

R277-113 received final approval by the Utah State Board of Education on September 3, 2020. R277-113 will be published in the October 1, 2020 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of November 9, 2020.

## **R277. Education, Administration.**

### **R277 113. LEA Fiscal and Auditing Policies.**

#### **R277-113-1. 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 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-3-501(1)(e)(i), which directs the Board to establish rules and minimum standards for school productivity and cost effectiveness measures;

(d) Subsection 53E-3-501(1)(e)(iv), which allows the Board to adopt rules regarding financial, statistical, and student accounting requirements;

(e) Section 53E-3-602, which allows the Board to approve auditing standards for LEA governing boards;

(f) Section 53E-3-603, which requires the Board to verify accounting procedures of LEA governing boards for the purpose of determining the allocation of Uniform School Funds;

(g) Section 53E-5-202, which directs the Board to adopt rules to implement a statewide accountability system;

(h) Subsection 53G-5-404(4), which requires charter schools to make the same annual reports required of other public schools, including an annual financial audit report; and

(i) ESSA, which requires states to revise and redesign school accountability systems.

(2) The purpose of this rule is to:

(a) require LEAs to formally adopt and implement policies regarding the management and use of public funds;

(b) provide minimum standards, procedures and definitions for LEA policies;

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(c) direct that LEAs make policies, procedures and training materials available to the public and readily accessible on LEA or public school websites, to the extent of resources available;

(d) require LEAs to train employees in:

(i) appropriate financial practices;

(ii) necessary accounting procedures; and

(iii) ethical financial practices;

(e) specify uniform budgeting, accounting, and auditing procedures for LEAs consistent with GAAP, GAAS, and GAGAS; and

(f) establish reporting and accounting requirements for LEAs to enable the Board to comply with ESSA.

#### **R277-113-2. Definitions.**

(1) "Accrual basis of accounting" means a basis of accounting that records:

(a) revenue when earned and expenses when incurred; and

(b) transactions irrespective of the dates on which any associated cash flows occur.

(2) "Administration" means:

(a) an LEA superintendent or director;

(b) a deputy or associate superintendent or director;

(c) a business administrator or manager; or

(d) another LEA educational administrator, designated staff, or a designated educational service provider.

(3) "Arm's length transaction" means a transaction between two unrelated, independent, and unaffiliated parties or a transaction between two parties acting in their own self interest that is conducted as if the parties were strangers so that no conflict of interest exists.

(4) "Exclusive contract or arrangement" means an agreement requiring a buyer to purchase or exchange all needed goods or services from one seller.

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(5) "FASB" means the Financial Accounting Standards Board whose purpose is to establish GAAP for nongovernmental entities within the United States.

(6) "GAAP" means Generally Accepted Accounting Principles or a common framework of accounting rules and standards for financial reporting promulgated by either FASB or GASB, as applicable to the reporting entity.

(7) "GAAS" means Generally Accepted Auditing Standards or a set of auditing standards and guidelines promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants.

(8) "GAGAS" means Generally Accepted Government Auditing Standards or a set of auditing standards and guidelines promulgated by the Government Accountability Office.

(9) "GASB" means the Governmental Accounting Standards Board whose purpose is to establish GAAP for state and local governments within the United States.

(10) "Internal controls" means a process, implemented by an entity's governing body, administration, or other personnel, designed to:

(a) provide reasonable assurance regarding the achievement of objectives in the following categories:

- (i) effectiveness and efficiency of operations;
- (ii) reliability of reporting for internal and external use; and
- (iii) compliance with applicable laws and regulations;

(b) provide reasonable assurance regarding the achievement of the following objectives over state and federal awards:

- (i) proper recording and accounting for transactions, in order to:
  - (A) permit the preparation of reliable financial statements and state and federal reports;
  - (B) maintain accountability over assets; and
  - (C) demonstrate compliance with state and federal statutes, regulations, and the terms and conditions of state and federal awards; and
- (ii) execution of transactions in compliance with:
  - (A) all state and federal statutes and regulations; and

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(B) the terms and conditions of state or federal awards; and  
(c) safeguard funds, property, and other against loss from unauthorized use or disposition.

