

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed August 02, 2013, 12:00 a.m. through August 15, 2013, 11:59 p.m.

Number 2013-17
September 01, 2013

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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <http://www.rules.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.

I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

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EXECUTIVE DOCUMENTS

As part of his or her constitutional duties, the Governor periodically issues **EXECUTIVE DOCUMENTS** comprised of Executive Orders, Proclamations, and Declarations. "Executive Orders" set policy for the Executive Branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. "Proclamations" call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. "Declarations" designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution. All orders issued by the Governor not in conflict with existing laws have the full force and effect of law during a state of emergency when a copy of the order is filed with the Division of Administrative Rules. (See Section 63K-4-401).

Governor's Executive Order EO/005/2013: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is extremely high throughout the State of Utah;

WHEREAS, wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment;

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment;

WHEREAS, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981,

NOW THEREFORE, I, Gary R. Herbert, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of August 10, 2013 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of August 2013

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Lieutenant Governor
Greg Bell

EO/005/2013

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between August 02, 2013, 12:00 a.m., and August 15, 2013, 11:59 p.m. are included in this, the September 01, 2013 issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules will include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least October 1, 2013. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through December 30, 2013, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the Rule Analysis for each rule.*

PROPOSED RULES are governed by Section 63G-3-301; Rule R15-2; and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Education, Administration
R277-410-3
 Accreditation of Public Schools

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37920

FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Elementary charter schools are no longer required to be members of and accredited by AdvancED Northwest. Only secondary schools, as defined in Subsection R277-410-1(H), are required to be accredited, consistent with traditional schools.

SUMMARY OF THE RULE OR CHANGE: Charter school language is removed from Subsection R277-410-3(B) because accreditation is no longer required.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(c)(i)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Individual charter schools are and have been responsible for membership and accreditation.
- ◆ **LOCAL GOVERNMENTS:** There may be some savings to charter schools that are no longer required to be accredited. Costs are too speculative at this time to determine.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. The accreditation provider is not a small business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The change to the rule affects charter schools and businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Non-secondary (K-6) charter school accreditation is no longer required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is possible that there may be some costs to the accreditation provider if non-secondary (K-6) charter schools choose not to continue to be accredited. The costs would probably be minimal because the membership fees paid by non-secondary (K-6) charter schools are offset by the services provided by the accreditation provider.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-410. Accreditation of Schools.

R277-410-3. Accreditation of Public Schools.

A. The USOE has responsibility to facilitate accreditation by the Board for Utah public schools. The Board is not responsible for the accreditation of nonpublic schools, including private, parochial, or other independent schools.

B. Utah public secondary schools, as defined in R277-410-1H[~~and all charter schools,~~] and consistent with R277-481-3A(2), shall be members of AdvancED Northwest and be accredited by AdvancED Northwest.

C. Utah public elementary and middle schools that desire accreditation shall be members of AdvancED Northwest and meet the requirements of R277-410-5 and R277-410-6. AdvancED Northwest accreditation is optional for Utah elementary and middle schools.

D. All AdvancED Northwest accredited schools shall complete and file reports in accordance with AdvancED Northwest protocols.

E. If a school includes grade levels for which accreditation is both mandatory and optional, the school shall be accredited in its entirety.

KEY: accreditation, public schools, nonpublic schools

Date of Enactment or Last Substantive Amendment:
~~[September 21, 2012]~~ 2013

Notice of Continuation: August 1, 2012

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

Education, Administration
R277-412
 State Capitol Visit Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37921

FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide criteria, procedures, and timelines for the Utah State Board of Education (Board) to select schools to participate in State Capitol visits.

SUMMARY OF THE RULE OR CHANGE: This new rule provides definitions, procedures for a school application process, and school selection criteria and timelines.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-17a-170(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. This program will be administered at the state level with existing staff and within existing budgets.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. Public schools that apply and are selected to participate in the State Capitol Visit Program will receive legislative funding.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This new rule applies to public education and does not affect businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. This new rule applies to public schools and does not affect individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons. Funding will be provided to public schools that receive funding for the State Capitol Visit Program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-412. State Capitol Visit Program.

R277-412-1. Definitions.

