internal Audit Director Debbie Davis gave a presentation regarding the risk assessment process.

Executive Session

Motion was made by Vice Chair Johnson and seconded by Member Allen that the Board move into Executive Session for the purpose of the discussing the character, professional competence, and mental or physical health of individuals.

Upon voice vote of the members present, the Board moved into Executive Session at 4:55 p.m. Those present in Executive Session included Chair David Crandall, First Vice Chair David Thomas, Second Vice Chair Jennifer Johnson, and Members Dixie Allen, Laura Belnap, Leslie Castle, Barbara Corry, Brittany Cummins, Linda Hansen, Mark Huntsman, Jefferson Moss, Spencer Stokes, and Terryl Warner; and Brad Smith, Sydnee Dickson, Lorraine Austin, and Nicole Call.

Motion was made by Member Stokes and seconded by Member Huntsman that the Board move back into open session.

Motion carried. The Board reconvened in open session at 5:35 p.m.

Utah Foundation Report

Melissa Proctor and Sean Teigen from the Utah Foundation gave a presentation on research the Foundation has done on the Colorado education system.

Adjournment

The Board adjourned to committees at 6:05 p.m. The Board Finance Committee, Law and Licensing Committee, and Standards and Assessment Committee met following the meeting.

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BOARD MEETING - Friday, June 19, 2015

A regular meeting of the Utah State Board of Education was held June 19, 2015 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah.

Chair David Crandall conducted. The meeting was called to order at 8:09 a.m.

Board Members Present:

Chair David L. Crandall
1st Vice Chair David L. Thomas
2nd Vice Chair Jennifer A. Johnson
Member Dixie L. Allen
Member Laura Belnap
Member Leslie B. Castle
Member Barbara W. Corry
Member Brittney Cummins (by phone)
Member Linda B. Hansen
Member Mark Huntsman
Member Jefferson Moss
Member Spencer F. Stokes
Member Terryl Warner
Member Joel Wright

Executive and Board Staff Present:

Brad Smith, State Superintendent
Sydnee Dickson, Deputy Supt.
Scott Jones, Associate Supt.
Angela Stallings, Associate Supt.
Joel Coleman, USDB Superintendent
Lorraine Austin, Board Secretary
Emilie Wheeler, Board Communications Specialist
Debbie Davis, Board Internal Auditor
Chris Lacombe, Assistant A.G.
Nicole Call, Assistant A.G.

Others Present:

Kris Fawson, Utah State Independent Living Council and LCPD; Lydia Nuttall, parent; Elizabeth Weight, AFT Utah; Craig Frank, Utah Charter Network and ECA; Chase Clyde and Jay Blain, Utah Education Association; Brook Wilson, Utah State Independent Living Council; Royce Van Tassell

Opening Business

Chair David Crandall called the meeting to order at 8:09 a.m. He acknowledged with sadness the passing of Member Mark Openshaw, his wife and two of his children in an accident on June 12. Chair Crandall expressed his desire today for Board members to remember happy memories with Mark and stated he will be forever grateful for having him as a friend.

Member Laura Belnap led those present in the Pledge of Allegiance.

Board Member Message

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Member Terryl Warner shared memories about Mark Openshaw from several Board members: Bringing doughnuts to the Law and Licensing Committee; being the perfect gentleman; buying pastries for his wife; his consideration and compassion; his great example of service and friendship wrapped with humor, adventure and kindness; his love of motorcycles and flying. Mark lived life with full appreciation of what it had to offer. He was the peacemaker, and possessed a tender, sympathetic heart and a merciful spirit. He was a pillar of strength, a support for his family and his friends.

Member Warner closed expressing her gratitude for the example Mark was to each one of us, and for the way he touched and made life better for those around him.

Public Participation

Andy Curry, Executive Director, Roads to Independence - discussed the contract with Roads to Independence (RTI) which is on the agenda later in the day. He highlighted RTI services and expressed the great pride he has in the staff. They've worked hard to maintain services with a limited amount of funds. He asked for support for renewing the contract, and reported they have reviewed the contract stipulations and understand the reasons. He requested that the completion date of September 30 be extended to the end of November, which would allow them time to complete their annual audit.

Jay Blain, Utah Education Association - expressed appreciation for the opportunity to give input to the rules that have come to the Board recently. He reported UEA's belief that student learning objectives are the best method to measure student growth. UEA has developed an assessment literacy curriculum to assist every educator in components such as data and differentiated assessment. UEA is working together with the USOE and educators to improve evaluation and accountability.

Deon Turley, Utah PTA - her term as education commissioner ends this month, and she expressed her appreciation for the service the Board gives to public education. She reported there is news that income tax revenues will produce huge surpluses, and committed that Utah PTA will be vigilant to make sure it is used for education.

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Introduction of New Employees

H.R. Specialist April Nicholls introduced the following new employees: David Sallay, Erik Hansen, Chris Bruhn, Samantha Anderson, Dawn Benke, Nate Johansen, James Madsen, and Ben Harris.

Acknowledgment of Student Artwork

Cathy Jensen, USOE Arts Specialist, acknowledged the art work in the Board room from 6th grade students at Beacon Heights Elementary. The art work is representative of their study of the Etruscan culture and its frescoes.

USOR/USOE Administrative Appointments

MOTION was made by Vice Chair Johnson and seconded by Member Allen that the Board approve the appointment of Darrin Brush as the Utah State Office of Rehabilitation (USOR) Executive Director, and Angela Stallings, Scott Jones, and Richard Nye as Utah State Office of Education Associate Superintendents.

Motion carried unanimously.

Dr. Nye expressed what a pleasure and honor it is to be here and receive the Board's support.

Mr. Brush expressed his passion for workforce development and indicated he was honored by the Board's confidence in him.

General Consent Calendar

MOTION was made by Member Belnap and seconded by Vice Chair Johnson that items B-4, B-6, B-10, B-11, B-12, B-13, B-14, D, E, F, G, H, and J be removed from the Consent Calendar.

Motion carried unanimously.

- Item B-4, contract for Precision Exams - Member Belnap asked for an explanation of precision exams. Superintendent Smith responded it refers to CTE exams.

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- Item B-6, contract for literacy intervention software vendors - Member Belnap questioned from where the vendor pools came. Deputy Superintendent Sydnee Dickson responded that a committee of USOE staff have recommended the vendors. A very specific process for the program is outlined in legislation.
- Item B-10, contract for Utah Afterschool Network - Member Belnap asked why the amendment was necessary. Dr. Dickson reported that the amendment is necessary because of legislation related to the Intergovernmental Poverty Commission. Districts apply for the funding, and the Department of Workforce Services receives money as well.
- Item B-11, contract for University of Wisconsin - Member Belnap questioned what is being received for the amount being paid. Superintendent Smith responded that the contract facilitates the development of a new electronic assessment for ELL students. The contract is funded through federal dollars and is directed by the federal government.
- Item B-12, contract for The National Center for the Improvement of Educational Assessment - Member Belnap questioned why a consulting company is needed. Superintendent Smith responded that peer review and outside assistance is part of the assessment accountability requirement imposed by ESEA.
- Item B-13, contract for LRP Publications - Member Belnap questioned for what the publication is used. Glenna Gallo, USOE Special Education Director, responded that the LRP is an online legal resource and is available to all local education agency (LEA) staff. The resource provides model forms and keeps LEAs updated with legal requirements. LEAs must opt in to use the publication. The USOE does check the data on usage and reduces or increases the contract depending on that usage.
- Item B-14, contract for the Department of Administrative Services - It was reported that this is the annual maintenance contract for the Rehabilitation Services building.
- Item D, Four-day Week School Renewals - Member Belnap reported that the Standards and Assessment Committee discussed that perhaps this should be an

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issue handled by LEAs. Superintendent Smith explained that presently under Board rule there is a requirement for minimum school days, hours, and times per week for schools. It might be a good time to reconsider all three and think of ways to allow LEAs to engage innovatively on how schools they spend their time.

- Item E, State Instructional Materials Commission Recommendations - Member Belnap asked where the list of instructional material resides. Member Hansen responded that all the information is on the USOE website under RIM.
- Item F, R277-107 approval on third reading - Associate Superintendent Angela Stallings reviewed that this rule must be continued before it expires. The amendments were cosmetic and conform with the drafting manual.
- Item G, R277-410 approval on third reading - Member Belnap noted that accreditation with AdvancedEd is level as far as the model the school uses, but the cost of accreditation is not level.

MOTION was made by Member Belnap to move the discussion on R277-410 to later on the agenda. Without objection the discussion was postponed.

- Item H, R277-500 approval on third reading - Member Belnap asked for clarification on if the rule was amended so background checks don't have to happen every five years. Dr. Dickson explained that amendments were made to codify changes made by the legislature, adding items to clarify the renewal process and non-educators.
- Item J, R277-609 approval on third reading - Member Belnap asked Members Castle and Hansen whether they had additional concerns about the rule. Member Castle responded that they talked with many groups of people about the rule and hopes it can move forward.

Without objection, all items but item G were returned to the Consent Calendar.

MOTION was made by Vice Chair Thomas and seconded by Member Castle that the Board approve the Consent Calendar as amended.

Motion carried unanimously.

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A. Minutes of Previous Meeting

Minutes of the Utah State Board of Education meetings held May 7-8, 2015 were approved.

B. Contracts

The Board approved the following contracts:

1. Multidimensional Software Creations, $278,222, 07/01/2015 to 06/30/2020

   To provide continuing development, enhancements, deployment, training and maintenance for the Utah State Office of Education Transition from Early Intervention Data Information System.

2. ACT Inc., $2,469,145, 08/01/2015 to 08/31/2016, Amendment #2

   To exercise an available one-year contract extension, to enact the college readiness examination mandate in SB 175 (2013), and to add $470,000 one-time funds from H.B. 2 (2015).

3. Registry of Interpreters for the Deaf, $114,156, 07/01/2015 to 06/30/2020

   To provide quality assurance American Sign Language National Interpreter Certification and Certified Deaf Interpreter testing and re-testing (if needed) of interpreter mentees participating in the Interpreter Certification Advancement Network interpreter mentoring program under the USOR Division of Services to the Deaf and Hard of Hearing.

4. Precision Exams, $128,727, 06/01/2015 to 06/30/2017, Amendment #2

   To enhance existing Precision Exams Industry Exams Reporting Tool to support the ability to upload full class rosters with associated scores and pass/fail data, to associate exams to specific LEAs and to separate program types in different reports.

5. Price Acquisitions LLC, $339,540, 05/01/2016 to 04/30/2021, Amendment #1

   To lease office space for the Division of Rehabilitation Services located at 475 West Price River Drive, Price, Utah.

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6. $3,000,000, 08/01/2015 to 07/31/2020 - Vendors to be determined based on an RFP process that closes June 11, with vendors evaluated June 17. Licenses need to be determined per awarded vendor, per legislative mandate, by August 1, 2015

   For interactive computer software to address literacy early intervention. The RFP and ultimate award are to expand the vendor pool for literacy intervention software.

7. Old Dominion, $330,000, 08/01/2015 to 07/31/2016, Amendment #1

   For transportation of USDA foods for Child Nutrition Programs.

8. Department of Administrative Services, $108,000, 07/01/2015 to 06/30/2016, Amendment #18

   To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Services for the Deaf and Hard of Hearing, located at 5709 South 1500 West, Taylorsville.

9. Department of Administrative Services, $124,027, 07/01/2015 to 06/30/2016

   To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Services for the Blind and Visually Impaired, located at 250 North 1950 West, Salt Lake City.

10. Utah Afterschool Network, $96,750, 07/01/2015 to 06/30/2016, Amendment #4

    To facilitate the development of a comprehensive after-school/community school professional development system by fostering multiple pathways for training and technical assistance to ensure high quality programs that meet the needs of a diverse student population.

11. University of Wisconsin's Madison Center for Educational Research, $2,258,340, 06/30/2016 to 06/30/2018, Amendment #2

    To provide ACCESS for ELLs and continue Utah's membership in the WIDA Consortium, a multi-state coalition of state educational agencies that acts in collaboration to research, design and implement a standards-based educational

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system that promotes equitable educational opportunities for English language learners in pre-kindergarten through grade 12.

12. The National Center for the Improvement of Educational Assessment, $1,398,175, 06/15/2015 to 06/14/2020

    To provide consultancy on assessment and accountability issues.

13. LRP Publications, $1,006,459, 07/01/2015 to 06/30/2020

    For statewide subscription to online Individuals with Disabilities Education Act newsletter and research through LRP.

14. Department of Administrative Services, $204,156, 07/01/2015 to 06/30/2016

    To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Rehabilitation Services, located at 500 South 1595 West, Salt Lake City.

C. Contract Reports

The Board receive the following reports: *Contracts approved by State Superintendent or USOR Director (less than $100,000)* and *USOE/USOR Expiring Contracts with Renewals*.

D. Four-day School Week Renewals

The Board approved three-year waivers of the minimum school days required in R277-419 for Rich School District, Tabiona School, and Tintic School District in order for them to implement four-day school weeks, and approved the agreements, effective July 1, 2015 to June 30, 2018, with those local boards of education as outlined.

E. State Instructional Materials Commission Recommendations

On May 21, 2015 the Utah State Instructional Materials Commission met and approved 224 records of titles for recommendation to the Board. The Commission also recommended that the Board accept the bids received from the publishers and direct staff to award contracts to the publishers to furnish instructional materials to the schools of Utah.

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The Board adopted the recommendations for titles of the State Instructional Materials Commission and directed staff to award contracts to the various publishers.

F. R277-107 *Educational Services Outside of Educator's Regular Employment*

In its May 8, 2015 meeting, the Board approved continuation of R277-107 on second reading, consistent with the Utah Administrative Rulemaking Act five-year review requirement.

The Board approved R277-107 *Educational Services Outside of Educator's Regular Employment* as amended, and continuation of the rule, on third and final reading.

G. R277-410 *Accreditation of Schools*

This item was pulled from the Consent Calendar.

H. R277-500 *Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks*

In its May 8, 2015 meeting, the Board approved amendments to and continuation of R277-500 on second reading. The rule was amended in response to H.B. 124 *Education Background Check Amendments* passed in the 2015 Legislative Session.

The Board approved R277-500 *Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks* as amended, and continuation of the rule, on third and final reading.

I. R277-516 *Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees*

In its May 8, 2015 meeting, the Board approved amendments to R277-516 on second reading. The rule was amended in response to H.B. 124 *Education Background Check Amendments* passed in the 2015 Legislative Session.

The Board approved R277-516 *Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees,* as amended, on third and final reading.

J. R277-609 *Standards for LEA Discipline Plans*

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In its May 8, 2015 meeting, the Board approved amendments to R277-609 on second reading. The rule was amended to include protections for all Utah students regarding the use of emergency safety interventions by school personnel.

The Board approved R277-609 *Standards for LEA Discipline Plans*, as amended, on third and final reading.

K. List of Educator Licenses Processed

The Board received the summary of the total number of educator licenses and license areas processed in May 2015 is provided for Board information.

Monthly Budget Report

Associate Superintendent Scott Jones referenced the budget material distributed with the agenda. He acknowledged that as has been indicated by several internal audit reviews, the validity of these numbers will be in question until such a time as an independent managerial accounting team can validate the data. He is working toward offering additional background data that would support changes in the budget categories from month to month. Additional time is needed for a top to bottom review of the BASE accounting system.

Vice Chair Johnson referenced that in the study session discussion last night, Associate Superintendent Jones was questioned several times about his confidence in the base budget numbers, and expressed concern that if the numbers are not correct for FY15, adjustments will have to be made in FY16. Mr. Jones responded that the budget for FY16 has been determined and he does anticipate there will be movement in the budget, subject to the ability for him to have the managerial team come in and validate the numbers. That will have to take place in FY 2016.

Member Stokes expressed concern that there isn't a policies and procedures manual for financial practices in place, and asked who will be writing such a manual. Board leadership indicated they will be discussing assignments for mitigating this risk, and others identified in the Mitigation Risk Universe tasks, in their next meeting. Superintendent Smith stated that the USOE superintendency will share in the responsibility for assigning tasks to staff and putting in

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place policies and procedures. He informed that there are policies embedded in various sections, but they are not together in one place. Associate Superintendent Jones acknowledged that right now the demands far exceed the capabilities of staff and a determination needs to be made of the right balance between service and oversight.

Member Warner requested that staff put together a universal timeline of what is required of LEAs by the office including financial and all other reports. Mr. Jones agreed with the need for such a timeline and reported that it would assist the office in meeting time lines required by the state. Superintendent Smith concurred with the sensibility of the request, while acknowledging that it is huge in execution. He committed to moving forward with a comprehensive timeline, recognizing that it will be a document that will be constantly refined.

Independent Living Centers in Utah

Stacey Cummings, USOR Program Administrator, presented the Board with information about the six Utah independent living centers. The Centers "promote a philosophy of independent living, self-determination and consumer control, through peer support, self-help and equal access." Services provided by the Centers include independent living skills instruction, information and referrals, individual and systems advocacy, peer support, and transition services.

Roads to Independence Contract

Roads to Independence (RTI) is currently an independent living center service provider. The contract for RTI is now up for renewal. Ms. Cummings reported that the contract is coming before the Board today with some stipulations.

Assistant Attorney General Chris Lacombe referenced an amended version of the proposed stipulations that includes conditions the Board Audit Committee requested. Vice Chair Thomas reported that the Audit Committee became aware of a problem with RTI resulting in $200,000 of equipment for the disabled that was unaccounted for, which resulted in an investigation of RTI. Significant problems with fiscal management and internal controls

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were found. The contractor was asked to provide some controls and do an audit, and USOR sent a letter on March 3, 2015 that set some deadlines. Those deadlines have not been complied with. An external audit was received from an auditing firm, but the Board Audit Committee found it to be wholly inadequate and staff has had some difficulty in getting answers from the contractor.

The Audit Committee was split on whether the contract should be renewed, and the stipulations provide a middle ground approach. It allows for renewing the contract for one year with specific deadlines and conditions.

Member Hansen expressed that she also has concerns, and thinks this is a good middle ground, as she worried about discontinuing those services.

MOTION was made by Vice Chair Thomas and seconded by Member Wright that the Board approve the extension of the contract for one year under stipulations outlined in the Stipulated Contract Condition for Amendment #2 of Contract #136379 Between the State Board of Education and Tri-County Independent Living Center of Utah.

Motion carried.

Superintendent's Report

Superintendent Brad Smith reported on the following.

- Staff have begun tracking legislative bill files that have been opened, and have been invited to meet with some legislators on protected files. This is a strong indication of a renewed sense of partnership and cooperation with the legislature. Bill files of note include amendments relating to SB 204 from Senator Osmond, HB 360 from Representative Christensen, and HB 124 from Representative Handy.
- The work of Associate Superintendent Stallings and her staff was recognized in regards to the rules in process. Staff are between 50 and 60 percent of the way through the rules that will have to be written.
- The Utah State Auditor's office has requested personally identifiable information to assist with a performance audit. With the help of Assistant Attorney General Nicole

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Call, a formal agreement signed by Superintendent Smith and the State Auditor has been reached in order to ensure that student data is as publicly protected as possible.