(11) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(12) "Modified accrual basis of accounting" means a basis of accounting, commonly used by government agencies, that recognizes revenues when they become available and measurable and recognizes expenditures when liabilities are incurred.

(13) "Non-operating LEA" means an LEA that has not received minimum school program funds or federal funds and is not providing educational services during a fiscal year, such as an LEA in a start-up period.

(14) "N-size" means the minimum size necessary to disclose or display data to ensure maximum student group visibility while protecting student privacy.

(15) "Operating LEA" means an LEA that has received state minimum school program funds or federal funds and is providing educational services during a fiscal year.

(16)(a) "Provided, sponsored, or supported by a school" has the same meaning as defined in Section R277-407-2.

(b) "Provided, sponsored, or supported by a school" does not apply to non-curricular clubs specifically authorized and meeting all criteria of Sections 53G-7-704 through 53G-7-707.

(17) "Public funds" has the same meaning as that term is defined in Subsection 51-7-3(26).

(18) "Title IX" refers to that portion of the United States Education Amendments of 1972 codified as 20 U.S.C. 1681 through 20 U.S.C. 1688.

(19) "Utah Public Officers' and Employees' Ethics Act," means Title 67, Chapter 16, which provides standards of conduct for officers and employees of the state of Utah and its political subdivisions in areas where there are actual or potential conflicts of interest between public duties and private interests.

### **R277-113-3. Superintendent Responsibilities.**

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(1) The Superintendent shall provide training, informational materials, and model policies for use by LEAs in developing LEA and public school-specific financial policies.

(2) The Superintendent shall provide online training and resources for LEAs regarding the use and management of public funds and ethical practices for licensed Utah educators who manage, control, participate in fundraising, or expend public funds.

(3) The Superintendent shall provide training and informational materials for use by LEA governing boards in establishing their audit committees and internal audit programs in compliance with Section 53G-7-402.

(4) The Superintendent shall provide and establish a cycle for state review of LEA fiscal policies and standards.

(5) The Superintendent shall work with and provide information upon request to the Utah State Auditor's Office, the Legislative Fiscal Auditors, and other state agencies with the right to information from the Board.

#### **R277-113-4. LEA Audit Responsibilities.**

(1) The presiding officer of an LEA governing board shall ensure that the members of the governing board and audit committee are provided with training on the requirements of Title 53G, Chapter 7, Part 4, Internal Audits, and this Section R277-113-4 as part of the member on-boarding process.

(2) The training described in Subsection (1) shall:

(a) comply with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) use the online training and informational materials provided by the Superintendent in accordance with Subsection R277-113-3(3).

(3) An LEA governing board shall:

(a) designate board members to serve on an audit committee, consistent with Subsection 53G-7-401(1); and

(b) maintain the following information on the LEA's website:

(i) names of the governing board members who serve on the audit committee; and

(ii) if required by Subsection 53G-7-402(2);

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- (A) the name and contact information of the internal audit director; and
- (B) a copy of the LEA's annual audit plan.
- (4) An LEA audit committee shall:
  - (a) ensure the LEA obtains all audits, agreed-upon procedures, engagements, and financial reports required by Section 51-2a-201 and Subsection 53G-5-404(4);
  - (b) provide an independent forum for internal auditors, internal audit contractors, and other regulatory bodies to report findings of fraud, waste, abuse, non-compliance, or control weaknesses, particularly if LEA administration is involved;
  - (c) ensure that corrective action on findings, concerns, issues and exceptions reported by independent external auditors, internal auditors, or other regulatory bodies are resolved in a timely manner by LEA administration;
  - (d) present, as appropriate, information and reports from the audit committee's meetings to the LEA board; and
  - (e) receive, as appropriate, reports of reviews, monitoring, or investigations conducted by LEA administration and ensure appropriate corrective action is taken in a timely manner.
- (5) With regards to engagements completed by an independent external auditor, an LEA audit committee shall:
  - (a) manage the audit procurement and quality process in compliance with Title 63G, Chapter 6a, State Procurement Code and Rule R123-5;
  - (b) ensure that the independent external auditor has access to directly communicate with the audit committee;
  - (c) review disagreements between independent external auditors and LEA administration;
  - (d) consider LEA responses to audits or agreed-upon procedures; and
  - (e) determine the scope and objectives of other non-audit services, as necessary.
- (6) An LEA audit committee shall if required by Section 53G-7-402:
  - (a) establish an internal audit program that provides internal audit services for the programs administered by the LEA;