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

C. "State Capitol visit" means public school student field trips to the State Capitol.

D. "USOE" means the Utah State Office of Education.

R277-412-2. Authority and Purpose.

A. The rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-17a-170(3) which requires the Board to make rules establishing procedures for applying for and awarding grants and specifying how grant money shall be allocated among school districts and charter schools, and Section 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to provide criteria, procedures and timelines for the Board to select schools to participate in State Capitol visits.

R277-412-3. School Application Process.

A. All public schools shall be eligible for the program.

B. An applicant school shall provide a completed application for the school's State Capitol field trip that shall:

(1) indicate how the field trip will meet self-identified academic objectives;

(2) estimate the number of students served by the program; and

(3) provide additional information requested by the USOE on the application.

R277-412-4. School Selection Criteria and Timeline.

A. The USOE shall provide an application for the Capitol Visit funding by June 15, 2013.

B. The USOE shall screen all applications for compliance with all application requirements.

C. The USOE shall seek the participation and advice of the Utah Commission on Civic and Character Education in selecting the applications for consideration for funding to ensure an equitable distribution of funding to as many school districts and public charter schools within the state as possible. The Board shall make final school selections.

D. The Board shall select and notify successful applicants no later than August 15, 2013.

KEY: public schools, State Capitol visits
Date of Enactment or Last Substantive Amendment: 2013
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-17a-170(3); 53A-1-401(3)

Education, Administration

R277-425

Budgeting, Accounting, and Auditing for Utah Local Education Agencies (LEAs)

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 37922
 FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide specific uniform budgeting, accounting, and auditing procedures for LEAs to meet new financial reporting requirements which specifically require a "chart of accounts".

SUMMARY OF THE RULE OR CHANGE: The changes provide new and amended definitions, new language for LEA audit requirements, and new language for LEA financial accounting.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(e)(iv)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Existing staff within existing budgets will manage new financial reporting requirements.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. It is anticipated that LEAs will manage new reporting requirements with existing staff and within existing budgets.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments to the rule apply to public education and do not affect businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The changes to the rule apply to LEAs and their reporting requirements and do not affect individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. LEAs will report financial information consistent with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-425. Budgeting, Accounting, and Auditing for Utah Local Education Agencies (LEAs).

R277-425-1. Definitions.

A. "Accrual accounting" means a basis of accounting that measures the performance of an entity by recognizing economic events regardless of when cash transactions occur. Economic events are recognized by matching revenues to expenses at the time in which the transaction occurs rather than when payment is made.

[A]B. "Board" means the Utah State Board of Education.

C. "FASB" means the Financial Accounting Standards Board that has legal authority to establish financial accounting and reporting standards (GAAP) for publicly held companies and nonprofit organizations.

[E]D. "GAAP" means Generally Accepted Accounting Principles, as defined in the Codification of Governmental Accounting and Financial Reporting Standards, as published by the Governmental Accounting Standards Board.

[D]E. "GAAS" means auditing standards established by the American Institute of Certified Public Accountants, generally referred to as Generally Accepted Auditing Standards.

F. "GASB" means the Governmental Accounting Standards Board that is the source of generally accepted accounting principles (GAAP) used by state and local governments in the United States.

[E]G. "LEA" means local education agency which includes school districts and charter schools.

[B]H. "Modified accrual[-basis of] accounting" means a [method under which expenditures other than accrued interest on general long-term debt are recorded at the time liabilities are

~~incurred and revenues are recorded when they become measurable and available to finance expenditures of the current period]basis of accounting, commonly used by government agencies, that recognizes revenues when they become available and measureable and, recognizes expenditures when liabilities are incurred.~~

I. "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 year(s).

J. "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.

[F]K. "USOE" means the Utah State Office of Education.

R277-425-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1-402(1)(e)(iv) which allows the Board to adopt rules regarding financial, statistical, and student accounting requirements, Section 53A-1-404 which allows the Board to approve auditing standards for school boards, Section 53A-1-405 which requires the Board to verify accounting procedures of school boards for the purpose of determining the allocation of Uniform School Funds, and 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 specify uniform budgeting, accounting, and auditing procedures for LEAs consistent with Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards (GAAS).

R277-425-3. LEA Audit Requirements.