- Superintendent Smith has met with several board members as part of the strategic planning process and more sessions are scheduled in the following weeks. It is intended that a draft plan will be circulated to the Board in July in order for the plan to be ready for public input in August. Four to five meetings will then be held for public stakeholders.
- Superintendent Smith received a written report from North Sanpete School District in May, as instructed by the Board. He is awaiting the June report and will send it to the Board upon receipt. North Sanpete District Superintendent Ray reported that the district remains on track to fulfill the timing obligations for reporting.

Board Chair's Report

Board Chair David Crandall reported on the following.

- The funeral for the Openshaws will be held on Monday at 11:00 a.m. With the permission of the family, a memorial scholarship in their name has been set up through the Utah Valley University Foundation for the benefit of students in the college of education planning to teach in K-12 classrooms.
- A joint meeting with the legislature, State Board of Education, and State Board of Regents has been scheduled for September 2-3, 2015 in Cedar City. All Board members are invited. Topics will include competency-based education, preservice teacher preparation programs, and higher education remediation.
- Professional development will be a topic for the Education Interim Committee in the next months.
- Chair Crandall and Jennifer Johnson have been appointed to a legislative task force on charter school funding. The first meeting of the task force will be next week.

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Assessment Report from Ogden School District

Dr. Rich Nye gave a presentation about data driven instruction in Ogden City School District. He expressed that meeting individual needs of each individual child is imperative. In Ogden every teacher is an instructional leader, and they identify student needs based on their understanding of the standards.

Committee Reports

AUDIT COMMITTEE

Committee Chair David Thomas reported on the following items from the Committee.

Risk Universe

Confidential draft documents were distributed to the Board on the Mitigation Risk Universe and the Audit Risk Universe. The Mitigation Risk Universe includes known findings that need to be fulfilled. The Board Executive Committee will be assigning tasks to specific staff members regarding mitigation risks. The Audit Risk Universe includes unknowns, or potential risks, and includes a risk category. The Risk Universe is used to determine the audits for the upcoming year.

A confidential proposed audit plan for FY16 was also distributed. Board members were encouraged to review the plan and contact the Board Internal Auditor, Debbie Davis, or Vice Chair Thomas with concerns about the plan.

R277-116 *Internal Audit*

The Audit Committee has reviewed R277-116 over several meetings, and amendments have been proposed to ensure consistency with the Utah Internal Audit Act, Board intent, and internal auditing standards. A significant change makes the Board Internal Auditor the liaison for all external audits.

The Audit Committee approved repeal/reenact of R277-116 on first reading.

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MOTION from Committee that the Board repeal/reenact R277-116 *Internal Audit* on second reading.

Motion carried; Member Wright absent.

Release of Audits

It was reported that an external audit on Upstart has been released by the State Auditor.

FINANCE COMMITTEE

Committee Chair Jennifer Johnson reported on the following items from the Committee.

Charter School Enrollment Variance Correction

Student enrollment projections are submitted each November to the Governor's office and legislative staff and used in the preparation for the fiscal year appropriations. A potential projected underestimation of 700-1,000 charter school students for FY 2016 has been identified by USOE staff.

MOTION from Committee that the USOE School Finance Section be directed to use Minimum School Program funds to cover the charter enrollment variance between what had been estimated and updated enrollment figures, and to notify the Board when this occurs.

Motion carried; Member Wright absent.

MOTION from Committee that the Board authorize the USOE School Finance Section to determine a payment methodology to provide K-12 local replacement and administrative cost funding to the schools in proportion to what they would have received for the first four months of the year without adjusting projections statewide for the following schools: Athenian eAcaemy, Hawthorn Academy, Mana Academy, Syracuse Arts Academy, Terra Academy, Utah International School, and Utah Military Academy; and in addition, to provide information to all LEAs that this is a one-time authorization and that the Board will develop a policy on this in

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future months.

Motion carried, with Chair Crandall abstaining; Member Wright absent.

MOTION from Committee that the Board direct staff, in order to comply with the contracts between the State Charter School Board and charters, to fund up to the enrollment cap plus five students and come back with recommendations of how to handle those students above the cap.

Motion carried; Member Wright absent.

Taxing Entity Committees Alternate Representative

MOTION from Committee that the Board appoint USOE Finance Specialist Von Hortin as its alternate representative to taxing entity committees.

Motion carried; Member Wright absent.

Utah State Office of Rehabilitation (USOR) Required Reports to the Legislative Fiscal Analyst

The Committee reviewed a list of reports required of the USOR, working with the State Office of Education and the Board, due to the Legislative Fiscal Analyst no later than September 1, 2015. One of the items calls for recommendations regarding the organizational placement of USOR and its subunits in order to provide proper oversight, management and support. Three guests participated in the committee discussion—Senator LaVar Christensen, Representative Edward Redd, and Legislative Fiscal Analyst Steven Jardine.

MOTION from Committee that the Board forward a recommendation to the legislature that the Utah State Office of Rehabilitation not stay under the Board of Education, that the USOR is not best served by a Board that is primarily elected to serve another entity, but that the Board will continue to fully support the USOR while a decision is being finalized.

Member Hansen commented that it would be her preference to allow the new USOR Executive Director, Darrin Brush, to be in place for a time before making this decision.

Member Stokes noted that when he came on the Board the oversight of USOR was a surprise to him, and he feels anything the Board focuses on outside of K-12 education is a

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distraction.

Member Castle questioned where the Office of Rehabilitation is placed in other states. Vice Chair Johnson responded that it resides in various agencies in other states, including Health, Human Services, and Workforce Services, and sometimes is a standalone agency. In addition, the divisions in Rehabilitation may be split.

Member Moss added that the intent is not for the Board to say it doesn't want governance of USOR, but to determine where clients are going to be best served.

Motion carried, with Member Hansen opposed; Member Wright absent.

MOTION was made by Vice Chair Johnson and seconded by Member Corry that the Board recommend to the legislature that a task force be formed to study where the USOR should be placed.

Superintendent Smith asked if the study would include plans for transition? Vice Chair Johnson indicated it would.

Motion carried; Member Wright absent.

USOR Legislative Requirements

The Committee was provided information on what is being provided to the legislature by the USOR in response to legislative requirements.

Interim Budget and Status of funds Report for the USOR

The Committee was provided a USOR budget summary through May 31, 2015.

USOE Fiscal Year-End Close Update

The Utah State Office of Education is currently conducting year-end close (YEC) operations for Fiscal Year 2015. There have been $957,893.27 of expenses identified that require an offset.

MOTION from Committee that the Board approve the recommendation to net a combination of some available state funds in the discretionary fund, the remaining building

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sale proceeds, and the MGT audit and studies to cover the expense of $957,893.27 that requires offset.

Motion carried unanimously.

Associate Superintendent Scott Jones identified to the committee his most critical operating needs as hiring three managerial accounting staff, hiring a team to resolve the indirect cost pool issue, hiring a federal grant specialist, and the conversion to Finet.

MOTION from Committee that the Board request supplemental funds from the legislature if a special session is called to cover the needs identified above, at an amount to be determined.

Member Stokes asked for the total amount that is being requested. Mr. Jones estimated $250,000 to 300,000 for staff and a range of $3 million to $7 million for the conversion. The total could be over $10 million, but right now this is just an estimate. A specific amount will be identified before the request is made.

Vice Chair Thomas noted that the request should differentiate between one-time and ongoing requests.

Member Warner asked whether the Board will look at cutting in other areas if this request is made. She is concerned about asking for more money. Member Castle responded that while she feels any excess needs to be accounted for, she doesn't feel there should be cuts.

Member Stokes noted that there seems to excess in some budgeted accounts and he suggested determining what is excess and reallocating those resources. Associate Superintendent Jones responded that much of the money left is for an express purpose and could not be reallocated. He also noted that in the past there has been heavy reliance on the discretionary funds and moving money between accounts. It is his intent to end those practices. He reported that the five areas discussed for funding cannot be funded internally. He will need direction from the Board regarding use of the discretionary fund.

Vice Chair Thomas expressed that there has been a culture, at times, to raid funds from one source for another when there were needs in order to make everything work. During the

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economic downturn a great deal of time was spent making sure there was funding for growth and the WPU. At the same time, the Utah State Office of Education was cut twenty percent, and that cut has never been restored. Some of the problems that are now being experienced are due to that cut. The Board has been diligent in trying to fund from within, including coming up with $1 million for the risk mitigation plan.

Mr. Jones responded that much of the risk mitigation is incumbent on him having a management team in place. He will work on getting a solid number of the costs for the team.

MOTION TO AMEND was made by Vice Chair Johnson and seconded by Vice Chair Thomas that automation of the Minimum School Program be added to the request.

Motion to amend carried.

Motion carried unanimously.

Indirect Cost Pool Update

For the 2016 fiscal year, consistent with recommendations from the Internal Auditor, staff have begun the process of developing one indirect cost pool and rate for the USOE and one for the USOR. The Committee was given an update and apprised that some sections are experiencing budget shortfalls with the rate increase to eighteen percent.

Fiscal Year 2016 Budget

The Committee reviewed information provided on the proposed Fiscal Year 2016 budget for the State Office of Education (USOE), State Office of Rehabilitation (USOR), and Utah Schools for the Deaf and the Blind (USDB).

MOTION from Committee that the Board approve the Fiscal Year 2016 budget for USOE, USOR and USDB.

Motion carried unanimously.

Budgetary Authority

Specific individuals in the agencies under Board governance are designated as having

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budgetary and signatory authority. The Committee was provided with a draft budgetary authority document including requests for thresholds changes, additional discretionary funds, and additional authority with respect to the Minimum School Program.

MOTION from Committee that the Board defer action to increase contracting authority until August for consideration in conjunction with the FY 17 budget discussion.

Motion carried unanimously.

Vice Chair Johnson reported that the Committee took no action on the request for $650,000 of discretionary funds. Action will be delayed until information is available on FY 16 discretionary funds.

Use of Mineral Lease Money for Canvas

Laura Hunter from the Utah Education and Telehealth Network summarized the purpose of the costs associated with the Canvas (software license) subscription, and recommended that mineral lease monies be used to fund the subscription. Vice Chair Johnson noted that this would be an appropriate use of mineral lease funds.

The Committee determined to wait until it is known how much mineral lease money will be available to consider the request.

Finance Committee Requests for Data

Natalie Grange, USOE Finance Director, shared with the Committee a spreadsheet showing how calculations are done for the Minimum School Program funds.

Appointment of Division of Services for the Blind and Visually Impaired (DSBVI) Director

Utah Schools for the Deaf and the Blind Superintendent Joel Coleman announced that he has appointed Steve Winn as the director for the USOR Division of Services for the Blind and Visually Impaired.

MOTION was made by Member Castle and seconded by Member Moss that the Board approve the appointment of Steve Winn as the DSBVI Director.

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Motion carried unanimously.

Law and Licensing Committee

Committee member David Thomas reported on the following items from the Committee.

Conceptual Draft of R277-533 *Educator Effectiveness Component Requirements*

School districts are required to begin full implementation of the Educator Effectiveness program in the 2015-2016 school year. A conceptual draft of rule R277-533 that includes information districts will need to achieve full implementation as scheduled was discussed by the Committee. The Committee recommended changes to the draft rule. The rule will be discussed further in the August meeting.

R277-700 *The Elementary and Secondary School Core Curriculum*

Amendments to rule R277-700 were presented to the Committee in response to 2015 legislation—S.B. 60 *American Civics Education Initiative*, H.B. 360 *Utah Education Amendments*, and S.B. 196 *Math Competency Initiative*. An updated rule with committee amendments was distributed. It was noted that the Committee asked for an additional change not on the update to change the "computer technology" requirement terminology to "digital literacy." This will require a change in the 8th grade digital literacy course name, and staff were directed to recommend a name.

The Committee approved amendments to R277-700 on first reading.

MOTION was made by Vice Chair Thomas and seconded by Member Castle that the Board approve R277-700 *The Elementary and Secondary School Core Curriculum*, as amended, and continuation of the rule, on second and third reading, and that the rule be filed with Administrative Rules.

Motion carried unanimously.

House Bill 197 *Education Licensing Amendments* (2015 Legislative Session)

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This item was postponed at the request of the sponsoring legislator.

R277-099 *Definitions for Utah State Board of Education (Board) Rules*

New rule R277-099 is created to provide one Board rule that contains many of the definitions commonly used in existing Board rules. An updated rule with Committee changes was distributed.

The Committee approved new rule R277-099, as amended, on first reading.

MOTION was made by Vice Chair Thomas and seconded by Member Castle that the Board approve R277-099 *Definitions for Utah State Board of Education (Board) Rules*, as amended, on second and third reading and file the rule with Administrative Rules.

Motion carried unanimously.

R277-477 *Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program*

The Committee reviewed amendments to R277-477 to bring the rule into compliance with H.B. 213 *Safe Technology Utilization and Digital Citizenship in Public Schools* (2015 Legislative Session). Because of substantial changes, the rule was presented as a repeal/reenact. An updated rule with Committee changes was distributed.

The Committee approved the repeal/reenact, and continuation of R277-477, as amended, on first reading.

MOTION from Committee that the Board approve the repeal/reenact, and continuation of R277-477 *Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program*, as amended, on second reading.

Motion carried unanimously.

R277-491 *School Community Councils*

The Committee reviewed amendments to R277-491 to bring the rule into compliance with H.B. 213 *Safe Technology Utilization and Digital Citizenship in Public Schools* (2015

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Legislative Session). Because of substantial changes, the rule was presented as a repeal/reenact. An updated rule with Committee changes was distributed.

The Committee approved the repeal/reenact, and continuation of R277-491, as amended, on first reading.

MOTION from Committee that the Board approve the repeal/reenact, and continuation of R277-491 *School Community Councils*, as amended, on second reading.

Motion carried unanimously.

Utah Statute, Board Rules and Policies in Regard to the Statewide Online Education Program

Discussion on this item was deferred to the August meeting.

R277-602 *Special Needs Scholarships - Funding and Procedures*

Rule R277-602 was amended in response to 2015 legislation, S.B. 270 *Carson Smith Scholarship Amendments*. The Committee approved amendments to the rule on first reading.

MOTION from Committee that the Board approve R277-602 *Special Needs Scholarships - Funding and Procedures*, as amended, on second reading.

Motion carried unanimously.

R280-203 *Certification Requirements for Interpreters/Transliterators for the Hearing Impaired*

The Committee reviewed proposed amendments to R280-203 to make the rule consistent with the Policies and Procedures Governing Certification of Interpreters and Transliterators Manual.

The Committee approved amendments to R280-203 on first reading, and directed that the rule come back to the Committee, along with the manual, in a future meeting.

R277-606 *Public School Student Dropout Recovery*

The Committee reviewed new rule R277-606 written in response to S.B. 116 *Public School Dropout Recovery* (2015 Legislative Session). An updated rule with Committee changes was

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distributed.

The Committee approved new rule R277-606 on first reading.

MOTION from Committee that the Board approve R277-606 *Public School Student Dropout Recovery*, as amended, on second reading.

Motion carried unanimously.

Utah State Board of Education Bylaws Changes

In the 2015 Legislative Session, H.B. 360 *Education Amendments* was passed. The legislation removed Board members previously appointed by statute, which included representatives from the Utah State Board of Regents, State Charter School Board, and Utah College of Applied Technology.

As outlined in its Bylaws, Board membership also includes two appointed, nonvoting advisory members representing the Utah School Boards Association and the Coalition of Minorities Advisory Committee. The Committee reviewed amendments to the Board Bylaws to remove those appointed advisory members to be consistent with statute.

MOTION from Committee that the Board approve the proposed changes to its Bylaws.

Motion carried unanimously.

USOE Progress on S.B. 235 *Education Modifications*

Superintendent Smith updated the Committee on the progress of issues regarding the *School Turnaround and Leadership Development Act* that was passed during the 2015 General Session.

Guadalupe School Charter Amendment

MOTION from Committee that the Board approve the proposed amendment to the Guadalupe School charter to increase enrollment by 20 students beginning with the 2015-2016 school year, for a total of 200 students [changed to 300 in a subsequent motion].

Motion carried unanimously.

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Freedom Preparatory Academy Charter Amendment

MOTION from Committee that the Board approve the proposed amendment to the Freedom Preparatory Academy charter to increase enrollment by 80 students beginning with the 2015-2016 school year, for a total of 1300 students.

Motion carried; Member Warner absent.

Standards and Assessment Committee

Committee Chair Laura Belnap reported on the following items from the Committee.

Special Educator Stipends

The Extended Year for Special Educator Stipend program allows licensed special education teachers and speech-language pathologists to work up to ten days beyond the contract year and to receive a stipend of $200 per day for qualified work.

The Committee reviewed information from staff regarding the funding available and the projected number of teachers that will participate in the program.

MOTION from Committee that the Board approve a stipend of five days for educators participating in the Extended Year for Special Educator Stipend program.

Motion carried unanimously.

R277-497 *School Grading Systems*

The Committee reviewed proposed amendments to R277-497 to make the rule consistent with S.B. 245 *School Grading Amendments* (2015 Legislative Session). An updated rule with Committee changes was distributed.

The Committee approved amendments to R277-497 on first reading.

MOTION from Committee that the Board approve R277-497, as amended, on second reading.

Motion carried unanimously.

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Child Sexual Abuse Prevention - HB 286

House Bill 286, passed in the 2014 Legislative Session, requires that the Board, in partnership with the Department of Human Services, approve instructional materials for child sexual abuse prevention. A workgroup was formed to develop guidelines for the instructional materials.

The Committee reviewed the minimum guidelines/standards for child sexual abuse prevention developed by the workgroup. It was noted that the presented materials are not for students. They will be used by the Board and the workgroup to find providers to help with sexual abuse prevention programs.

MOTION from Committee that the Board approve the minimum guidelines/standards for child sexual abuse prevention curricula.

Motion carried unanimously.

Grouse Creek School Four-day School Week Approval

Board rule R277-419 *Pupil Accounting* sets standards for minimum school days and instructional hours required for schools. Several local education agencies have applied for and received waivers in order to implement four-day school weeks.

The Committee reviewed a request from the Box Elder Board of Education to allow an exception from the 180-day requirement of R277-419 for Grouse Creek School for a period of three years beginning with the 2015-2016 school year, in order for Grouse Creek to go on a four-day school week schedule.

MOTION from Committee that the Board approve the request and waive the 180-day requirement for Grouse Creek School.

Member Stokes requested further discussion about these decisions being made at the LEA, not state, level.

Motion carried unanimously.

STEM Schools Designation Rubric

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The Committee received information regarding a rubric that has been developed to designate schools as STEM schools.

R277-406 *Reading Improvement Program and the State Reading Goal*

Rule R277-406 includes provisions for the Board to develop uniform standards for acceptable growth goals that an LEA adopts. In its April meeting, the Board requested that the rule be amended to take into account the proposed approach to calculating the uniform growth goals for LEAs based on DIBELS data and student growth. The Committee reviewed proposed amendments to the rule. An updated rule with Committee changes was distributed.