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(b) advise the LEA board in the appointment of an audit director or in contracting for internal audit services in accordance with Subsection 53G-7-402(3);

(c) conduct or advise the LEA board in an annual evaluation of the internal audit director or contractors providing internal audit services;

(d) prioritize the internal audit plan based on risk;

(e) receive regular updates on the internal audit plan and internal audit project progress; and

(f) receive final internal audit reports from internal auditors or contractors providing internal audit services.

#### **R277-113-5. LEA Fiscal Responsibilities and Required Fiscal Policies.**

(1) An LEA shall review the LEA's fiscal policies and procedures regularly.

(2) An LEA shall develop a plan for annual training of LEA and public school employees on policies and procedures enacted by the LEA specific to job function.

(3) LEA fiscal policies and procedures shall be available at each LEA main office, at individual public schools, and be publicly available on the LEA's website.

(4) LEA fiscal policies, procedures, and training may have different components, specificity, and levels of complexity for public elementary and secondary schools.

(5) An LEA may have one or more policies to satisfy the minimum requirements of this R277-113.

(6) An LEA fiscal policy may reference specific training manuals or other resources that provide detailed descriptions of business practices which are too lengthy or detailed to include in the LEA policy.

(7) A public education foundation established by an LEA shall follow the requirements set forth in Section 53E-3-403.

(8)(a) An LEA shall ensure that the LEA's written fiscal policies and procedures address all applicable state and federal statutes and regulations.

(b) The requirements set forth in this Section R277-113-5 are minimum requirements.

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(c) An LEA may include other related items, provide LEA specific policy and guidance, and set policies that are more restrictive and inclusive than the minimum provisions established by Board rule.

(9) LEA fiscal policies shall include the following:

(a) a program accounting policy that establishes internal controls and procedures to record program revenues and expenditures in accordance with:

(i) GAAP; and

(ii) the school fee provisions in Section R277-407-13;

(b) a program accounting policy that:

(i) accurately reflects the use of funds for allowable costs and activities;

(ii) requires that transactions be recorded when they occur;

(iii) allows adjusting journal entries during the year and at the end of the year, in accordance with GAAP; and

(iv) requires that initial transactions, and adjusting entries if applicable, be recorded in the proper program, utilizing the following codes as established by the Board approved chart of accounts:

(A) fund;

(B) function;

(C) program;

(D) location; and

(E) object or revenue code, as applicable;

(c) a cash handling policy, which shall address cash receipts (cash, checks, credit cards, and other items) collected at the LEA and individual public schools and shall include:

(i) establishment of internal controls and procedures over the collection, deposit, and reconciliation of cash receipts received; and

(ii) compliance with Utah Code 51-4-2(2) regarding deposits.

(d) an expenditure policy, which shall address all expenditures made by the LEA and individual public schools and shall include:

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(i) establishment of internal controls and procedures over the initiation, approval and monitoring of expenditures, including:

- (A) credit, debit, or purchase card transactions;
- (B) employee reimbursements;
- (C) travel; and
- (D) payroll;

(ii) directives regarding the appropriate use of the LEA's tax exempt status number;

(iii) compliance with Section 63G-6a-1204 regarding length of multi-year contracts;

(iv) compliance with:

- (A) Title 63G, Chapter 6a;
- (B) Board rule regarding construction and improvements; and
- (C) Title IX;

(v) requirements for LEA contracts, including:

- (A) inclusion of specific scope of work language;
- (B) inclusion of federal requirements;
- (C) inclusion of language regarding data privacy and use, where appropriate; and
- (D) legal review prior to LEA approval; and