The Committee approved R277-406, as amended, on first reading.

MOTION from Committee that the Board approve R277-406 *Reading Improvement Program and the State Reading Goal*, as amended, on second reading.

Motion carried; Members Moss and Warner absent.

Interventions for Reading Difficulties Pilot

Senate Bill 117 *Interventions for Reading Difficulties Pilot Program* was passed in the 2015 Legislative Session. This bill creates a pilot program to provide interventions for students at risk for or experiencing reading difficulties, including dyslexia. The Committee reviewed a proposed application and selection criteria for participation in the pilot program.

MOTION from Committee that the Board approve the Interventions for Reading Difficulties Pilot Program as presented.

Motion carried; Members Moss and Warner absent.

R277-498 *Grant for Math Teaching Training*

The Committee reviewed amendments to R277-498 made in response to H.B., 30 *Math Teacher Training Program Amendments* (2015 Legislative Session). The Committee referred the rule back to staff for additional work to come back to the Committee in August. The Committee approved continuation of R277-498 on first reading.

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MOTION from Committee that the Board approve continuation of R277-498 *Grant for Math Teaching Training* on second reading.

Motion carried; Members Moss and Warner absent.

Utah's Plan to Ensure Equitable Access to Excellent Educators

The U.S. Department of Education requires a plan from each state to ensure equitable access to excellent educators for all students. Utah's Plan was presented to the Committee.

R277-444 *Distribution of Funds to Arts and Science Organizations*

The Committee reviewed R277-444 consistent with the Utah Administrative Rulemaking Act five-year review requirement.

MOTION from Committee that the Board approve continuation of R277-444 *Distribution of Funds to Arts and Science Organizations* on second reading.

Motion carried; Members Moss and Warner absent.

Standards Format

In May 2015, the Board requested that the formatting of the Utah curriculum standards be reviewed and a standard format be put in place. The Committee reviewed elements of the proposed standardized format presented from staff. Staff will bring back to the Committee samples of how the format will look.

MOTION from Committee that the Board approve the new standards format.

Motion carried unanimously.

Update on 90-day Public Review of Standards

The Committee received an update of the 90-day review of the three content areas—Library Media, 6-8 Science, and Secondary Mathematics—that have been receiving public feedback.

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National Governors Association (NGA) Request to Congress to Designate Governors as Key Partners in Public Education

Tami Pyfer, Governor's Education Advisor, and Senator Curt Bramble, incoming president of the National Council of State Legislatures, were welcomed to the meeting.

Ms. Pyfer stated that Governor Herbert wants to partner with the State Board and is a strong advocate of public education in general. Ms. Pyfer distributed wording of a proposed letter to some members of Congress urging Congress "to empower our efforts by making governors key partners with state education boards and chiefs in the Elementary and Secondary Education Act (ESEA)." The letter would be signed by Governor Herbert and Superintendent Smith. She indicated the intent of the letter is to help move forward with collaborative efforts.

Senator Bramble reported that the proposed change to ESEA would require that the Governor sign off on the state plan and the legislature as a group must be consulted. He expressed his feeling that such a change would strengthen the state's voice in Washington. He reminded the Board that H.B. 360, passed in the 2015 legislative session, requires the Governor to be involved in any national program.

Vice Chair Thomas expressed his belief that HB 360 is unconstitutional and reminded the Board that Representative Lavar Christensen, the bill sponsor, made a commitment to the Board that he would change the provision in the next session. Vice Chair Thomas stated that his concern with such a requirement is that one size doesn't fit all and the proposed amendment to ESEA appears to give signatory power of veto to the governor. This seems to be inconsistent with Utah's governance structure for public education and contradictory to the State Constitution. He would be uncomfortable signing something that asks the federal government to mandate a change to the education governance structure of Utah, bypassing residents of the state.

Senator Bramble responded that the Board isn't the fourth branch of government. Even federal Title I programs have to be coordinated legislatively and the governor has to sign off on those today. This amendment is intended to to force Congress to recognize what is already in

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practice. Even under our constitutional framework the governor is involved.

Vice Chair Johnson indicated that for her the discomfort is seeking to have the federal government make into federal statute a construct for government of the state. She is uncomfortable seeking it through ESEA reauthorization. Senator Bramble responded that it goes to the heart of federalism and would force the federal government to recognize the collective voice of the state.

Ms. Pyfer mentioned that there are other federal grant applications that the Governor is required to sign, and that hasn't had adverse effects. She felt the Governor will be even more vested in the Board's discussions and decisions if the change is made. This is a window of opportunity to change language in federal law to give states more control.

Member Castle spoke of the historic balance of power in government, and expressed her feeling that the Board should be independent and not mingled with other interests.

Senator Bramble noted that in the proposed letter it talks about coordination with early education agencies, higher education, and workforce services. The intent is to put something forward so that cohesiveness can be brought to a broader spectrum of programs. We can continue the polarization or figure out how we can come together.

Member Castle asked Superintendent Smith to respond. The Superintendent questioned the need for the federal government to mandate the sensible things that we're already doing. He expressed concerns that this could cause massive amounts of intended consequences.

MOTION was made by Member Wright and seconded by Vice Chair Johnson that the Board give approval for Superintendent Smith to sign the letter.

Member Allen indicated she will support the motion because she believes it will enhance the working relationship with the Governor.

Member Moss asked if the letter is for the Governor to sign off on Title I and ESEA only. Ms. Pyfer responded that the proposed legislation is constantly changing; the letter supports being partners. Member Moss asked what the Governor would do if the amendments become broader in scope. Ms. Pyfer responded that the Board would need to communicate its wishes to the Governor if that happens.

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Chair Crandall stated he will vote against the motion because he can't understand why the Governor of Utah would try to have Congress change the governance of Utah.

Motion failed, with Members Allen, Belnap, Corry, Hansen, Moss, Stokes and Warner in favor, and Members Castle, Cummins, Crandall, Huntsman, Johnson, Thomas and Wright opposed.

Executive Session

MOTION was made by Member Stokes and seconded by Member Wright that the Board move into executive session for the purpose of the discussing the character, professional competence and physical or mental health of individuals and pending litigation.

Upon voice vote of the Board members present, the Board moved into Executive Session at 2:25 p.m. Those present included Chair Crandall, Vice Chairs Thomas and Johnson, and Members Allen, Belnap, Castle, Corry, Cummins, Hansen, Huntsman, Moss, Stokes, Warner and Wright; and Brad Smith, Sydnee Dickson, Joel Coleman, Lorraine Austin, Nicole Call, Benjamin Rasmussen and Rachel Ferguson.

MOTION to move back into open meeting was made by Member Wright and seconded by Member Stokes.

Motion carried. The Board reconvened in open meeting at 5:17 p.m.

Executive Session Items

Division of Services to the Deaf and Hard of Hearing (DSDHH) Advisory Council Appointments

MOTION was made by Member Belnap and seconded by Vice Chair Johnson that the Board appoint the following as members of the DSDHH Advisory Council for terms July 2015 through June 2018: Taylor Call as a Service Provider; and Michelle Tanner, Curt Radford, Justin Howell, Julie McCleave, Sarah Thompson, Amy Hardy, Leon Curtis, Michael Tyler, Stephen Ehrlich, and Charla Dolan as deaf or hard of hearing consumers.

Motion carried; Member Cummins absent.

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State Instructional Materials Commission

MOTION was made by Member Stokes and seconded by Member Moss that the Board appoint to the Instructional Materials Commission for terms July 2015 to July 2019 Steve Hirase as a district superintendent representative and Parker Fawson as a university dean of education representative.

Motion carried; Members Cummins and Thomas absent.

Governor's Committee on Employment of People with Disabilities

MOTION was made by Member Stokes seconded by Member Warner that the Board appoint the following to the Governor's Committee on Employment of People with Disabilities for terms July 2015 to January 2017: Joseph Miner, representing business advocates–medical; Philip Fite, representing business advocates–job training or placement; Chad Spencer and Dylan McDonnell, representing business advocates–job training or placement/state agency; and John Blair and Pola Morrison, representing business advocates–training and education/ Business Employer Team (BET).

Motion carried; Members Cummins and Thomas absent.

Interpreters Certification Board

MOTION was made by Member Stokes and seconded by Member Belnap that the Board appoint to the Interpreters Certification Board for a term May 2015 through April 2018 Amelia Ann Williams, representing certified professional level interpreters for the deaf.

Motion carried; Member Cummins absent.

State Rehabilitation Council

MOTION was made by Member Stokes and seconded by Vice Chair Johnson that the Board appoint the following to the State Rehabilitation Council: Helen Post, representing Parent Training and Information Center, term May 2015 to September 2017; Deja

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Powell, representing the Division of Services to the Blind and Visually Impaired, term May 2015 to September 2018; Sharon Brand and Amy Powell, representing business, industry and labor, terms May 2015 to September 2018; and Kenneth Gourdin, representing persons with a disability, term May 2015 to September 2018.

Motion carried; Members Cummins absent.

School Safety and Crisis Line Commission

MOTION was made by Member Stokes and seconded by Member Huntsman that the Board appoint to the School Safety and Crisis Line Commission Lillian Tsosie-Jensen, representing the Utah public education system.

Motion carried; Member Cummins absent.

R277-410 *Accreditation of Schools*

MOTION was made by Member Belnap and seconded by Vice Chair Johnson that the Board approve R277-410 *Accreditation of Schools* as amended on third and final reading (the rule was pulled from the Consent Calendar).

Motion carried.

Adjournment

MOTION was made by Member Belnap and seconded by Vice Chair Johnson that the meeting adjourn.

Motion carried. The meeting adjourned at 5:22 p.m.

Lorraine Austin, Board Secretary

Minutes pending approval

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AMENDMENT #2

UTAH STATE OFFICE OF EDUCATION/UTAH OFFICE OF REHABILITATION

Contract INFORMATION

State No.	146049
Agency No.	5244

Contractor and Address	Utah Statewide Independent Living Council 150 South 600 East, Suite 5C Salt Lake City, UT 84102	Vendor Number	24165D
		Commodity Code	96102000000

Agency Monitor	R. Thomas England	Amount $	173,567.00	From	10/01/2015	To	09/30/2016

Schedule of Payments: Payments will be made by monthly reimbursement

Original amount	$159,653.00
Amendment #1	$180,062.00
Amendment #2	$173,567.00
Total contract amount	$513,282.00

Purpose of Contract:
To provide resources to the Independent Living Program in accordance with Title VII Part B and the State Plan for Independent Living.

Correlation with Board Goals:

		Yes	No
Greater Than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		x
	The proposals were reviewed by an in-agency committee, and the least-Costly and best-performance proposal was selected.	x	
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee, and the least-Costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	x	
	The employment goals of the affirmative action program were followed.	x	
	A conflict of interest involving USOR/USOR staff exists.		x
	The contract uses federal funds.	x	

Agency approval certifies that all parties herein receiving fees, stipends, or other payment in excess of approved travel and per diem reimbursement will revive no remuneration from another state agency, state institution, school district, or other political subdivision (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Project
2480	400	3177	PBC	7512	T625		17772000
	400	3177	PBC	7512	T925		17772000

Division Superintendent or Designee — Date

Accounting — Date

Superintendent/Executive Director or Designee — Date

Upon final approval by State Finance:
- Original: attach to documents
- Duplicate: division accountant
- Triplicate: division/unit
- Quadruplicate: Board agenda

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Aug. 95

UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 5245

Contractor and Address	Evaluation and Training Institute 100 Corporate Pointe, Suite 387 Culver City, CA 90230	Vendor No VC0000144053	
		Commodity Code **91838**	

Agency Monitor Jennifer Throndsen Amount $ 947,760.00 From 08/15/2015 To 12/31/2019

Schedule of Payments: Payment upon final approval of contract

Purpose of Contract:

The purpose of this contract is to provide Independent External Evaluation of the UPSTART Program

Correlation with Board Goals:

		Yes	N
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) RX 400 52000000011	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Proje
2480	400	2805	PAB	6137	T016		8050100

Upon final approval by State Finance:
Original: attach to documents
Duplicate: division accountant
Triplicate: division/unit
Quadruplicate: Board agenda

Division Superintendent or Designee Date

Accounting Date

Prepared by: Noralee Green 538-7784

Superintendent/Executive Director or Designee Date

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UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 5246

Contractor and Address	Snapp Studios, LLC 595 So. Riverwoods Pkwy, Ste. 100 Logan, Utah 84321	Vendor No VC0000194197 Commodity Code

Agency Monitor Linda Mayne Amount $ 1,237,518.00 From 09/1/2015 To 8/31/2020

Schedule of Payments: Payment upon final approval of contract

Purpose of Contract:

The purpose of this contract is to provide Drivers Education training software.

Correlation with Board Goals:

		Yes	N
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) SS# 16207	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Proje
2480	400	0666	PAH	6137	T016		6660200

Upon final approval by State Finance:
Original: attach to documents
Duplicate: division accountant
Triplicate: division/unit
Quadruplicate: Board agenda

Division Superintendent or Designee Date

Accounting Date

Prepared by: Noralee Green 538-7784

Superintendent/Executive Director or Designee Date

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UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 5247

Contractor and Address	Multiple vendors to be determined based on RFP solicitation BC16001 process that closes July 16th.	Vendor No	
		Commodity Code	

Agency Monitor Joseph Borrack Amount $ 8,000,000.00 From 08/15/2015 To 8/14/2020

Schedule of Payments: Payment upon final approval of contract

Purpose of Contract:

The purpose of this contract is to provide a data analysis component (DAC) for the USOE's chosen diagnostic assessment system f reading for students in kindergarten through grade three.

Correlation with Board Goals:

The Utah Board of Education has adopted Dynamic Indicators of Basic Early Literacy Skills (DIBELS). Senate Bill 263 (2015) requires a DAC generate parent, teacher, school and LEA reports.

		Yes	N
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) BC16001	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Projec
2480	400	2811	PAJ	6137	T016		81101000

Upon final approval by State Finance:
Original: attach to documents
Duplicate: division accountant
Triplicate: division/unit
Quadruplicate: Board agenda

Division Superintendent or Designee Date

Accounting Date

Prepared by: Noralee Green 538-7815

Superintendent/Executive Director or Designee Date

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UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 5248

Contractor and Address	Kimono, LLC Gary Johnson, gjohnson@utah.gov, 877-262-9143 ex 7013 35 West Broadway, Suite 103 Salt Lake City, UT 84101	Vendor No VC00001933 Commodity Code **92045**

Agency Monitor C. Derek Howard Amount $ $850,000 From 9/1/2015 To 9/1/2020

Schedule of Payments:
Yearly payment upon invoice for annual fee plus any optional work completed.

Purpose of Contract:
Student Locator Framework (SIFWorks SLF) and Zone Integration Server (SIFWorks ZIS) software for the Utah Transcript and Record Exch
(UTREx).
SLF and ZIS are separate products and may be individually terminated.

Correlation with Board Goals: To maintain the data submission process required by state legislation and federal requirements.

		Yes	
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) SS15384	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

Fund	Agency	Organ	Approp	Object	Activity	Rep Cat	Proje
2480	400	0443	PAN	6137	T016		4431100

Upon final approval by State Finance:
Original: attach to documents
Duplicate: division accountant
Triplicate: division/unit
Quadruplicate: Board agenda

Division Superintendent or Designee Date

Accounting Date

Prepared by: Kellie Tyrrell 801-538-7900

Superintendent/Executive Director or Designee Date

C-3
Aug. 95

UTAH STATE OFFICE OF EDUCATIION/UTAH STATE OFFICE OF REHABILITATION

Contract Information

State No.

Agency No. For Office Use Only 3249

Contractor and Address	ESP Solutions Group, Inc. Jim Rife, jrife@espsg.com, 512-879-5355 8627 Mopace Expy, Suite 400 Austin, TX 78759	Vendor No VC00001933 Commodity Code

Agency Monitor C. Derek Howard Amount $ $441,150 From 9/1/2015 To 8/31/2020

Schedule of Payments:
Yearly payment upon invoice for annual fee plus and optional work completed.

Purpose of Contract:
To license the Vertical Reporting Framework (VRF) software for the Utah Transcript and Record Exchange (UTREx).

Correlation with Board Goals:
To maintain reports process required by state legislation and federal requirements.

		Yes	
Greater than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed) SS15383	XX	
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		X
Less than $5,000	This contract was entered into as a result of the state-level bidding process (RX was processed).		
	The proposals were reviewed by an in-agency committee and the least-costly and best-performance proposal was selected.		
General Information	The contract was awarded using appropriate policy and procedures.	XX	
	The employment goals of the affirmative action program were followed.	XX	
	A conflict of interest involving USOE/USOR staff exists.		X
	The contract uses federal funds.		X

Agency approval certifies that all parties herein receiving fees, stipends or other payment in excess of approved travel and perfume reimbursement will receive no remuneration from another state agency, state institution, school district, or other political sub-division (unless so stated in the parties' annual employment contract) for the time and service that they claim payment from the USOE in relation to this request.

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Division Superintendent or Designee Date

Accounting Date

Prepared by: Kellie Tyrrell 801-538-7900

Superintendent/Executive Director or Designee Date

Contracts approved by State Superintendent or USOR Director (less than					
Agency Contract #	**Section**	**Vendor**	**Current Amendment Amount**	**Original plus amendments to date**	**Total Contract Amount**
146144	SARS	Ohio State University	$10,000.00	$20,000.00	$30,000.00

$100,000)	
Expiration Date	**Contract Purpose**
09/30/15	IDEA community school model eval

Contract Number	Vendor Name	Section	Contract Monitor	Contract Begin Date	Contract End Date	Status	Comments
146238	GCS Service Inc. DBA Ecolab Inc	DRS/BEP	Donna Wells	1/2/2014	1/1/2016	maintenance for IRS café equip Amendment #2	BEP notified

National Association of State Boards of Education

INVOICE

333 John Carlyle Street, #530
Alexandria, VA 22314
(703)684-4000
(703)740-4828

SOLD TO:

Utah State Board of Education
Lorraine Austin
PO Box 144200
Salt Lake City, UT 84114-4200

INVOICE NUMBER	0603025
INVOICE DATE	June 5, 2015
PURCHASE ORDER NO.	
TERMS	Due Upon Receipt

SHIPPED TO:

QTY	DESCRIPTION		AMOUNT
1	2016 NASBE Membership Dues		28,406.00
1	2016 NCOSEA Membership Dues		130.00
1	2016 Standard Subscription		20.00
	✓ ***Opt out of Professional Development Funds*** ***Deduct $5,000 from invoice total***		
	_____ ***Additional $2,500 to Professional Development Funds*** ***Add $2,500 to invoice total***		
	_____ ***Additional $5,000 to Professional Development Funds*** ***Add $5,000 to invoice total***		
		SUBTOTAL	$28,556.00
		FREIGHT	0.00
			$28,556.00
			TOTAL DUE

THANK YOU!

NASBE

National Association of
State Boards of Education

Benefits of NASBE Membership

Professional Development – NASBE is the only national organization dedicated to providing professional development for members of state boards of education. Throughout the year, members may take advantage of:

- Webinars on topics of high interest to state board of education members
- Study groups and convenings, which bring together state board members and national policy experts to produce original reports that address single topics through in-depth research, and provide state and local leaders with recommendations for action.

State Board Development and Capacity Building Assistance – NASBE offers member boards free technical assistance in the following areas:

- State Board Strategic Planning
- Boardsmanship
- Board Self-Evaluation
- Data Privacy

Portfolio Membership Services – Upon request, NASBE will conduct a needs assessment, an environmental scan, and a goal-setting process, resulting in the development of a portfolio of services tailored to each state board's needs.

NASBE Publications – Members turn to NASBE for accurate and research-based information about the latest issues in education. Regular publications include:

- *State Education Standard* – Our journal, written by subject-matter experts, provides cover-to-cover insight into select education policy issues of the day.
- *Education Leaders Reports* cover hot topics as well as over-the-horizon thinking on education. They provide a deep dive into the background on policy issues, relevant research, and practical steps that the research findings imply for state policymaking.
- *State Innovations* provide concise examples of the policymaking experiences of particular state boards of education. These reports provide new ideas for other states' policymaking, contacts to enable cross-state networking on key issues, and benchmarking.
- *Policy Updates* are two-page briefs on changes in federal education policy, state policy impacts, and trends in education.

National Voice – As the national voice of state board of education members in the United States and U.S. Territories, NASBE represents its membership on federal education matters before the Administration, Congress, and the U.S. Department of Education. Member states are entitled to name one individual to serve on the Government Affairs Committee, which coordinates this work.

Discounted Registration – NASBE hosts a number of larger meetings that offer members the opportunity to hear from national experts and to network with other board members from across the country. Membership includes:

- 2 free registrations to the New Member Institute
- Discounted registration for NASBE's Annual Conference
- Discounted registration for NASBE's Legislative and Policy Forum

State Stipends – On a number of projects, NASBE offers member states the opportunity to seek stipends that will further their work. Current state stipends are supporting work in the following areas:

- Standards adoption and implementation
- Deeper learning
- Student discipline and school climate
- Healthy schools and healthy students
- Developing and supporting education leaders
- Promoting social inclusion for all students, including those with disabilities

Executive Searches – NASBE will assist state boards of education who are seeking a new chief state school officer. Member states receive a substantial discount.

Affiliated Organizations – NASBE recognizes two affiliate organizations whose members do not vote for NASBE officers but are otherwise entitled to the full benefits of membership.

- The National Council of State Boards of Education Executives (NCSBEE) is the national organization serving individuals who provide administrative and other support to state boards of education.
- The National Council of State Education Attorneys (NCOSEA) is composed of attorneys who represent and advise state boards of education.

Governance Opportunities – State boards are encouraged to nominate their members to serve on NASBE committees and the national Board of Directors.

Mission

The National Association of State Boards of Education exists to strengthen state boards as the preeminent educational policymaking bodies for students and citizens. NASBE is the only national organization giving voice and adding value to the nation's state boards of education.
A nonprofit organization founded in 1958, NASBE works to:

- Strengthen state leadership in educational policymaking,
- Promote excellence in the education of all students,
- Advocate equality of access to educational opportunity, and
- Ensure continued citizen support for public education.

R277. Education, Administration.
R277-116. Audit Procedure.
R277-116-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Subsection 63I-5-201(4) which requires the Board to direct the establishment of an internal audit department for programs administered by the entities it governs;

(c) Subsection 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities;

(d) Subsection 53A-1-402(1)(e) which directs the Board to develop rules and minimum standards regarding school productivity and cost effectiveness measures, school budget formats, and financial, statistical, and student accounting requirements for the local school districts;

(e) Section 53A-1-404 which allows the Board to approve auditing standards for school boards;

(f) Section 53A-1-405 which makes the Board responsible for verifying audits of local school districts; and

(g) Subsection 53A-17a-147(2) which directs the Board to assess the progress and effectiveness of all programs funded under the State System of Public Education.

(2) The purpose of this rule is to:

(a) outline the role of the Audit Director, Superintendent, and agency in the audit process; and

(b) outline the Board's procedures for audits of agencies.

R277-116-2. Definitions.

(1) “Agency” means:

(a) an entity governed by the Board;

(b) an LEA; or

(c) a sub-recipient.

(2) “Audit committee” means a standing committee of members appointed by the Board.

(3) “Audit Director” means the person who:

(a) directs the audit program of the Board;

(b) is appointed by and reports to the audit committee; and

(c) is independent of the agencies subject to Board audit.

(4) “Audit plan” means a prioritized list of audits to be performed in the audit program within a specified period of time that is reviewed, approved, and adopted at least annually.

(5) “Audit program” means a department that provides internal audit services for the Board that is directed by the Audit Director.

(6) “An entity governed by the Board” means the SCSB, USDB, USOE, or USOR.

(7) “Draft audit report” means a draft audit report compiled by the Audit Director that is classified as protected under Title 63G, Chapter 2, Part 3, Section 305, Protected records.

(8) “Final audit report” means a draft audit report that is approved by the audit

committee and the Board as a final audit report that is classified as public under Title 63G, Chapter 2, Part 3, Section 301, Public records.

(9) “Sub-recipient” means any entity that receives funds from an entity governed by the Board.

R277-116-3. Audit Director Authority and Responsibilities.

The Audit Director shall:

(1) direct the audit program:

(a) as approved by the Board and audit committee by objectively evaluating the effectiveness and efficiency of the operations of the agency being audited;

(b) in accordance with the current International Standards for the Professional Practice of Internal Auditing; and

(c) as otherwise required by the Board;

(2) ensure that collectively the audit department possesses the knowledge, skills, and experience essential to the practices of the profession and are proficient in applying internal auditing standards, procedures, and techniques;

(3) employ:

(a) a sufficient number of professional and support staff to implement an effective internal audit program; and

(b) audit staff who are qualified in disciplines that include:

(i) accounting;

(ii) business management;

(iii) public administration;

(iv) human resource management;

(v) economics;

(vi) finance;

(vii) statistics;

(viii) electronic data processing; or

(ix) engineering;

(4) inform the audit committee if additional professional and support staff are necessary to implement an effective internal audit program;

(5) base compensation, training, job tenure, and advancement of internal auditing staff on job performance;

(6) propose audit rules, policies, and amendments, for approval and adoption by the Board that maintain staff independence from operational and management responsibilities that would impair staff’s ability to make independent audits of an agency;

(7) develop and recommend an audit plan to the Board and the audit committee based on the findings of periodic risk assessments, audits, and budget;

(8) perform an audit of a special program, activity, function, or organizational unit of an agency at the direction of the Board or the audit committee with one or more objectives, including:

(a) to verify the accuracy and reliability of agency records;

(b) to assess compliance with management policies, plans, procedures, and regulations;

(c) to assess compliance with applicable laws, rules, and regulations;

(d) to evaluate the efficient and effective use of agency resources;

(e) to verify the appropriate protection of agency assets; and

(f) review and evaluate internal controls over the agency's accounting systems, administrative systems, electronic data processing systems, and all other major systems necessary to ensure the fiscal and administrative accountability of the state agency;

(9) determine the assignment and scope of the audits;

(10) periodically discuss relevant matters with the audit committee including whether there are any restrictions on the scope of the audits;

(11) submit draft audit reports directly to the Board and to the audit committee;

(12) receive comments from the Board and responses from the Superintendent on the draft audit report;

(13) edit draft audit report based upon the comments and responses received;

(14) resubmit a draft audit report to the Board and audit committee:

(a) after receipt of comments from the Board and responses from the Superintendent; and

(b) until a draft audit report is approved and adopted as a final audit report by the Board;

(15) report monthly to the audit committee, or as otherwise directed by the audit committee, including:

(a) reviewing current audits being performed both internally and externally;

(b) the scope of the internal and external audits;

(c) status of internal and external audits;

(d) follow up draft audit reports; and

(e) draft audit reports for final review and recommendation;

(16) conduct an annual quality assurance review of the audit program with the audit committee;

(17) personally or through a designee, report quarterly to the Board, or as otherwise directed by the Board;

(18) personally or through a designee, attend all Board meetings;

(19) report to the Board, within a reasonable time of discovering, issues that have the potential of exposing the Board, Superintendent, or an agency to liability or litigation;

(20) maintain the classification of any public record consistent with GRAMA;

(21) be subject to the same penalties under GRAMA as the custodian of a public record; and

(22) ensure that significant audit matters that cannot be appropriately addressed by the audit program are referred to either the Office of Legislative Auditor General or the Office of the State Auditor.

R277-116-4. Superintendent Authority and Responsibilities.

The Superintendent shall establish the audit program by:

(1) providing resources necessary to conduct the audit program including adequate funds, staff, tools, and space to support the audit program;

(2) facilitating communications with those charged with governance, management, and staff as requested by the Audit Director or the audit committee to ensure the access necessary to perform an audit;

(3) ensuring access to all personnel, records, data, and other agency information that the Audit Director or staff consider necessary to carry out their assigned duties;

(4) notifying the Audit Director of external audits of entities governed by the Board;

(5) notifying the agency that the Audit Director shall be the liaison for an external

audit; and

(6) supporting the audit program as otherwise requested by the audit committee or Audit Director.

R277-116-5. Agency Authority and Responsibilities.

The agency shall wholly cooperate and provide the Audit Director and the internal audit staff all:

(1) necessary access to those charged with governance, management, and staff; and

(2) personnel, records, data, and other agency information that the Audit Director or staff consider necessary to carry out their assigned duties.

R277-116-6. Audit Plans.

(1) The audit plan prepared by the Audit Director shall:

(a) identify the individual audits to be conducted during each year;

(b) identify the related resources to be devoted to each of the respective audits;

(c) ensure that internal controls are reviewed periodically as determined by the Board or by the audit committee; and

(d) ensure that audits that evaluate the efficient and effective use of agency resources are adequately represented in the audit plan.

(2) Upon request, the Audit Director shall make a copy of the approved and adopted audit plan available to the state auditor, legislative auditor, or other appropriate external auditors to assist in planning and coordination of any external financial, compliance, electronic data processing, or performance audit.

R277-116-7 Audit Process.

(1) The Audit Director shall develop and recommend an audit plan to the Board and the audit committee based on the findings of periodic risk assessments and audits.

(2) Once approved and adopted by the Board, the Audit Director shall implement the audit plan.

(3) As requested by the audit committee or Audit Director, the Superintendent shall establish the audit program.

(4) The agency shall provide all information to the Audit Director and audit staff for the audit to be timely conducted.

(5) After conducting an audit, the Audit Director shall submit a draft audit report to:

(a) the audit committee;

(b) the Board; and

(c) the Superintendent for response or comment.

(6) Within fourteen days of the Audit Director’s submission of the draft audit report to the Board and audit committee, the Superintendent shall either:

(a) provide a written response or comment to the Board, audit committee, and Audit Director to the draft audit report; or

(b) file a written request for an extension to the audit committee setting forth:

(i) the steps necessary to investigate and prepare a response to the draft audit report;

(ii) the time necessary to perform each step; and

(iii) the latest date that the Superintendent's written response or comment will be

given to the Board, audit committee and Audit Director.

(7) Upon receiving written response and comment from the Superintendent, the Audit Director shall:

(a) incorporate into the draft audit report the written responses and comments, if any, received from the Board, the audit committee, and the Superintendent; and

(b) submit the amended draft audit report to the audit committee for recommendation.

(8) The audit committee may:

(a) recommend an amended draft audit report for approval and adoption; or

(b) send the amended draft audit report back to the Audit Director with instructions for additional review.

(9) Upon recommendation from the audit committee on the amended draft audit report, the Board may:

(a) approve and adopt an amended draft audit report as the final audit report; or

(b) send the amended draft audit report back to the audit committee with instructions for additional review.

R277-116-8. Audit Reports.

(1) An audit report prepared by the Audit Director and staff shall be based upon audits of agency programs, activities, and functions that include:

(a) findings based upon the audit scope; and

(b) one or more of the following objectives:

(i) verification of the accuracy and reliability of agency records;

(ii) assessment of an agency's compliance with management policies, plans, procedures, and regulations;

(iii) assessment of an agency's compliance with applicable laws, rules, and regulations;

(iv) evaluation of the efficient and effective use of agency resources;

(v) verification of the appropriate protection of agency assets;

(vi) furnishing independent analyses, appraisals, and recommendations that may, depending upon the audit scope, identify:

(A) the adequacy of an agency's systems of internal control;

(B) the efficiency and effectiveness of agency management in carrying out assigned responsibilities; and

(C) the agency's compliance with applicable laws, rules, and regulations;

(vii) review and evaluation of internal controls over the agency's accounting systems, administrative systems, electronic data processing systems, and all other major systems necessary to ensure the fiscal and administrative accountability of the agency; and

(viii) identification of abuse, illegal acts, errors, omissions, or conflicts of interest.

(2) An audit report prepared by the Audit Director and staff shall include a statement that the audit was conducted according to International Standards for the Professional Practice of Internal Auditing.

(3) The Audit Director shall provide, upon written request, a copy of an audit report to the Office of Legislative Auditor General or the Office of the State Auditor.

(4) The Audit Director shall ensure that public release of a final audit report complies with the conditions specified by the state laws and rules governing the audited agency.

KEY: educational administration
Date of Enactment or Last Substantive Amendment: 2015
Notice of Continuation: December 16, 2013
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-405; 53A-1-402(1)(e); 53A-17a-147(2); 63I-5-101 through 401

R277. Education, Administration.
R277-406. K-3 Reading Improvement Program and the State Reading Goal.
R277-406-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Subsection 53A-1-401(3), which allows the Board to make rules in accordance with its responsibilities; and

(c) Subsection 53A-17a-150(14)(a), which directs the Board to develop rules for implementing the K-3 Reading Improvement Program.

(2) The purpose of this rule is to outline the responsibilities of the Superintendent and LEAs for implementation of Section 53A-17A-150, K-3 Reading Improvement Program, and Section 53A-1-606.5, State Reading Goal-Reading Achievement Plan.

R277-406-2. Definitions.

(1) “Benchmark assessment” means an assessment that:

(a) is given three times each year at:

(i) the beginning of the school year;

(ii) the midpoint of the school year; and

(iii) the end of the school year;

(b) gives teachers information to:

(i) plan appropriate instruction; and

(ii) evaluate the effects of instruction; and

(c) provides data about the extent to which students are prepared to be successful on the end of year Criterion Referenced Test.

(2) “Grade level in reading” means that a student gains adequate meaning from independently reading texts designed for instruction at that grade level.

(3) “LEA plan” means the K-3 Reading Achievement Program Plan submitted by a public school district or a charter school.

(4) “Midpoint of school year” means January 31 of the school year.

(5) “Program” means the K-3 Reading Improvement Program.

(6) “Program money” means the same as that term is defined in Section 53A-17a-150.

(7) “School plan” means the K-3 Reading Achievement Program Plan submitted by a public school or a charter school.

R277-406-3. Board/Superintendent Responsibilities.

(1) The Board shall approve a program plan submitted by an LEA pursuant to Subsection R277-406-4(1).

(2) In accordance with Section 53A-17a-150, the uniform standard for a growth goal is that the goal:

(a) signifies the percentage of third grade students who made typical, above typical, or well-above typical progress from the beginning of the year to the end of the year in third grade as measured by the benchmark assessment; and

(b) sets the target percentage of third graders making typical progress or better at 47.83 percent.

(3) The Superintendent shall use the information provided by an LEA described in

Subsection R277-406-4(3) to determine the progress of each student in grade 3 within the following categories:

(i) well-above typical;

(ii) above typical;

(iii) typical;

(iv) below typical; or

(v) well-below typical.

R277-406-4. Responsibilities of LEAs.

(1) To receive Program money, a school with K-3 grade levels shall submit a school plan to its local board or charter board, and each LEA shall submit an LEA plan to the Board for reading proficiency improvement that incorporates the components described in Subsections 53A-1-606.5(3)(d) and 53A-17a-150(4)(a).

(2) The school plan shall be created:

(a) for a school in a district, under the direction of the school community council;

(b) for a charter school, under the direction of the charter school governing board.

(3)(a) An LEA shall complete the report required by Subsections 53A-17a-150(13)(a) and 53A-17a-150(14)(b)(i) within timelines set by the Superintendent.

(b) The report shall include:

(i) the information described in Subsection 53A-17a-150(16)(a) for kindergarten, first grade, second grade, and third grade, including information from the previous five years; and

(ii) the composite scores on the benchmark assessment of students in grades 1 through 3 to the Superintendent:

(A) through UTREx; and

(B) on or before July 1 of each year.

(4) An LEA that loses Program money due to a failure to meet its goal of increasing the percentage of third grade students at grade level may reapply for the Program money upon submission of a revised K-3 Reading Improvement Plan after one year of not receiving Program money.

KEY: reading, improvement, goal
Date of Enactment or Last Substantive Amendment: 2015
Notice of Continuation: 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-150(14)(a)

R277. Education, Administration.
R277-444. Distribution of Funds to Arts and Science Organizations.
R277-444-1. Definitions.

A. "Arts organization (organization)" means a non-profit professional artistic organization that provides artistic (dance, music, drama, art) services, performances or instruction to the Utah community.

B. "Arts and science subsidy program" means groups that have participated in the RFP program and have been determined by the Board to be providing valuable services in the schools. They do not qualify as professional outreach programs.

C. "Board" means the Utah State Board of Education.

D. "Cost effectiveness" means maximization of the educational potential of the resources available through the professional organization, not using POPS funding for costs that would be expended necessarily for the maintenance and operation of the organization.

E. "Educational soundness" means that learning activities or programs:

(1) are designed for the community and grade level being served, including suggested preparatory activities and Core-relevant follow-up activities;

(2) feature literal interaction of students and teachers with professional artists and scientists;

(3) focus on those specific Life Skills and Arts or Science Core Curricula concepts and skills; and

(4) show continuous improvement of services guided by analysis of evaluative tools.

F. "Hands-on activities" means activities that include active involvement of students with presenters, ideally with materials provided by the organization.

G. "Non-profit organization" means an organization no part of the income of which, is distributable to its members, directors or officers; a corporation organized for other than profit-making purposes.

H. "Professional excellence" means the organization:

(1) has been juried or reviewed, based on criteria for artistic or scientific excellence, by a panel of recognized and qualified critics in the appropriate discipline;

(2) has received recognitions of excellence through an award, a prize, a grant, a commission, an invitation to participate in a recognized series of presentations in a well-known venue; and

(3) includes a recognized and qualified professional in the appropriate field who has created an artistic or scientific project or composition specifically for the organization to present; or

(4) any combination of criteria.

I. "Professional outreach programs (POPS) in the schools" means those established arts and science organizations which received line item funding directly from the Utah State Legislature prior to 2004. These organizations have demonstrated the capacity to mobilize programmatic resources and focus them systematically in improving teaching and learning in schools statewide.

G. "Request for proposal (RFP)" means a competitive application process used to identify programs that best meet requirements established by the Board.