(vi) procedures and documentation maintained by the LEA if the LEA chooses to enter into exclusive contracts or arrangements consistent with state procurement law and the LEA procurement policy; and

(vii) procedures for determining allowability of costs in accordance with relevant regulations and terms and conditions of awards;

(e) a fundraising policy that:

(i) establishes procedures for LEA and public school fundraising in general;

(ii) establishes an approval process for fundraising activities for school sponsored activities;

(iii) provides for compliance with school fee and fee waiver provisions outlined in Rule R277-407; and

(iv) includes:

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(A) specific designation of employees by title or job description who are authorized to approve fundraising, school sponsored activities, and grant fee waivers with appropriate attention to student and family confidentiality;

(B) establishment of internal controls and procedures over the approval of fundraising and school sponsored activities and compliance with associated cash handling and expenditure policies;

(C) directives regarding the appropriate use of the LEA's tax exempt status number and issuance of charitable donation written disclosure in accordance with IRS regulations;

(D) procedures governing LEA or public school employee interaction with parents, donors, and organizations doing fundraisers not provided, supported or sponsored, by a school or LEA;

(E) disclosure requirements for LEA and public school employees approving, managing, or overseeing fundraising activities, who also have a financial or controlling interest or access to bank accounts in the fundraising organization or company;

(F) Provisions establishing compliance with:

(I) Utah Constitution, Article X, Section 2, establishing a free public education system;

(II) R277-407; and

(III) Title IX;

(v) may include procedures governing:

(A) student participation and incentives offered to students;

(B) allowable types of individual or group fundraising activities; and

(C) participation in school sponsored activities by volunteer or outside organizations;

(f) an LEA donation and gift policy that includes:

(i) an acceptance and approval process for:

(A) monetary donations;

(B) donations and gifts with donor restrictions;

(C) donations of gifts, goods, materials, or equipment; and

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(D) donation of funds or items designated for construction or improvements of facilities;

(ii) establishment of internal controls and procedures over the acceptance and approval of donations and gifts and compliance with associated cash handling and expenditure policies;

(iii) directives regarding the appropriate use of the LEA's tax exempt status number, and issuance of charitable donation written disclosure in accordance with IRS regulations;

(iv) procedures regarding the objective valuation of donations or gifts if advertising or other services are offered to the donor in exchange for a donation or gift;

(v) procedures governing LEA or public school employee conduct with parents, donors, and nonschool sponsored organizations;

(vi) procedures establishing provisions for direct donations or gifts to the LEA or LEA programs, individual public school or public school programs;

(vii) provisions restricting donations from being directed at specific LEA employees, individual students, vendors, or brand name goods or services;

(viii) compliance with:

(A) Title 63G, Chapter 6a;

(B) state law and Board rule regarding construction and improvements;

(C) IRS regulations and tax deductible directives; and

(D) Title IX;

(ix) procedures for:

(A) accepting donations and gifts through an LEA's legally organized foundation, if applicable;

(B) recognition of donors; or

(C) granting naming rights; and

(e) an LEA Financial Reporting policy, which shall include the following:

(i) a requirement that the LEA shall ensure external audits of LEA financial reporting, compliance, and performance, in accordance with GAAS and GAGAS;

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(ii)(A) a requirement that the LEA shall provide financial reporting in a manner consistent with the basis of accounting as required by GAAP, as applicable to the entity;

(B) for state fiscal year 2020, if an LEA follows FASB standards, a requirement that the LEA shall provide reconciliation between the accrual basis of accounting and modified accrual basis of accounting; and

(C) beginning with state fiscal year 2021, a requirement that the basis of accounting will be GASB; and

(iii) a requirement that the LEA shall provide data and information consistent with budgeting, accounting, including the uniform chart of accounts for LEAs, and auditing standards for Utah LEAs provided online annually by the Superintendent.

(10) The Superintendent shall maintain a School Finance website with applicable Utah statutes, Board rules, and uniform rules for:

- (a) budgeting;
- (b) financial accounting, including a chart of accounts required for an LEA;
- (c) student membership and attendance accounting;
- (d) indirect costs and proration;
- (e) financial audits;
- (f) statistical audits; and
- (g) compliance and performance audits.