H. "RFP program" means arts and science organizations that receive one-time funding through application to the USOE.

I. "School visits" means performances, lecture demonstrations/presentations, in-

depth instructional workshops, residencies, side-by-side mentoring, and exhibit tours by professional arts and science groups in the community.

J. "Science organization (organization)" means a non-profit professional science organization that provides science-related services, performances or instruction to the Utah community.

K. "State Core Curriculum" means those standards of learning that are essential for all Utah students, as well as the ideas, concepts, and skills that provide a foundation on which subsequent learning may be built, as established by the Board.

L. "USOE" means the Utah State Office of Education.

R277-444-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of the arts and science program is to provide opportunities for students to develop and use the knowledge, skills, and appreciation defined in the arts and science Core curricula through in-depth school instructional services, performances or presentations in school and theatres, or arts or science museum tours.

C. This rule also provides criteria for the distribution of funds appropriated by the Utah Legislature for this program.

R277-444-3. Criteria for Eligibility, Applications, and Funding for POPS Organizations.

A. Established professional outreach program in the schools (POPS) organizations shall be eligible for funding under the POPS program applications and funding criteria and not eligible to apply for the RFP or arts and science subsidy programs.

B. Documentation of an organization's non-profit status, shall be provided in the annual evaluation report described in R277-444-6.

C. Every four years, beginning in July 1998, all POPS organizations shall reapply to the USOE to reestablish their continuation and amount of funding. Re-application materials shall be provided by the USOE.

D. When there are changes in the program funding from the Utah State Legislature, allocations shall be at the discretion of the Board.

E. Funds shall be distributed annually beginning in August.

R277-444-4. Criteria for Eligibility, Applications, and Funding for RFP Organizations.

A. Non-profit professional arts and science organizations that have existed for at least three years prior to application with a track record of proven fiscal responsibility, of demonstrated excellence in their discipline, and with the ability to share their discipline creatively and effectively in educational settings shall be eligible to apply for RFP funding.

B. Documentation of an organization's non-profit status, professional excellence or educational soundness may be required by the USOE prior to receipt of application from these organizations.

C. RFP organizations that can demonstrate successful participation in the RFP Program for three years, have an education staff, and the capacity to reach out statewide may apply to the Board to become a POPS organization.

D. Organizations funded through an RFP process shall submit annual applications to the USOE. Applications shall be provided by the USOE.

E. The designated USOE specialist(s) shall make final funding recommendations following a review of applications by designated community representatives to the Board by August 31 of the school year in which the money is available.

F. Application for eligible organizations to become a POPS organization is possible every year through the following process:

(1) Organizations submit a letter of intent and a master plan for servicing the schools to the designated USOE specialist(s) by the first day of October to determine eligibility and accordingly respond with an invitation to meet and complete the application and evaluation process required of all established POPS and arts and science subsidy organizations in their re-application procedure every four years.

(2) The completed application, original letter of intent, and recommendations based on the evaluation are submitted to the Board through the designated USOE specialist(s) by June 1.

(3) The Board or designee meets with the designated USOE specialist(s) to determine whether or not to approve the applicant as a candidate to become a POPS organization.

(4) The Board shall request new money for a new POPS organization from the Utah State Legislature if the application is approved, prior to providing funds to the newly approved organization.

(5) The same procedure would be followed for organizations desiring to apply to be arts and science subsidy organizations, and to re-apply to establish their funding level and standing as an arts and science subsidy group.

(6) Arts and science organizations meeting the arts and science subsidy criteria may apply for the arts and science subsidy program, but may not apply for RFP funding.

G. When there are changes in the program funding from the Utah State Legislature, allocations shall be at the discretion of the Board.

H. Funds shall be distributed annually beginning in August.

R277-444-5. Process for Continued Funding of Arts and Science Subsidy Program Organizations.

A. Scientists, artists, or entities hired or sponsored for services in the schools, directly or indirectly through coordinating organizations, shall be subject to the same review and approval for funding process.

B. Every four years, beginning in 2010, all arts and science subsidy program organizations shall reapply to the USOE to reestablish the continuation and amount of funding. Re-application materials shall be provided by the USOE.

C. When there are changes in the program funding from the Utah State Legislature, annual allocations shall be at the discretion of the Board.

D. Funds shall be distributed annually beginning in August.

R277-444-6. Criteria for Evaluation and Accountability of Funding.

A. Arts and science organizations qualifying for POPS or RFP funding may not charge schools for services funded under those programs.

B. Organizations may be visited by USOE staff prior to funding or at school presentations during the funding cycle to evaluate the effectiveness and preparation of the

organization.

C. Organizations that receive arts and science funding shall submit annual evaluation reports to the USOE by July 1.

D. The year-end report shall include:

(1) a budget expenditure report and income source report using a form provided by the USOE, including a report and accounting of fees charged, if any, to recipient schools, districts, or organizations; and

(2) record of the dates and places of all services rendered, the number of instruction and performance hours per district, school, and classroom service, as applicable, with the number of students and teachers served, including:

(a) documentation that all school districts and schools have been offered opportunities for participation with all organizations over a three year period consistent with the arts and science organizations' plans and to the extent possible; and

(b) documentation of collaboration with the USOE and school communities in planning visit preparation/follow up and content that focuses on the state Core curriculum; and

(c) arts or science and their contribution(s) to students' development of life skills; and

(3) a brief description of services provided by the organizations through the fine arts and science POPS, RFP, or arts and science subsidy programs, and if requested, copies of any and all materials developed; and

(4) a summary of organization's evaluation of:

(a) cost-effectiveness;

(b) procedural efficiency;

(c) collaborative practices;

(d) educational soundness;

(e) professional excellence; and

(f) the resultant goals, plans, or both, for continued evaluation and improvement.

E. The USOE may require additional evaluation or audit procedures from organizations to demonstrate use of funds consistent with the law and this rule.

F. Funding and levels of funding to POPS, RFP, and arts and science subsidy programs are continued at the discretion of the Board based on review of information collected in year-end reports.

R277-444-7. Variations or Waivers.

A. No deviations from the approved and funded arts or science proposals shall be permitted without prior approval from the designated USOE specialist(s) or designee.

B. The USOE may require requests for variations to be submitted in writing.

C. The nature and justification for any deviation or variation from the approved proposal shall be reported in the year-end report.

D. Any variation shall be consistent with law and the purposes of this rule.

KEY: arts, science, curricula
Date of Enactment or Last Substantive Amendment: July 18, 2005
Notice of Continuation: 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3)

R277. Education, Administration.
R277-497. School Grading System.
R277-497-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Section 53A-1-1113, which directs the Board to adopt rules to implement a school grading system;

(c) Section 53A-1-1104, which authorizes the Board to make a rule to establish an accountability plan for an alternative school or special needs school that the Board has exempt from school grading; and

(d) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

(2) The purpose of this rule is to provide consistent definitions, standards, and procedures for LEAs to report school data through a school grading system.

R277-497-2. Definitions.

(1)"Alternative school" means the same as that term is defined in Section 53A-1-1102.

(2) "Special needs school" means a school that only enrolls a student that:

(a) has at least one of the following disabilities:

(i) an intellectual disability;

(ii) a hearing impairment or deafness;

(iii) a speech or language impairment;

(iv) a visual impairment, including blindness;

(v) deafblindness;

(vi) an emotional disturbance;

(vii) an orthopedic impairment;

(viii) autism;

(ix) developmental delay;

(x) traumatic brain injury;

(xi) other health impairment;

(xii) multiple disabilities; or

(xiii) specific learning disabilities; and

(b) has been determined to need placement in a special school by an IEP team.

(3) “Sufficient student growth” means a student growth percentile of 40 or above.

R277-497-3. Board Responsibilities.

(1) The Board may not count a student who does not participate in required testing under Section 53A-1-603 due to parent excuse provisions of Subsection 53A-15-1403(9) and Section R277-404-6 in determining the participation rate for purposes of school grades.

(2) The Board and LEAs shall take necessary actions within their authority to satisfy Subsection 53A-15-1403(9)(b).

R277-497-4. LEA Responsibilities.

(1) An LEA shall provide accurate and timely data as required under Rule R277-484

to allow for the development of the school reports.

(2) An LEA shall use the school reports as a communication tool to inform parents and the community about school performance.

(3) An LEA shall ensure that the school reports are available for all parents.

R277-497-5. School Responsibilities.

(1) A school shall provide data for the school report as provided in Rule R277-484.

(2) A school shall cooperate with the Board and LEAs to ensure that the school report is available for all parents.

R277-497-6. Exemption from School Grading.

(1)(a) As authorized by Section 53A-1-1104, an alternative school or a special needs school may submit a request for an exemption from school grading for the next three school years to the Board by July 1.

(b) The request shall demonstrate that:

(i) the school meets the definition of an alternative school or a special needs school;

(ii) the school has the approval of:

(A) the school's LEA governing board; or

(B) if the school is the Utah Schools for the Deaf and the Blind, the USDB advisory committee; and

(iii) if the school has received an exemption for a previous school year, the school has timely submitted to the Superintendent all information necessary for the Board to evaluate the school as required by Section 53A-1-1104.

(2)(a) The Board shall exempt a school from school grading if the school meets the requirements of Subsection (1).

(b) Except as provided by Subsection (2)(c), an exemption from school grading is valid for three school years.

(c) The Board may revoke an exemption if a school fails to timely submit to the Superintendent all information necessary for the Board to annually evaluate the school in accordance with the accountability plan.

R277-497-7. Accountability Plan – General Provisions.

(1)(a) This rule incorporates by reference the Guide to Utah's Comprehensive Accountability System for Alternative Schools - June 6, 2014, which describes the accountability plan required by Section 53A-1-1104, with the exceptions for a special needs school described in Section R277-497-8.

(b) The Superintendent shall annually evaluate a school in accordance with the accountability plan by calculating a school's composite score, which has a maximum value of 1500, by summing the school's weighted indicator scores.

(2) The accountability plan consists of five indicators weighted as follows:

(a) growth, which measures student academic progress based on a school's median student growth percentile for all students and below proficient students, is 20% with a maximum score of 300;

(b) attendance, which is the higher of a school's attendance rate in the current year or improvement in cohort attendance rate from the previous year, is 25% with a maximum score of 375;

(c) credit earning, which measures the degree to which a student enrolled in the

current year is successfully completing courses in which the student is enrolled or is making improvement in cohort credit earning rate from the previous year, is 25% with a maximum score of 375;

(d) attainment, which measures the extent to which a student successfully completes or make substantial progress toward completion of meaningful educational goals, is 20% with a maximum score of 300; and

(e) school climate, which measures whether a school is collecting data to evaluate school climate and using results to inform efforts to improve climate, is ten percent with a maximum score of 150.

(3) The Superintendent shall assign the scores based on the rubrics established in the guide.

R277-497-8. Accountability Plan Exceptions.

(1) At the request of a special needs school, the Superintendent may exempt a student from the attendance indicator score calculation if the student has a documented medical condition that prevents the student from attending 160 days of school.

(2) In accordance with a Section 53A-1-111, a student with a disability may take an alternative assessment to determine the student's growth instead of the Student Assessment of Growth and Excellence.

(3) If required by Section R277-410-5, a special needs school shall report on the school's progress on the school's accreditation improvement plan in the School Snapshot section of the school's report card published by the Superintendent under Subsection 53A-1-1104(5)(b)(ii).

KEY: school reports, grading system
Date of Enactment or Last Substantive Amendment: 2015
Notice of Continuation: 2015
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-1104; 53A-1-1113; 53A-1-401(3)

R277. Education, Administration.
R277-498. Grant for Math Teaching Training.
R277-498-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities; and

(c) Subsection 53A-6-901(2), which directs the Board to make rules to provide criteria to award a grant related to mathematics education.

(2) The purpose of this rule is to establish criteria to award a grant to:

(a) support and encourage prospective educators to earn mathematics endorsements; and

(b) assist an experienced mathematics teacher in becoming a teacher leader.

R277-498-2. Definitions.

(1) “Comprehensive Administration of Credentials for Teachers in Utah Schools” or “CACTUS” means the electronic file maintained on all licensed Utah educators that includes:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history; and

(e) a record of disciplinary action taken against the educator.

(2) “Endorsements in mathematics” means one or more endorsements in the mathematics teaching field that:

(a) qualify an educator or prospective educator to teach a specific or specific level of mathematics course; and

(b) is indicated by a notation on the educator's CACTUS record.

(3) “Grantee” or “prospective grantee” means:

(a) an institution of higher education; or

(b) a nonprofit educational organization.

(4) “Matching funds” means funds provided by the grant recipient in order to receive state funds under Section 53A-6-901.

R277-498-3. Board Procedures for Distributing Funds.

(1) The Superintendent shall select a grantee that meets the criteria of Section 53A-6-901 and the criteria of this rule from requests submitted by a prospective grantee.

(2) The Superintendent shall notify a selected grantee of its eligibility to receive funds under this program following:

(a) review of the request; and

(b) the assurance of matching funds.

(3) The Superintendent may identify one eligible and qualified grantee and establish a funding schedule to distribute funds or allow a prospective grantee to submit an application until March 30.

(4) The Superintendent, under the direction of the Board, shall distribute the appropriation provided for in Section 53A-6-901 by June 30.

R277-498-4. Criteria for Awarding Grants.

(1) The Superintendent shall consider the amount or percent of matching funds that a prospective grantee offers.

(2) The Superintendent shall determine that the prospective grantee requesting funds under Section 53A-6-901 shall use the funds consistent with Section 53A-6-901.

R277-498-5. Accountability and Documentation.

(1) The Superintendent shall maintain records of the distribution of funds to a grantee that requests funds provided under Section 53A-6-901 and this rule.

(2) The recipient of funds under Section 53A-6-901 shall maintain documentation of the matching funds offered by the grantee that established the grantee's eligibility.

(3) Both the Superintendent and the eligible grantee shall maintain documentation of:

(a) the number of prospective educators and the relevant training received from funding provided by Section 53A-6-901; or

(b) the number of experienced mathematics teachers and the relevant training received from funding provided by Section 53A-6-901.

KEY: grants, educator, math teaching training
Date of Enactment or Last Substantive Amendment: 2015
Notice of Continuation: 2015
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401(3); 53A-6-901(2)

R277. Education, Administration.
R277- 602. Special Needs Scholarships – Funding and Procedures.
R277-602-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system under the Board;

(b) Subsection 53A-1a-706(5)(b), which provides for Board rules to establish timelines for payments to private schools;

(c) Title 53A, Chapter 15, Part 15, Background Checks, which provides for criminal background checks and ongoing monitoring for employees and volunteers;

(d) Section 53A-1a-707, which provides for Board rules about eligibility of students for scholarships and the application process for students to participate in the scholarship program; and

(e) Subsection 53A-1-401(3), which allows the Board to adopt rules in accordance with its responsibilities.

(2) The purpose of this rule is to:

(a) outline responsibilities of a parent, an LEA, and an eligible private school that accepts a scholarship from a special needs student and the Board in providing choice for a parent of a special needs student who chooses to have a student served in a private school; and

(b) provide accountability for the citizenry in the administration and distribution of the scholarship funds.

R277-602-2. Definitions.

(1) "Appeal" means an opportunity to discuss or contest a final administrative decision consistent with and expressly limited to the procedures of this rule.

(2) "Appeals Committee" means a committee comprised of:

(a) the special needs scholarship coordinator;

(b) the USOE Special Education Director;

(c) one individual appointed by the Superintendent or designee; and

(d) two Board-designated special education advocates.

(3) "Assessment" means a formal testing procedure carried out under prescribed and uniform conditions that measures a student's academic progress, consistent with Subsection 53A-1a-705(1)(f).

(4) "Assessment team" means the individuals designated under Subsection 53A-1a-703(1).

(5) "Days" means school days unless specifically designated otherwise in this rule.

(6) "Eligible student" means a student who meets the qualifications described in Section 53A-1a-704.

(7) "Enrollment" means that:

(a) the student has completed the school enrollment process;

(b) the school maintains required student enrollment information and documentation of age eligibility;

(c) the student is scheduled to receive services at the school;

(d) the student attends regularly; and

(e) the school has accepted the student consistent with Rule R277-419 and the student's IEP.

(8) “Final administrative action” means the concluding action under Title 53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act and this rule.

(9) “Private school that has previously served a student with a disability” means a school that:

(a) has enrolled a student within the last three years under the special needs scholarship program;

(b) has enrolled a student within the last three years who has received special education services under an Individual Services Plan (ISP) from an LEA where the school is geographically located; or

(c) can provide other evidence to the Board that is determinative of having enrolled a student with a disability within the last three years.

(10) “Warrant” means payment by check to a private school.

R277-602-3. Parent Responsibilities and Payment Provisions.

(1) If the student is enrolled in a public school or was enrolled in a public school in the year previous to the year in which the scholarship is sought, the parent shall submit an application, available from the Superintendent or online, to the LEA within which the parent resides.

(a) Consistent with the timeline provided in Subsection 53A-1a-704(4), the parent shall complete all required information on the application and submit, with the application, documentation that:

(i) the parent is a resident of the state;

(ii) the student is at least three years of age before September 2 of the year of enrollment;

(iii) the student is not more than 21 years of age and has not graduated from high school;

(iv) the student has satisfied Subsection (1) or (2); and

(v) the student has official acceptance at an eligible private school, as established by Section 53A-1a-705.

(b) The parent shall sign the acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704.

(c) Any intentional falsification, misinformation, or incomplete information provided on the application may result in the cancellation of the scholarship to the student and non-payment to the private school.

(2) If the student was not enrolled in a public school in the year previous to the year in which the scholarship is sought, the parent shall submit an application to the school district responsible for child find under the Individuals with Disabilities Education Act, 20 U.S.C Sec. 1414.

(a) The parent shall complete all required information on the application and submit, with the application, documentation that:

(i) the parent is a resident of the state;

(ii) the student is at least three years of age before September 2 of the year of enrollment;

(iii) the student is not more than 21 years of age and has not graduated from high school;

(iv) the student has satisfied Subsection (1) or (2); and

(v) the student has official acceptance at an eligible private school, as established by Section 53A-1a-705.

(b) The parent shall sign the acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704.

(c) The parent shall participate in an assessment team meeting to determine:

(i) if a student would qualify for special education services; and

(ii) the level of services for which the student would be eligible if enrolled in a public school.

(3)(a) The Board shall make a scholarship payment in accordance with Section 53A-1a-706.

(b) The parent shall, consistent with Subsection 53A-1a-706(8), endorse the warrant received by the private school from the Superintendent no more than 15 calendar days after the private school's receipt of the warrant.

(4)(a) The parent shall notify the Board in writing within five days if the student does not continue in enrollment in an eligible private school for any reason, including:

(i) parent or student choice;

(ii) suspension or expulsion of the student; or

(iii) the student misses more than 10 consecutive days.

(b) If the student does not continue in enrollment, the Board may modify the payment to the private school.

(5) The parent shall cooperate and respond within 10 days to an enrollment cross-checking request from the Board.

(6) The parent shall notify the Board in writing by March 1 annually to indicate the student's continued enrollment.

R277-602-4. LEA Responsibilities.

(1) An LEA that receives a student's scholarship application consistent with Subsection 53A-1a-704(4) shall forward an application to the Board no more than 10 days following receipt of the application.

(2) The LEA that receives a student's scholarship application shall:

(a) verify enrollment of the student seeking a scholarship in a previous school year within a reasonable time following contact by the Board;

(b) verify the existence of the student's IEP and level of service to the Superintendent within a reasonable time;

(c) provide personnel to participate on an assessment team to determine:

(i)(A) if a student who was previously enrolled in a private school that has previously served a student with a disability would qualify for special education services if enrolled in a public school; and

(B) the appropriate level of special education services that would be provided were the child enrolled in a public school for purposes of determining the scholarship amount consistent with Subsection 53A-1a-706(2); or

(ii) if a student previously receiving a special needs scholarship is entitled to receive the scholarship during the subsequent eligibility period.

(3) A special needs scholarship student may not enroll in an LEA for dual enrollment or an extracurricular activity, consistent with the parent's assumption of full responsibility for a student's services under Subsection 53A-1a-704(5).

(4) An LEA shall cooperate with the Board in cross-checking special needs

scholarship student enrollment information, as requested by the Board.

(5)(a) An LEA shall provide written notice to a parent of a student who has an IEP of the availability of a scholarship to attend a private school in accordance with Subsection 53A-1a-704(10).

(b) The written notice shall consist of the following statement: A local education agency is required by Utah law, Subsection 53A-1a-704(10), to inform parents of students with IEPs enrolled in public schools, of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

R277-602–5. State Board of Education Responsibilities.

(1) No later than April 1, the Board shall provide an application containing acknowledgments required under Subsection 53A-1a-704(5), for a parent seeking a special needs scholarship:

(a) online;

(b) at the Board office; and

(c) at LEA offices.

(2) The Board shall provide a determination that a private school meets the eligibility requirements of Section 53A-1a-705 as soon as possible but no more than 30 calendar days after the private school submits an application and completes documentation of eligibility.

(3) The Board may:

(a) provide reasonable timelines within the application for satisfaction of private school requirements;

(b) issue letters of warning;

(c) require the school to take corrective action within a time frame set by the Board;

(d) suspend the school from the program consistent with Section 53A-1a-708;

(e) impose a penalty as the Board determines appropriate under the circumstances;

(f) establish an appropriate penalty for a private school that fails to:

(i) provide an affidavit under Section 53A-1a-708;

(ii) administer an assessments or report an assessment to a parent or assessment team under Subsection 53a-1a-705(1)(f);

(iii) employ teachers with credentials required under Subsection 53A-1a-705(g);

(iv) provide to a parent relevant credentials of teachers under Subsection 53A-1a-705(i); or

(v) require a completed criminal background and ongoing monitoring under Title 53A, Chapter 15, Part 15, Background Checks and take appropriate action consistent with information received; and

(g) initiate a complaint and hold an administrative hearing, as appropriate, and consistent with this rule.

(4) The Board shall make a list of eligible private schools updated annually and available no later than June 1 of each year.

(5) The Board shall provide information about an approved scholarship and availability and level of funding to a scholarship applicant parent no later than March 1 of each year.

(6) The Board shall mail a scholarship payment directly to a private school as soon as reasonably possible consistent with Subsection 53A-1a-706(8).

(7) If an annual legislative appropriation is inadequate to cover all scholarship

applicants and documented levels of service, the Board shall establish by rule a lottery system for determining the scholarship recipients, with preference provided for under Subsection 53A-1a-706(1)(e).

(8) The Board shall verify and cross-check, using USOE technology services, special needs scholarship student enrollment information consistent with Subsection 53A-1a-706(7).

R277-602-6. Responsibilities of Private Schools that Receive Special Needs Scholarships.

(1) A private school that intends to enroll a scholarship student shall submit an application by the deadline established in Section 53A-1a-705.

(2) A private school shall submit an application and appropriate documentation for eligibility to receive a special needs scholarship student to the Superintendent on forms designated by the Superintendent.

(3) A private school shall satisfy criminal background check and ongoing monitoring requirements for an employee and a volunteer consistent with Title 53A, Chapter 15, Part 15, Background Checks.

(4) A private school that seeks to enroll a special needs scholarship student shall, in concert with the parent seeking a special needs scholarship for a student, initiate the assessment team meetings required under Section 53A-1a-704.

(a) A private school shall schedule a meeting at a time and location mutually acceptable to the private school, the applicant parent, and participating public school personnel.

(b) Designated private school and public school personnel shall maintain documentation of the meeting and the decision made for a student.

(c)(i) Except as provided by Subsection (4)(c)(ii), a private school and public school shall confidentially maintain documentation regarding a required assessment team meeting, including documentation of:

(A) a meeting for a student denied a scholarship or service; and

(B) a student admitted into a private school and the student's level of service.

(ii) Upon request by the Superintendent, a private school and public school shall provide the documentation described in Subsection (4)(c)(i) to the Superintendent for purposes of determining student scholarship eligibility or for verification of compliance.

(5) A private school that receives a scholarship payment under this rule shall provide complete student records in a timely manner to another private school or a public school that requests student records if a parent transfers a student under Subsection 53A-1a-704(7).

(6) A private school shall notify the Board within five days if the student does not continue in enrollment in an eligible private school for any reason, including:

(a) parent or student choice;

(b) suspension or expulsion of the student; or

(c) the student misses more than ten consecutive days of school.

(7) A private school shall satisfy health and safety laws and codes required by Subsection 53A-1a-705(1)(d), including:

(a) the adoption of emergency preparedness response plans that include training for school personnel and parent notification for fire drills, natural disasters, and school safety emergencies; and

(b) compliance with Rule R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools.

(8)(a) An approved eligible private school that changes ownership shall submit a new application for eligibility to receive a Carson Smith scholarship payment from the Board:

(i) that demonstrates that the school continues to meet the eligibility requirements of this rule; and

(ii) within 60 calendar days of the date that an agreement is signed between previous owner and new owner.

(b) If the Superintendent does not receive the application within the time described in Subsection (8)(a)(ii):

(i) the new owner of the school is presumed ineligible to receive continued Carson Smith scholarship payments from the Superintendent;

(ii) at the discretion of the Board, the Superintendent may reclaim any payments made to a school within the previous 60 calendar days;

(iii) the private school is not an eligible school; and

(iv) the private school shall submit a new application for Carson Smith eligibility consistent with the requirements and timelines of this rule.

R277-602-7. Special Needs Scholarship Appeals.

(1)(a) A parent of an eligible student or a parent of a prospective eligible student may appeal only the following actions under this rule:

(i) an alleged violation by the Superintendent of Sections 53A-1a-701 through 710 or this rule; or

(ii) an alleged violation by the Superintendent of a required timeline.

(b) An appellant has no right to additional elements of due process beyond the specific provisions of this rule.

(2) The Appeals Committee may not grant an appeal contrary to Sections 53A-1a-701 through 53A-1a-710.

(3) A parent shall submit an appeal:

(a) in writing to the USOE Special Needs Scholarship Coordinator at: Utah State Office of Education, 250 East 500 South, P.O. Box 144200, Salt Lake City, UT 84114-4200; and

(b) within 15 calendar days of written notification of the final administrative decision.

(4)(a) The appeal opportunity does not include an investigation required under or similar to an IDEA state complaint investigation.

(b) Nothing in the appeals process established under this rule shall be construed to limit, replace, or adversely affect parental appeal rights available under IDEA.

(5) The Appeals Committee shall:

(a) consider an appeal within 15 calendar days of receipt of the written appeal;

(b) transmit the decision to a parent no more than ten calendar days following consideration by the Appeals Committee; and

(c) finalize an appeal as expeditiously as possible in the joint interest of schools and students involved.

(6) The Appeals Committee's decision is the final administrative action.

KEY: special needs students, scholarships

Date of Enactment or Last Substantive Amendment: 2015
Notice of Continuation: 2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1a-706(5)(b); Title 53A, Chapter 15, Part 15; 53A-1a-707; 53A-1-401(3)

07/01/2015

Utah State Office of Education
Monthly Board Report

TOTAL NUMBER OF EDUCATOR LICENSES AND LICENSE AREAS PROCESSED BETWEEN 6/1/2015 and 6/30/2015

Licenses Processed									
License Level	Expired	Incomplete Renewed	New	Pending Payment	Renewed	Revoked	Student	Suspended	Grand Total
1			499		371				**870**
2			567		1251				**1818**
3			22		26				**48**
Level 1 LEA-Specific			1		13				**14**
Level 2 LEA-Specific			7						**7**
Alt. Route to Licensure	4		42						**46**
Certified Paraprofessional			9						**9**
Student							52		**52**
Temporary	1								**1**
University Recommend				114					**114**
Intl. Guest Teacher			2						**2**
Grand Total	**5**	**0**	**1149**	**114**	**1661**	**0**	**52**	**0**	**2981**

07/01/2015

Utah State Office of Education
Monthly Board Report

TOTAL NUMBER OF EDUCATOR LICENSES AND LICENSE AREAS PROCESSED BETWEEN 6/1/2015 and 6/30/2015

License Areas Processed																							
USOE Qualified by Code / License Area	?	A	B	C	D	E	F	G	I	K	L	M	N	P	Q	R	S	T	U	V	X	Y	Total
Career and Technical Education																					1		1
Career and Technical Education Specialty											4												4
Early Childhood Education (K-3)												8							3				11
Elementary Education (K-6)											5	140							35				180
Elementary Education (1-8)							2				27	85							9				123
Secondary Education (6-12)		1		2			1				38	17				1			145				205
School Counselor (K-12)																			6				6
School Psychologist (K-12)												1							1				2
School Social Worker (K-12)																			8				8
Title I Paraprofessional						6											2					1	9
Administrative/Supervisory (K-12)																			32				32
Special Education (K-12+)											2	53							18				73
Speech - Language Technician											7												7
Preschool Special Education (Birth - age 5)																			4				4
Speech - Language Pathologist												1							3				4
Grand Total	0	1	0	2	0	6	3	0	0	0	83	305	0	0	0	1	2	0	264	0	1	1	669

Qualified By Codes:

? Not Known
A Authorization
B Portfolio
C Demonstrated Competency
D Major Equivalent
E Exam
F Foreign Credentials
G Local Acad Assessment

I Troops to Teachers
K Alt Route University
L Alt Route to Licensure
M Major
N Minor
P Special Program
Q Certificate Program
R Restricted

S Associate Degree
T Alt Preparation
U University Program
V Transition to Teaching
W SUSPENDED
X Experience
Y Two Years College
Z Exemption

08/03/2015

Utah State Office of Education
Monthly Board Report

TOTAL NUMBER OF EDUCATOR LICENSES AND LICENSE AREAS PROCESSED BETWEEN 7/1/2015 and 7/31/2015

Licenses Processed									
License Level	Expired	Incomplete Renewed	New	Pending Payment	Renewed	Revoked	Student	Suspended	Grand Total
1			442		84				**526**
2			68		191				**259**
3			5						**5**
Level 1 LEA-Specific			1		2				**3**
Alt. Route to Licensure			25						**25**
Certified Paraprofessional			2						**2**
1 - Returning			8		1				**9**
Student							103		**103**
University Recommend				97					**97**
Grand Total	**0**	**0**	**551**	**97**	**278**	**0**	**103**	**0**	**1029**

08/03/2015

Utah State Office of Education
Monthly Board Report

TOTAL NUMBER OF EDUCATOR LICENSES AND LICENSE AREAS PROCESSED BETWEEN 7/1/2015 and 7/31/2015

License Areas Processed																							
USOE Qualified by Code / License Area	?	A	B	C	D	E	F	G	I	K	L	M	N	P	Q	R	S	T	U	V	X	Y	Total
Career and Technical Education																					4		4
Career and Technical Education Specialty											1												1
Early Childhood Education (K-3)												14							3				17
Elementary Education (K-6)						2					3	117							33				155
Elementary Education (1-8)											10	77							5				92
Secondary Education (6-12)							1				25	20				2			137				185
School Counselor (K-12)																			22				22
School Psychologist (K-12)												3							3				6
School Social Worker (K-12)																			6				6
Title I Paraprofessional						1											1						2
Administrative/Supervisory (K-12)												1							29				30
Special Education (K-12+)											1	41							21				63
Speech - Language Technician				1							4												5
Preschool Special Education (Birth - age 5												1							10				11
Speech - Language Pathologist												1							5				6
Grand Total	0	0	0	1	0	3	1	0	0	0	44	275	0	0	0	2	1	0	274	0	4	0	605

Qualified By Codes:

? Not Known
A Authorization
B Portfolio
C Demonstrated Competency
D Major Equivalent
E Exam
F Foreign Credentials
G Local Acad Assessment

I Troops to Teachers
K Alt Route University
L Alt Route to Licensure
M Major
N Minor
P Special Program
Q Certificate Program
R Restricted

S Associate Degree
T Alt Preparation
U University Program
V Transition to Teaching
W SUSPENDED
X Experience
Y Two Years College
Z Exemption

UTAH ADMINISTRATIVE CODE

The Utah Administrative Code is the body of all effective administrative rules as compiled and organized by the Division of Administrative Rules (see Subsection 63G-3-102(5); see also Sections 63G-3-701 and 702).

NOTE: For a list of rules that have been made effective since June 1, 2015, please see the codification segue page

NOTE TO RULEFILING AGENCIES: Use the RTF version for submitting rule changes.

Download the RTF file

R25. Administrative Services, Finance.

Rule R25-5. Payment of Per Diem to Boards.

As in effect on June 1, 2015

Table of Contents

- R25-5-1. Purpose.
- R25-5-2. Authority.
- R25-5-3. Definitions.
- R25-5-4. Rates.
- R25-5-5. Governmental Employees.
- R25-5-6. Payment of Per Diem.
- KEY
- Date of Enactment or Last Substantive Amendment
- Notice of Continuation
- Authorizing, Implemented, or Interpreted Law

R25-5-1. Purpose.

The purpose of this rule is to establish the procedures for payment of per diem and travel expenses to defray the costs for attendance at an official meeting of a board by an officer or employee who is a member.

R25-5-2. Authority.

This rule is established pursuant to Section 63A-3-106, which authorizes the Director of Finance to make rules establishing per diem rates.

R25-5-3. Definitions.

All terms are as defined in Section 63A-3-106(1), except as follows:

(1) "Finance" means the Division of Finance.

(2) "Per diem" means an allowance paid daily.

(3) "Rate" means an amount of money.

(4) "Independent Corporation Board" means the board of directors of any independent corporation subject to Section 63E Chapter 2 that is subject to this rule by its authorizing statute.

R25-5-4. Rates.

(1) Each member of a board within state government shall receive a taxable $60 per diem for each official meeting attended that lasts up to four hours and a taxable $90 per diem for each official meeting that is longer than four hours.

(a) These rates are applicable to an officer or employee of the executive branch, except as provided under subsection (1)(b);

(b) These rates are applicable to an officer or employee of higher education unless higher education pays the costs of the per diem.

(2) Travel expenses shall also be paid to board members in accordance with Rule R25-7.

(3) Members may decline to receive per diem and/or travel expenses for their services.

(4) Upon approval by Finance, members of an independent corporation board may receive per diem, at rates exceeding those established in Subsection R25-5-4(1), for each meeting attended as part of their official duties and for reasonable preparation associated with meetings of the full board or the board's subcommittees.

R25-5-5. Governmental Employees.

(1) A member of a board may not receive the taxable per diem in R25-5-4(1) or travel expenses if the member is being compensated as an officer or employee of a governmental entity, including the State, while performing the member's service on the board.

Governmental employee board members attending official meetings held at a time other than their normal working hours, who receive no compensation or leave (such as comp time) for the additional hours of the meetings may receive the taxable per diem in R25-5-4(1).

(2) Travel expenses related to the attendance of official board meetings for which a governmental employee serving on the board is not otherwise reimbursed may also be paid to the employee in accordance with Rule R25- 7.

(3) Governmental employees may decline to receive per diem and/or travel expenses for their services.

R25-5-6. Payment of Per Diem.

All board members are required to be paid their per diem through the payroll system in order to calculate and withhold the appropriate taxes.

KEY

per diem allowance, rates, state employees, boards

Date of Enactment or Last Substantive Amendment

June 21, 2013

Notice of Continuation

April 15, 2013

Authorizing, Implemented, or Interpreted Law

63A-3-106

ADDITIONAL INFORMATION

CONTACT

For questions regarding the *content* or *application* of rules under Title R25, please contact the promulgating agency (Administrative Services, Finance). A list of agencies with links to their homepages is available at http://www.utah.gov/government/agencylist.html or from http://www.rules.utah.gov/contact/agencycontacts.htm.

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Spencer F. Stokes
Terryl Warner
Joel Wright

Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 7, 2015

ACTION: USOE Monthly Standing Budget Report – Year End Close

Background:
A regular report of the budget is a standing item on the regular Board meeting agenda.

Key Points:
A report of Fiscal Year 2016 year end close will be presented to the Board.

Anticipated Action:
The Board will receive the information and may give direction on future reports.

Contact: Scott Jones, Associate Superintendent, 801-538-7514

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

UTAH STATE BOARD OF EDUCATION

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

ACTION: Support Options Regarding SAGE Licensing by Other Vendors

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Background:
The Utah State Board of Education (USBE) approved individual agreements to allow American Institutes for Research (AIR) to license SAGE assessments to Florida, Arizona, and Tennessee in October, 2014.

Key Points:
Additional vendors other than AIR now wish to license SAGE items in other states. Options and recommendations for USBE to take advantage of this opportunity will be detailed by Assistant Attorney General Chris Lacombe.

Anticipated Action:
Board Members will hear a brief overview of two options regarding licensing SAGE assessment items to additional vendors and may approve an option or give direction to staff.

Contact: Rich Nye, 801-538-7550
Jo Ellen Shaeffer, 801-538-7811

250 East 500 South P.O. Box 144200 Salt Lake City, UT 84114-4200 Voice: (801) 538-7517 Fax: (801) 538-7768

Support Options Regarding SAGE Licensing by Other Vendors

Option 1: With potential agreements, AIR will provide Utah with support to transfer knowledge and items, provide support to vendor(s), and protect and pay Utah. These agreements would be similar to the agreements currently in place with Arizona, Tennessee and Florida (see attached). AIR services include but are not limited to preparation and transfer of items by the licensing party, security of SAGE assessment, payment for required copyright fees, broad indemnification, and guaranteed payment for any released items.

Option 2: Utah State Office of Education will take the lead on all vendor requests to license Utah items, and to support and maintain Utah's item bank. Should USBE select this option, USOE would need to begin to create additional infrastructures to support housing the Utah item bank. Such infrastructures would include the need to secure additional technical and content staff to support secure servers, purchase of hosting software to house the adaptive items, maintain the upkeep of the secure item bank, arrange and support secure transfer of items, and provide oversight of data privacy issues. In addition, USOE would need to purchase additional secure servers to house the items, pay copyright fees, and consider indemnification issues surrounding losses, damages, and liabilities arising out of the licensing.