#### **R277-113-6. LEA Governing Board Fiscal Responsibilities.**

(1) An LEA governing board shall have the following responsibilities:

(a) approve written fiscal policies and procedures required by Section R277-113-5;

(b) ensure, considering guidance in “Standards for Internal Control in the Federal Government,” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission, that LEA administration establish, document, and maintain an effective internal control system for the LEA;

(c) develop a process to regularly discuss and review LEA:

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- (i) budget and financial reporting practices;
- (ii) financial statements and annual financial and program reports;
- (iii) financial position;
- (iv) expenditure of restricted funds to ensure administration is complying with applicable laws, regulations, and award terms and conditions; and
- (v) systems and software applications for compliance with financial and student privacy laws;
- (d) receive the results of required annual audits from the external auditor in accordance with Section R123-5-5;
- (e) oversee procurement processes in compliance with Title 63G, Chapter 6a, Utah Procurement Code, and Rule R277-115, including:
  - (i) reviewing the scope and objectives of LEA contracts or subawards with entities that provide business or educational services; and
  - (ii) receiving reports regarding the compliance and performance of entities with contracts or subawards;
- (f) ensure the procurement process for an external auditor is in compliance with Section R123-5-4;
- (g) ensure LEA administration implements sufficient internal controls over the functions of entities with contracts or subawards to perform services on behalf of the LEA;
- (2) An LEA governing board shall:
  - (a)(I) provide a hotline independent from administration for stakeholders to report concerns of fraud, waste, abuse, or non-compliance; and
    - (ii) post on the school's website in a readily accessible location:
      - (A) a hotline phone number;
      - (B) a hotline email; or
      - (C) an online complaint form; or
    - (b) post a link on the school's website in a readily accessible location with contact information for the Board's hotline.

#### **R277-113-7. Reporting of School Level Expenditures.**

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(1) In accordance with ESSA, the Superintendent shall make public the per pupil expenditures of federal, state, and local funds, for each LEA and each school in the state.

(a) The Superintendent shall exclude expenditures that:

(i) are non-current;

(ii) do not reflect the day-to-day operations of an LEA or school;

(iii) do not contribute to k-12 education; or

(iv) are significant, unique expenditures that may skew data in certain years and thwart year-to-year comparison.

(b) The Superintendent shall publish and make available a comprehensive list of expenditures that are excluded from per pupil expenditure information.

(2) The Superintendent's school level report for each school shall include:

(a) average daily membership for the fiscal year covered by the report;

(b) an indicator if the school is:

(i) a Title I School; or

(ii) a Necessarily Existent Small School;

(c) grade levels served by each school;

(d) student demographics;

(e) expenditures recorded at the school level and central expenditures allocated to each school by:

(i) federal program expenditures; and

(ii) state and local combined expenditures;

(f) calculated per pupil expenditures; and

(g) average teacher salary.

(3) The Superintendent may not report expenditure data for a school with an n-size of less than 10.

#### **R277-113-8. LEA Accounting Requirements.**

(1) Each LEA shall:

(a) record revenues and expenditures in compliance with the Board approved chart of accounts;

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(b) record expenditures using school location codes that can be mapped to official school location codes used in the Board system of record;

(c) record expenditures using approved district and school codes in the Board system of record;

(d) submit expenditures using location codes in the UPEFS system; ~~and~~

(e) perform program accounting in accordance with GAAP and this rule~~[-]~~; and

(f) beginning with the fiscal year that begins on July 1, 2021, accrue school fees, and fee waivers and use contra-revenue accounts to record fee waivers in the LEA's accounting system.

(2) Each LEA shall record and report the following expenditures for each school annually:

(a) salaries;

(b) benefits;

(c) supplies;

(d) contracted services; and

(e) equipment.

(3) If an LEA pays for contracted services that occur at the school level, the LEA shall record the payments to the contractors in the appropriate function and object codes established under Subsection (2) at the school level.

(4)(a) An LEA shall record centralized administrative costs to the administrative location code.

(b) The Superintendent shall allocate such costs to each school based on school enrollment.