Option 2: USOE To Manage Utah SAGE Items			
Resource	Role/Function	Cost	on going/one time
1 FTE Content Specialist	Manage Content of items, license agreements, security	$100,000	ongoing
1 FTE IT/systems Specialist	manage servers, maintian software, providde extracts and exchange	$80,000	ongoing
Software and hosting	House and manage the items in industry standard format	??? (See below)	
Data Seccuity/Privacy and Legal Indemnification	Security of items, web patrol, monitoring internet sites	???	
Securing of copyrighted materials	Currently included in contract costs (see descriptions below)	??? (See below)	on going

Copyright information:

- Annual license fee to the Copyright Clearance Center (CCC)
  - Annual license fee is $0.32 per student for all items in the CCC corpus
  - At approximately 414,000 tested students, this works out to about $132,480 per year
  - I don't have the final counts yet, but I owe them to CCC by the end of the month.
- One-time license fees to copyright holders for non-CCC passages and stimuli in SAGE of at least $310,808.70
  - Covers AIR administrations for the length of the contract in Utah only
  - Covers approximately 200 non-CCC permissioned items
  - Licenses are based on the number of students in Utah
  - This does not include the AIR time to obtain copyrights. It only includes costs paid to license holders

Software and Hosting considerations:

- Data warehouse Import/export
  - Smarter Balanced open source software option
  - Michigan developed software (cost?)
  - Pearson data storage solution (cost?)
- Data warehouse Import/export, item authoring, validation, statistics,
  - Michigan developed software (cost?)
  - Pearson data storage solution (cost?)
  - AIR solution (cost outside the contract?))
  - Estimated costs to come…

TO: Jo Ellen Shaeffer, Utah State Office of Education
Director, Assessment and Accountability

FROM: Chris Domaleski & Scott Marion, National Center for the Improvement of Educational Assessment

RE: Recommendations for third-party use of SAGE items

DATE: July 15, 2015

The purpose of this memorandum is to provide feedback to the USOE regarding the process for managing SAGE items that will be shared with third parties under a licensing agreement.

Maintaining a large, secure item bank and successfully transferring the contents to a third party for high-stakes use is a very operationally burdensome and risky endeavour. In the best case, this type of work is managed by a professional and experienced assessment provider, with the resources and experience to mitigate risk and maximize likelihood of success. In fact, even in the best cases, this is an area of operational practice that has proven challenging for organizations that specialize in this area and are equipped with substantial experience and resources.

The tasks included in management and distribution of items to include:

- Maintaining security of the item bank
- Tracking and maintaining current and correct item data and ensuring it is appropriately linked to the item
- Ensuring the conditions for all permissions and copyrights are satisfied correctly
- Ensuring items are maintained and delivered in accordance with established interoperability standards such that they render and function correctly when deployed in a new environment. Experience has proven this to be very difficult in recent years, in part due to the well-known limitations of current interoperability standards.

In summary, managing these tasks is very challenging even under the best circumstances. Given that the USOE has demonstrated that a profitable arrangement can be reached where a third-party assumes responsibility for the burden and risk, we believe this is the best solution.

LICENSE AGREEMENT

This License Agreement ("Agreement") is entered into and effective from _____ to _____ and between _____and the Utah State Board of Education ("State") located at_____.

Background

WHEREAS, State has developed, or has caused to be developed, certain materials in the Student Assessment of Growth and Excellence item banks ("SAGE Assessment Items").

WHEREAS, _____ from time to time, in the ordinary course of business, responds to Requests for Proposals ("RFP's") issued by various state Departments of Education ("DOE's") to provide state-wide assessments and assessment related services.

WHEREAS, _____ has requested a license from State granting _____ permission to offer the SAGE Assessment items in its response to state-wide RFP's issued by DOE's.

THEREFORE, State is willing to grant _____ a limited, non-exclusive, non-assignable, non-transferable license to include _____ subject areas and grade levels from the SAGE Assessment Items in various anticipated, and non-anticipated, future responsive proposals.

The parties therefore agree as follows

Agreement

1. **License**.

1.1 State ("Licensor") hereby grants _____ ("Licensee") a limited, non-exclusive, non-assignable, non-transferable license ("License") to include some or all of the existing and future English Language Arts/Literacy, Mathematics and Science of the SAGE Assessment Items in anticipated and non-anticipated responses to DOE issued RFP's and for no other use or purpose whatsoever excepted as provided herein.

1.2 Except as may be necessary to lawfully exercise the License, and the rights granted herein, _____ may not sublicense or resell the Licensed Materials or any portion thereof. _____ may (a) make minor, non-substantive wording changes including, but not limited to, changing the written instructions, (b) modify some of the Licensed Materials in order to satisfy certain state content or statistical requirements ("Modified Materials") or (c) subject the Licensed Materials to fairness reviews and associated testing-related activities.

1.3 _____ will be responsible for all costs associated with the License, except as explicitly stated herein, including, but not limited to, delivering and incorporating the Licensed Materials into _____ proprietary test delivery systems, printing and shipping costs, and

collecting any fees due to _____ from state DOE's which may award _____ a contract containing an offer of services which include the Licensed Materials.

1.4 Licensed Territory: All states in the United States of America, its possessions and territories.

2. Term.

2.1 The term of the License ("Term") begins _____ and ends _____. Notwithstanding the Term stated above or any contrary provision contained herein, in no event will _____ (a) include any of the Licensed Materials or the Modified Licensed Materials in any state test for more than three consecutive school years, as defined by the contracting state, or (b) permit any portion of the tests, administered by _____, resulting from any contracts utilizing the Licensed Materials, to be administered to students outside of grades 3-11.

2.2 Upon the termination of this Agreement, for any reason, the License will expire and be of no further force or effect and _____ will cause any state DOE under contract with _____ for use of the Licensed Materials to remove all of the Licensed Materials and the Modified Licensed materials from any state test.

2.3 Notwithstanding the preceding provision, this License grants _____ the right to offer the Licensed Materials in an RFP responsive proposal during the Term. If any resulting contract issued by a state DOE to _____, which included the Licensed Materials, expires or is terminated after the Term end date stated above in Section 2.1, _____ shall have the right to the continued use of the Licensed Materials, pursuant to this License, for the duration of the contract between _____ and the state DOE.

3. **Ownership**. Except for the License, as between State and _____, State retains all rights in and to the Licensed Materials and the Modified Licensed Materials, including, without limitation, all copyright rights, and may exploit its rights in the Licensed Materials and the Modified Licensed Materials in any manner it desires, including, without limitation, granting licenses to third parties that are similar or identical to the License. State acknowledges that state DOE's may affix a copyright notice to their respective test in which some or all of the Licensed Materials are contained, but in no event will _____ or contracting DOE's claim any ownership interest of any type, including, without limitation, any copyright rights, in the Licensed Materials or the Modified Licensed Materials other than the limited, non-exclusive, non-assignable, non-transferable rights granted by the License.

4. License Fee

4.1 In exchange for the License, _____ will pay State an annual license fee ("Fee") calculated by multiplying the number of students to whom the Licensed Materials are included in an assessment, which is actually administered during the Term, by the number of Subject Areas included in the test by $1.50 (i.e., number of students x number of Subject Areas x $1.50). For example, if during the 2014-2015 school year, a test is administered with two (2) Subject Areas included is administered to 100,000 students in grades 3-11, the Fee for the 2014-2015 school year will be $300,000 (100,000 x 2 x $1.50 = $300,000).

4.2 This price assumes various provisions, including but not limited to: statewide administration to all students and broad indemnification of State. SAGE assessment items may not be used solely for the purpose of obtaining linkages. The full agreements between State and AIR are available upon request. State will impose a minimum license fee of $600,000 per state per year.

4.2 Upon the execution of a contract between _____ and any state DOE, which includes the use of the Licensed Materials, _____ will provide State with written notice and an

anticipated or estimated number of students and subject areas to whom the Licensed Materials will be administered. This written notice provided to State by _____ will be incorporated by reference into this Agreement as an Appendix and will account for the only documentation required, as between _____ and State, to document the specific instances where _____is contracting for the use of the Licensed Materials.

4.3 _____ will pay the Fee to State, regardless of whether or when _____ receives payment from DOE's, according to the following schedule:

(a) The Fee for the 2015-2016 school year is due and payable on or before DATE

(b) The fee for the 2016-2017 school year is due and payable on or before DATE

4.4 _____ will include documentation with each payment reasonably necessary for State to verify the accuracy of the Fee. At a minimum, the documentation will include (a) the number of students to whom the tests containing some or all of the Licensed Materials or the Modified Licensed Materials or both was administered during the relevant school year, (b) which Subject Areas were included in the test, (c) which state the test was administered in, and (c) which grades were tested.

4.5 Late payments (i.e., payments not received by State on or before the date specified in Section 4.4 of the relevant year) will accrue interest at a rate per annum equal to the prime rate as of the due date (as published in the Money Rates column of the Wall Street Journal) plus 3.0%.

4.6 During the Term, and for a period of 180 days following either the termination of this Agreement for any reason, or the date upon which all Licensed Materials cease to be included in any DOE, _____ administered, tests, whichever date occurs later, State may periodically audit the books and records of _____ to verify compliance with the terms and conditions of this Agreement. Each audit will be performed with at least 10 days' advance notice and during normal business hours. State will be responsible for the costs of the audits, unless an audit reveals a material breach of the terms and conditions of this Agreement, in which case _____ will be responsible for the costs of the audit.

5. **Public Release.** If at any time during the Term or within the one-year period immediately following the expiration of the Term, state DOE's contracted with _____ for use of the Licensed Materials make a public release of any portion of the Licensed Materials in connection with their tests, regardless of whether the release was accidental, intentional or required by law, _____ will notify State as soon as _____ learns of the release and will immediately pay State a one-time fee of $5000 per each released item. In the event a public release of any portion of the Licensed Materials occurs in any state, by a third party, whereby _____ is not the vendor or Licensee of the Licensed Materials, State will notify _____ as soon as it learns of the release.

6. **Withdrawal**. If State becomes aware that any portion of the Licensed Materials may violate the intellectual property rights or other rights of any third party or may violate any applicable law, State will notify _____. Immediately on receipt of notice, _____ will (a) take commercially reasonable action to obtain any necessary rights to continue use, or (b) modify the content of the Licensed Materials to remove any infringing content from subsequent administrations

7. Disclaimer of Warranties and Limitation of Liability

7.1 STATE MAKES NO WARRANTIES, CONDITIONS, GUARANTEES OR REPRESENTATIONS WITH RESPECT TO THE LICENSED MATERIALS. STATE HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR

IMPLIED, IN LAW OR IN FACT, ORAL OR IN WRITING, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICLUAR PURPOSE. _____ HEREBY ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY STATE IN CONNECTION WITH THIS AGREEMENT.

7.2 IN NO EVENT WILL STATE BE LIABLE TO CONTRACTOR FOR ANY INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE, BUSINESS OR GOODWILL, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, EVEN IF STATE HAS BEEN ADVISED OF OR KNEW OF THE POSSIBILITY OF DAMAGES. THE FOREGOING LIMITATION APPLIES EVEN IF ANY REMEDY UNDER THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

8. **Indemnification**. _____ will indemnify, save harmless and release State and all its officers, agents, volunteers and employees from and against any and all losses, damages, injuries, liabilities, suits and proceedings arising out of the performance of this Agreement which are caused in whole or in part by negligent acts of _____ or any of its officers, agents, volunteers or employees, but not for claims arising from the State's sole negligence.

9. **Miscellaneous**.

9.1 All notices must be in writing and sent to the other party at the address identified in the Agreement. Notices must be delivered by hand, sent by registered mail, return receipt requested, or by national overnight delivery services.

9.2 Neither party may assign or transfer any part of this Agreement without the prior written consent of the other party.

9.3 Neither party will be liable to the other party for any delay or failure in performance caused by acts beyond the party's reasonable control, including, without limitation, acts of God, war, riot, acts of public enemy, terrorism or threats of terrorism, vandalism, sabotage, accidents, fires, floods, severe weather conditions, civil commotions, insurrection, strikes, labor disputes, mechanical breakdowns, shortages or delays in obtaining suitable parts, equipment, materials, labor or transportation, interruption of utility services, acts of any governmental authority or any similar or dissimilar cause.

9.4 If either party fails at any time to require the performance by the other party of any provision of this Agreement, the failure will not affect the right of the party thereafter to enforce the same provision, nor will the waiver of any provision of this Agreement constitute a waiver of any succeeding breach or as a waiver of the provision itself.

9.5 If any provision of this Agreement is declared to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability will not affect the validity or enforceability of the remaining provisions of this Agreement and the invalid or unenforceable provision will be modified or replaced in such a manner as to give effect as closely as possible to the parties' original intent.

9.6 State and _____ are separate, independent entities and this Agreement does not create any employment relationship or agency, partnership or joint venture between the parties.

9.7 This Agreement will be governed by and construed in accordance with the laws of the State of Utah. FOR ANY DISPUTE RELATING TO THIS AGREEMENT, THE PARTIES HEREBY CONSENT TO PERSONAL JURISDICTION IN, AND THE EXLUSIVE VENUE OF, THE COURTS IN SALT LAKE COUNTY UTAH. THE PARTIES FURTHER HEREBY WAIVE THE RIGHT TO TRIAL BY JURY.

9.8 Any amendments to this Agreement must be agreed on in writing.

9.9 The parties may execute this Agreement in counterparts, including facsimile, PDF or other electronic copies, which taken together will constitute one and the same instrument.

9.10 This Agreement is the parties' entire agreement relating to its subject and supersedes any prior or contemporaneous agreements on that subject.

9.11 Any term or condition of this Agreement which by its meaning is so intended will survive the termination of this Agreement, regardless of the reason for termination.

10. Item Transfer. After STATE receives and approves a request for licensing SAGE items to _____ for use in a proposal or a project:

10.1 AIR will provide the following services associated with proposals:

a. Enter into a license agreement with Utah for new states
b. Enter into a license agreement with _____
c. Obtain _____ signature on Non-Disclosure Agreement and provide requirements for security of SAGE Assessment materials
d. Deliver item and test specifications
e. Deliver representative set of items

10.2 AIR will provide the following services to successful _____ after prime contracts are signed

a. Deliver items and meta data to approved vendors in SmarterApp format, with any tagging available from State's deployment
b. Provide up to 4 hours of content or technical support per grade/subject licensed
c. Collect reports on item usage
d. Collect any and all classical and IRT statistics for the administration of SAGE items for use by Utah and AIR in establishing cross-state linkages
e. Attend meetings related to above tasks, if available, at vendor's request and vendor's expense for time and travel
f. Provide other services as may be mutually agreed upon by AIR and approved vendor, at vendor's request and expense

10.3 AIR will be compensated at the per-student, per-subject rate of $.30 per-student per-subject with a per-state minimum charge of $200,000.

The parties have signed this Agreement as of the date first written above.

STATE OF UTAH
Utah State Office of Education

_____
Chair, State Board of Education Date

_____
State Superintendent of Public Instruction Date

_____

State Office of Education Accounting Date

_____

By: _____

Title: _____

Date:_____

UTAH STATE BOARD OF EDUCATION

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 6-7, 2015

INFORMATION: 2015 Report of the Public Education Evaluation Review Committee (PEER)

Background: The PEER Committee, established in State Board Rule R277-531, is assigned to perform an ongoing review of school districts as they develop and implement an Educator Evaluation program consistent with law and rule. Districts are required to begin full implementation of their Educator Effectiveness programs in the 2015-16 school year. The 2015 PEER Report outlines the progress that has been made by districts in their preparation toward full program implementation.

Key Points: The 2015 PEER Report outlines the progress that has been made as reported by each district. Descriptions and evidence have been analyzed by PEER Committee members. The report lists the major areas of program development and rates each as Ready for Full Implementation, Partially Ready, or Not Ready. Feedback to districts includes commendations and suggestions for improvement. The report also requests that the Board consider consequences for districts that have not made adequate progress. Some possible actions are suggested.

Anticipated Action: The Board will review the report and may approve a plan for possible consequences going forward.

Contact: Sydnee Dickson, 801-538-7515
Diana Suddreth, 801-538-7739
Linda Alder, 801-538-7923

Utah Educator Effectiveness Project

Public Educator Evaluation Requirements (PEER)
Annual Report

Prepared by the

Utah State Office of Education

August 6-7, 2015

Diana Suddreth, Director, Teaching and Learning
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2015 Public Education Evaluation Requirements (PEER) Report
Utah State Board of Education
August 6 -7, 2015

The Utah State Board of Education rules R277-530, R277-531, and R277-533 provide a statewide educator evaluation system that includes Board- and LEA-directed components to continue the improvement of instruction and to make educator effectiveness data available to support program and employment decisions. Utah districts are required to begin full program implementation including Professional Performance, Student Growth, and Stakeholder Input in the 2015 – 2016 school year.

The 2015 PEER Committee has reviewed the 2015 PEER Reports from each district and has rated district readiness for full program implementation consistent with R277-530, R277-531, R277-533 (August, 2015), and Utah Code 53A-8a. District reports describe progress in program development in the areas of Evaluation Policy, Educator Evaluation Committee, Teaching Observation Tool, Leadership Observation Tool, program validation, program rater reliability, Student Learning Objectives, and Stakeholder Input. Each part of the report has been rated *Ready for Full Implementation*, *Partially Ready*, and *Not Ready* by the PEER Committee.

The PEER Committee commends districts that presented evidence confirming they are ready for full implementation of their Educator Evaluation programs in all areas of review. Districts that have met the requirements in every area are:

Box Elder District
Iron District
Jordan District
Kane District
Morgan District
Nebo District
Washington District

Several other districts are ready in all areas but one and much work has been completed over the summer to reach a higher readiness level. USOE staff members have worked continuously with districts to support them in meeting goals and to support them in making their plans meaningful within their own communities and circumstances. Updates to district reports have been accepted over the summer to assure the most recent possible information in this report.

Educator Evaluation Policy

Utah Code and Board Rules governing the Educator Effectiveness Program specify a number of program requirements to be included in district Board policies. Nineteen districts have submitted completed policies, while ten districts are partially ready with areas to be completed for fall implementation. Ten districts have not developed policies and understand that those changes must be made in a timely way.

Districts are aware that as Utah Code and Board rules continue to change, their policies will require updating as well.

Educator Evaluation Committee

Utah Code specifies the composition of the required district Educator Evaluation Committees (53A 8a 403) and the process by which members should be selected. The committee must consist of an equal number of classroom teachers, parents, and administrators appointed by the local school board. Teachers and administrators are to be appointed in a nominating election and parent names must be submitted by school community councils within the district.

Seventeen of forty-two districts have an Educator Evaluation Committee that meets the requirement. Eleven additional districts are making adjustments to come into compliance, and fourteen districts have not yet reported appropriate committees.

Professional Performance

USOE has developed a Model Professional Performance program including a Teaching Observation Tool and an Educational Leadership Observation Tool available for use by all districts. Alternately, districts may modify the tools or develop their own programs aligned within the requirements of Utah Code and Board Rules. The Model Tools have undergone initial validation with support from WestEd REL. Districts choosing to adapt or develop their own are expected to establish the validity of their tools.

The USOE Model Teaching Observation Tool includes a Rater Reliability process to be included by all districts using the model tool. Rater Certification is required for all evaluators of teachers as part of the validation of their programs. Evaluators are expected to complete the professional development and certification process by July 1, 2016. Districts that have adapted or developed their own observation processes are also expected to develop their own rater certification aligning with their own observation program and assuring accuracy and equity in the evaluation of all teachers.

Among all districts using the model teaching tool, an adapted tool, or a district-developed tool, thirty-three districts have a rater reliability system in place with a plan for completing rater reliability during the 2015 – 2016 school year. Three districts report a partially developed program, and six do not report a program under development. Those who have not begun a program may have developed their own observation tool and not yet a rater reliability process. Some may be using the model tool, but have not begun professional development to qualify their raters.

The Educational Leadership Observation Tool is ready for full implementation in thirty-one of the forty-two districts. Two districts have partial readiness and nine report no readiness for evaluating leaders.

Student Growth

Utah's Student Growth Objectives (SLOs) model has been under development for three years. All districts have had the opportunity to receive initial professional development from USOE staff members. Thirty-two of forty-two districts have completed initial training and piloting and are ready to take the next steps in program development. Seven districts report completing some preliminary training, and

three districts report minimal efforts in this area. While SLOs have a specific system with supporting documentation, many districts have consulted with USOE as they developed adjustments to meet the needs of their districts. Such adjustments are highly appropriate as long as the district program meets the basic requirements in R277-533 regarding the purposes and processes of SLOs.

R277-533 also allows for many district decisions regarding how SLOs are used and how ratings for educators are develops from SLO information. The rule also allows districts to make decisions regarding how Student Growth Percentiles are to be used as part of Student Growth plans.

Stakeholder Input

Twenty-nine of forty-two districts have taken the first steps to develop Stakeholder Input components that meet the requirements of law and rule and also meet the needs of the teachers and leaders in their districts. Four districts participated in a pilot program during the 2014 – 2015 school year. They used a validated stakeholder surveys as basic data and a USOE develop decision matrix to allow teachers to respond to survey and other stakeholder data and to create improvement goals. Many of the twenty-nine districts have adopted the USOE plan. Others have adopted different surveys, and still others have developed their own surveys and are experimenting with other methods for recording and analyzing data. Six districts have begun the development process for the Stakeholder Input component, while seven report that they have not begun development in this area.

Summary

Many districts have worked with USOE staff to develop valid and reliable programs that meet the requirements of the Educator Effectiveness program. As a group, they have worked to develop processes that increase the effectiveness of instruction and that support student growth. They report that data from their Educator Evaluation programs allows them to confirm excellent work and progress and to identify areas of need for future improvement. The SLO program is reported to have the highest level of development statewide with eighty-one percent of districts reporting full readiness for implementation. Teaching Observation and Leadership Observation are reported as having the next highest levels of readiness, with 79% and 74% reported.

The parts of the program with the lowest rates of readiness are district evaluation policies and district Educator Evaluation Committees. All districts are aware that these are needed for full implementation in the 2015 – 2016 school year.

Next Steps

District Educator Effectiveness leaders will continue to work with USOE staff members in the coming year as the three Educator Effectiveness components are implemented and summative ratings are reported. The needs, as identified by USOE staff, are quality program implementation with fidelity to program design, Utah Code, and State Board Rules. Professional Development will focus in the areas of SLO skill development, leadership development, and rater reliability.

2015 PEER Report Summary

Ready for Full Implementation **Partially Ready** **Not Ready**

District	Evaluation Policy	Evaluation Committee	Teaching Tool	Leadership Tool	Validation	Rater Reliability	Student Learning Objectives	Stakeholder Input
Alpine								
Beaver								
Box Elder								
Cache								
Canyons								
Carbon								
Daggett								
Davis								
Duchesne								
Emery								
Garfield								
Grand								
Granite								
Iron								
Jordan								
Juab								
Kane								
Logan								
Millard								
Morgan								
Murray								
Nebo								

No. Sanpete								
No. Summit								
Ogden								
Park City								
Piute								
Provo								
Rich								
Salt Lake								
San Juan								
Sevier								
So. Sanpete								
So. Summit								
Tintic								
Tooele								
Uintah								
USDB								
Wasatch								
Washington								
Wayne								
Weber								

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Brad C. Smith, Chief Executive Officer
Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad Smith
Chief Executive Officer

DATE: August 7, 2015

ACTION: 2016 Prioritized Audit Plan

Background:
In the June 2015 Board meeting, Board members were provided a protected, confidential draft copy of the 2016 Proposed Prioritized Audit Plan for the Internal Audit Department, which reports directly to the Board. This plan was further discussed in the July Audit Committee meeting.

Key Points:
Internal Auditing standards and the Internal Audit Administrative Rule require the Internal Audit Department to have a Prioritized Audit Plan. The Plan is based on the risk assessment that was recently completed; a protected, confidential draft copy of the risk assessment was provided to Board members at the June Board meeting. The Plan includes financial, compliance, and performance audits, resource requirements, and estimated timelines. The Plan is fluid, in that project priorities may change as new concerns or circumstances are identified.

Anticipated Action: Board approval of the Prioritized Audit Plan for 2016.

Contact: Debbie Davis, 801-538-7639

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Proposed Prioritized Audit Plan for SFY 2016

Note: The Audit Committee has not yet voted on approving the plan.

Assurance Projects

Audit #	Audit	Actual/ Estimated Start Date	Estimated Draft Report Date	Staff Equivalent	Type	USBE Area(s)
Approved						
15-05	VR Targeted Case Review	Mar-15	Nov-15	3	Compliance	USOR
15-11	Monthly Budget Report/Discretionary Funds Report	Apr-15	Jul-15	4	Financial	USBE
15-12	State Fleet Use	Jun-15	Jul-15	3	Performance	Education
15-13	Tooele Textbook Hotline	Jan-15	Jul-15	2	Financial	Subrecipient
15-14	Washington County School District Hotline	Jun-15	Nov-15	3	Financial	Subrecipient
Proposed						
	MSP Data Audit	Oct-15	Dec-15	3	Financial	Education
	Charter School Signatory Power	Dec-15	Feb-16	2	Performance	Education
	USDB Foundation	Nov-15	Jan-16	2	Financial	USDB
	Impact of Charter Schools	Jan-16	Jun-16	3	Performance	Education
	Membership/Value Data Audit	Jan-16	Jun-16	3	Performance	Education
On Deck (if time permits)						
	LEA Allocation Formula Audit				Financial	Education
	Subrecipient Monitoring Procedures				Financial	Education/USOR
	ASPIRE				Performance	Education

Audits related to hotline calls or requests will be added and approved by the Committee as needed.
Followup on prior audit findings will also be added once the tracking database has been established.

Consulting Projects

Subrecipient Monitoring Group	Bi-weekly meetings, 1 hour each
Indirect Cost Proposal - as requested	Submit to Feds for approval in September 2015
BASE User Group	Monthly meeting

Other Internal Audit Responsibilities

Internal Audit Section Policy and Procedure Manual
Hotline Maintenance
External Audit Liasion - Audit/Finding Tracking Database
Continuing Professional Education
Board Meeting Attendance/Material Preparation

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad Smith
Chief Executive Officer

DATE: August 7, 2015

DISCUSSION/ ACTION: Internal Audit SFY17 USBE Funding Priorities

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Background: The Audit Committee considered a request related to funding priorities for SFY17 related to the Internal Audit Section for an additional financial/compliance auditor.

Key Points: Internal Audit is requesting an additional financial/compliance auditor. An org chart is attached to show the proposed position. Internal Audit receives a large number of requests for financial and compliance assistance, particularly with sub-awards, because many of the sections of the Board's office do not have adequate resources in that area. It is anticipated that this new position will respond to those requests, while also assisting with financial and compliance projects. Furthermore, with the recent restructuring in the Internal Audit Department to specifically hire performance auditors, one financial/compliance audit position was essentially changed to a performance audit position; therefore, funding this request would bring the financial/compliance audit side back to its original staffing level.

Note: Internal Audit has also requested an administrative assistant as a supplemental request for SFY16. If both an administrative assistant and additional audit staff position are approved, Internal Audit will need additional space to house the individual.

Anticipated Action: Board approval of the funding request above to be considered a priority.

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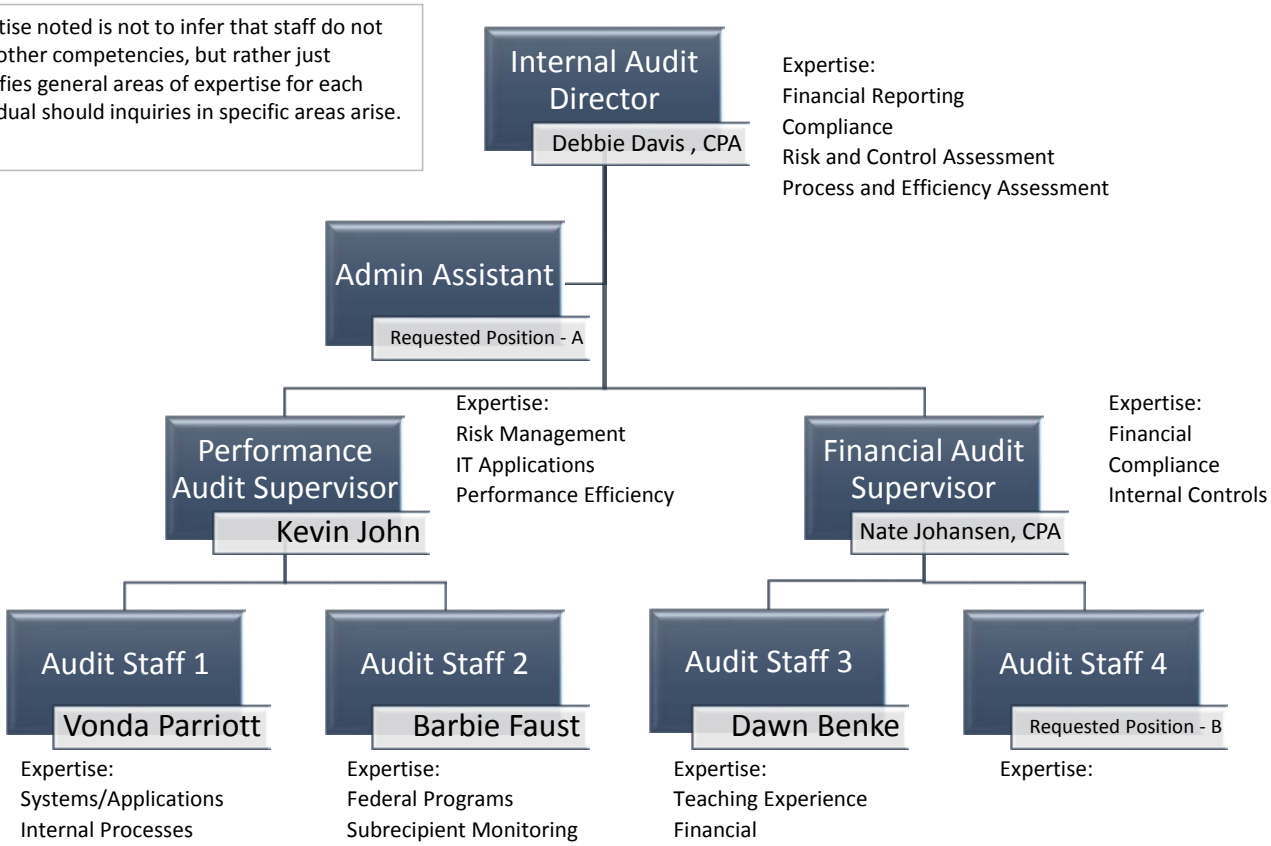
USBE Internal Audit Section Organization Chart

(as of 5/22/2015)

Expertise noted is not to infer that staff do not have other competencies, but rather just identifies general areas of expertise for each individual should inquiries in specific areas arise.



Requested Position Notes:

A With a growing department, an administrative assistant would take on duties such as purchasing, travel, meeting material preparation, etc. This will allow auditors to more effectively use their time on audit functions rather than administrative tasks and would alleviate the extra burden the Internal Audit Department staff is to the Superintendent's administrative staff. This position is requested for State Fiscal Year 2016.

B The Utah State Board of Education has a budget over $4 billion, which represents approximately 1/3 of the state's budget. There is a significant amount of oversight of those funds, both at the state and subrecipient level, as a majority of funds are passed through to subrecipients. The vision for the financial side of Internal Audit is to have a staff with emphasis on state level financial issues, and the other staff with emphasis on subrecipient financial issues. This position is requested for State Fiscal Year 2017.

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Lorraine Austin, Board Secretary

MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 7, 2015

ACTION: Revision to the Utah Internal Audit Act

Background:
Related to the repeal and reenactment of Administrative Rule R277-116 *Utah State Board of Education Internal Audit Procedure* to ensure consistency with the Utah Internal Audit Act (Utah Code 63I-5), the Audit Committee discussed in their April and May meetings the current language in the Utah Internal Audit Act (UCA 63I-5-201(4)) which indicates that USOE establishes, under the direction of the Board, the internal audit function.

Key Points:
Because the internal audit function should be independent of daily operations and reports to the Board, the Committee approved a motion to work with the Legislature to revise the statutory language to indicate that the Board establishes the internal audit function.

Anticipated Action:
It is proposed that the Board work with the legislature to revise UCA 63I-5-201(4) *The Utah Internal Audit Act* to indicate, consistent with Board authority and intent, that the Board establishes the internal audit function.

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: August 7, 2015

ACTION: Licensing Actions and Utah Professional Practices Advisory Commission (UPPAC) Recommendations

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Background: The Utah Professional Practices Advisory Commission (UPPAC) is advisory to the State Board of Education in making reports and recommendations regarding educator licensing to the Board. Each month a report of UPPAC actions is given to the Board, and specific cases with recommended actions, including suspension, revocation, and reinstatement of educator licenses, are brought to the Board for review and action.

UPPAC is submitting for the first time a Consent Calendar for Licensing Actions (separate from the regular Consent Calendar) to cover all other licensing recommendations. The cases on the Consent Calendar this month are exclusively recommendations of the UPPAC Executive Secretary, which would have been unilaterally cleared in the past. They involve single misdemeanor convictions over two years old, which do not require a recommendation from UPPAC. Other matters that were previously cleared by the Executive Secretary or UPPAC will now come to the Board under R277-204. Going forward, each background check review matter will be assigned a case number for public notice. However, details of each case would restricted to Executive Session.

Key Points: The Board has instituted a process for review and action on UPPAC cases that are submitted for suspension, revocation, and reinstatement. Generally, the first month a case comes to the Board with a recommendation from UPPAC the Board reviews the case in an executive session. Action is taken on the case in a subsequent meeting. Occasionally the Board will take action on a case under review the first time it is reviewed. In addition, the Board will review and approve proposed actions by the UPPAC Executive Secretary and UPPAC on all other preservice and UPPAC cases.

Anticipated Action: The Board will consider actions on licensing and UPPAC cases.

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UPPAC

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UPPAC is charged with maintaining and promoting a high standard of professional ethics among Utah educators. It is advisory to the State Board of Education in making recommendations regarding educator licensing and may take other disciplinary action respecting educator misconduct.

6.18.2015

MEMORANDUM

TO: Utah State Board of Education

FROM: Benjamin Rasmussen, Executive Secretary
Utah Professional Practices Advisory Commission (UPPAC)

SUBJECT: Recommendation of the Utah Professional Practices Advisory Commission (UPPAC)

DATE: August 7, 2015

The following recommendations of the Utah Professional Practices Advisory Commission (UPPAC) are transmitted for review and action by the Utah State Board of Education:

- **Case No. 07-816**
  The commission recommends that the Petitioner's request for license reinstatement be denied. UPPAC further recommends that Petitioner be allowed to seek a new reinstatement hearing in no sooner than six months from board approval, and upon completion of specified conditions.

- **Case No. 14-1234**
  The commission recommends suspension of the educator's Level 2 Secondary Education License. UPPAC recommends that the educator's license be suspended for not less than three (3) years with certain conditions from the date of Board action pursuant to a stipulated agreement. Reinstatement, following a UPPAC hearing and recommendation, is subject to Board approval.

- **Case No. 12-1092**
  The commission recommends suspension of the educator's Level 2 Elementary Education, Early Childhood and Special Education License. UPPAC recommends that the educator's license be suspended for not less than two (2) years with conditions from the date of Board action pursuant to a stipulated agreement. Reinstatement, following a UPPAC hearing and recommendation, is subject to Board approval.

UPPAC

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6.18.2015

- **Case No. 14-1244**
  The commission recommends suspension of the educator's Level 2 Education License. UPPAC recommends that the educator's license be suspended for not less than two (2) years from the date of Board action pursuant to a stipulated agreement. Reinstatement, following a UPPAC hearing and recommendation, is subject to Board approval.

- **Case No. 14-1224**
  The commission recommends suspension of the educator's Level 1 Secondary Education License. UPPAC recommends that the educator's license be suspended for not less than one (1) year with certain conditions from the date of Board action pursuant to a stipulated agreement. Reinstatement, following a UPPAC hearing and recommendation, is subject to Board approval.

- **Case No. 13-1178**
  The Commission recommends suspension of the educator's Utah Level 2 School Career and Technical Education License. A hearing was held April 29-30, 2015, following which the hearing panel and UPPAC unanimously recommend that the educator's license be suspended for a period of 18 months retroactive to November 2014, when his criminal probation ended, plus conditions to be met before seeking a reinstatement hearing. Reinstatement, following a UPPAC hearing and recommendation, is subject to Board approval.

- **Case No. 13-1175**
  The Commission recommends the Board revoke the educator's Level 2 Secondary Education License per the terms of his Default Order. The educator signed a Stipulated Agreement in May 2014, which was submitted to the Utah State Board of Education ("Board") in June 2014. His attorney subsequently requested that the case be removed from the agenda for the August 2014 Board meeting, representing that he was requesting modifications in the subject criminal case and wanted any such changes to be considered by the Board. No such modifications were ever requested or made in the criminal case.

UPPAC CONSENT CALENDAR
August 7, 2015

UPPAC Investigations

- UPPAC recommends dismissal of the following cases: None.

- UPPAC recommends a Letter of Admonishment in the following cases: None.

- UPPAC recommends a Letter of Warning in the following cases: None.

Criminal Background Reviews:

- UPPAC's Executive Secretary recommends clearance of the following criminal background reviews:

    1. Case No. 15-1
    2. Case No. 15-2
    3. Case No. 15-4
    4. Case No. 15-5
    5. Case No. 15-6
    6. Case No. 15-7
    7. Case No. 15-8

- UPPAC recommends clearance of the following criminal background reviews: None