(5) The Superintendent shall present one expenditure report for a school receiving more than one report card under Subsection R277-497-4(8).

(6) If an LEA reports expenditures in programs, the LEA shall report the expenditures to one or more schools.

### **R277-113-9. Activities Provided, Sponsored, or Supported by a School.**

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(1) An LEA or school shall comply with this Section R277-113-9 for all activities provided, sponsored, or supported by a school.

(2) An LEA shall ensure that revenues raised from or during activities provided, sponsored, or supported by a school are classified, recorded, and deposited as public funds in compliance with LEA cash handling, program accounting, and expenditure of funds policies as required by Section R277-113-5.

(3) An LEA shall:

(a) maintain records in sufficient detail to:

(i) track individual contributions and expenditures;

(ii) track overall financial outcomes; and

(iii) verify compliance with relevant regulations; and

(b) make records of activities available to parents, students, and donors, except as restricted by state or federal law;

(4) An LEA may establish LEA-specific rules or policies:

(a) designating categories of activities or groups as provided, sponsored, or supported by the school; and

(b) regarding use of facilities or LEA resources.

(5) An LEA shall document their annual review of fundraising activities that support or subsidize LEA or public school-authorized clubs, activities, sports, classes, or programs to determine if the activities are provided, sponsored, or supported by a school.

(6)(a) An LEA may enter into contractual agreements to allow for fundraising and use of LEA facilities.

(b) An agreement under Subsection (6)(a) shall take into consideration the LEA's fiduciary responsibility for the management and use of public funds, resources, and assets.

(c) An LEA shall review an agreement under Subsection (6)(a) with the LEA's insurer or legal counsel to consider risk to the LEA.

(7) An LEA shall comply with this Subsection (7) for any activity not provided, sponsored, or supported by a school:

(a) An LEA shall conduct all transactions at arm's length;

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- (b) An LEA may not co-mingle revenue and expenditures with public funds; and
- (c) A public school employee may only manage or hold funds consistent with Rule R277-107.

**R277-113-10. LEA Policies and Compliance with State and Federal Law.**

- (1) An LEA is responsible to ensure that its policies comply with the following:
  - (a) Utah Constitution Article X, Section 3;
  - (b) Title 63G, Chapter 6a, Utah Procurement Code;
  - (c) Title 51, Chapter 4, Deposit of Funds Due State;
  - (d) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;
  - (e) Family Educational Rights and Privacy Act, 20 U.S.C. 1232g;
  - (f) Title 63G, Chapter 2, Government Records Access and Management Act;
  - (g) Title 53G, Chapter 7, Student Fees;
  - (h) Title 53G, Chapter 6, Textbook Fees;
  - (i) Section 53E-3-403, Establishment of Public Education Foundations;
  - (j) Title 53G, Chapter 7, Part 7, Student Clubs Act;
  - (k) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;
  - (l) Additional state legal compliance guides for operating LEAs and non-operating LEAs as published by the office of the state Auditor;
  - (m) Subsection 51-7-3(26), Definition of Public Funds;
  - (n) Title 53G, Chapter 7, Part 4, Internal Audits;
  - (o) Rule R277-407, School Fees;
  - (p) Rule R277-107, Educational Services Outside of Educator's Regular Employment;
  - (q) Rule R277-217, Utah Educator Standards;
  - (r) Rule R277-605, Coaching Standards and Athletic Clinics;
  - (s) Rule R123-5, Audit Requirements for Audits of Political Subdivisions and Governmental Nonprofit Corporations; and

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(t) 2 C.F.R. 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(2) An LEA shall include the following requirements of Title IX in LEA policies:

(a) Fundraising shall equitably benefit males and females;

(b) Males and females shall have reasonably equal access to facilities, fields, and equipment;

(c) School sponsored activities shall be reasonably equal for males and females.

**KEY: school sponsored activities, public funds, fiscal policies and procedures, audit committee**

**Date of Enactment or Last Substantive Amendment: August 8, 2020**

**Authorizing, and Implemented, or Interpreted Law: Art X, Sec 3; 53E-3-401(4); 53E-3-501(1)(e)**