A. ~~An operating LEA shall cause an audit to be made of its accounts by a competent, independent certified public accountant. Utah Code Section 51-2a-201-1 requires audits for an entity whose revenues or expenditures of all funds is \$500,000 or more. Section 51-2a-201-2 require an entity whose revenues or expenditures of all funds less than \$500,000 cause a financial report to be made in a manner prescribed by the state auditor. The state auditor provides for external parties to require audits of their entities.~~

B. ~~A non-operating LEA shall cause a financial report to be made consistent with Utah Code section 51-2a-201.~~

R277-425-[3]4. Reporting Standards.

A. Each LEA's financial reporting shall be in accordance with GAAP which include GAAS.

~~[B. Each LEA's financial reporting shall be provided in the modified accrual basis of accounting in accordance with GAAP.]~~

B. ~~LEA's financial reporting shall be provided in a manner consistent with the basis of accounting as determined by the entity's GAAP, consistent with either GASB or FASB. If FASB standards are followed, the LEA shall provide reconciliation between the accrual basis of accounting and modified accrual basis of accounting.~~

C. LEAs shall provide data and information consistent with School Finance budgeting, accounting and auditing standards for Utah LEAs provided online by the Utah State Office of Education, October, [2011]2013 and reviewed annually. The USOE

School Finance website contains applicable Utah statutes, applicable Board rules, and uniform rules for:

- (1) budgeting;
- (2) financial accounting which includes a chart of accounts for LEAs required under Section 53A-1-301(3)(d)(v);
- (3) student membership and attendance accounting;
- (4) indirect costs and proration;
- (5) financial audits;
- (6) statistical audits; and
- (7) compliance and performance audits.

D. Section 53A-19-103 allows LEAs to have an undistributed reserve not to exceed five percent of the LEA general fund budgeted expenditures. The purpose of the reserve is to meet unexpected and unspecified contingencies.

KEY: education finance

Date of Enactment or Last Substantive Amendment: [February 7, 2012]2013

Notice of Continuation: August 2, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(e); 53A-1-404; 53A-1-405; 53A-1-401(3)

Education, Administration

R277-470

Charter Schools - General Provisions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37923

FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to revise language in the charter school mentoring program and make necessary terminology changes.

SUMMARY OF THE RULE OR CHANGE: The amendments include changing the charter school mentoring program allowable expenditures to remove the dollar amount for substitute per diem and adding language for payment for mentors and supplies and materials. Terminology has also been changed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The changes to the rule relate to charter schools.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. New and amended language in the charter school mentoring program section of the rule allows for flexibility and local autonomy for charter schools.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the changes apply to public education and do not affect businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Individuals participating as mentors in the program will receive compensation, as determined by the charter school, for their services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Approved mentors will provide services consistent as required by the charter school.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-470. Charter Schools - General Provisions.

R277-470-1. Definitions.

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

B. "Chartering entities" means entities that authorize a charter school under Section 53A-1a-501.3(2).

C. "Charter schools" means schools acknowledged as charter schools by chartering entities under Sections 53A-1a-515, 53A-1a-521, and this rule or by the Board under Section 53A-1a-505.

D. "Charter school governing board" means the board designated by the charter school to make decisions for the operation of the school.

[H]E. "[~~No Child Left Behind (NCLB)~~]ESEA" means the federal law under the Elementary and Secondary Education Act, Title IX, Part A, 20 U.S.C. 7801.

[E]E. "Expansion" means a proposed [~~ten percent~~] increase of students or adding grade level(s) in an operating charter school at a single location.

[F]G. "Mentor," for purposes of the mentoring program, means an individual with experience as a charter school governing board member, employee, advisor, or a public educator with an area of expertise or demonstrated competence, willing to advise charter schools, approved by the State Charter School Board to participate in the mentoring program.

[G]H. "Mentoring program," for purposes of this rule, means the State Charter School Board mentoring program.

I. "Satellite school" means a charter school affiliated with an operating charter school having a common governing board and a similar program of instruction, but located at a different site or in a different geographical area. The parent school and all satellites shall be considered a single local education agency (LEA) for purposes of public school funding and reporting.

J. "State Charter School Board" means the board designated in Section 53A-1a-501.5.

K. "USOE" means the Utah State Office of Education.

L. "Utah Consolidated Application (UCA)" means the web-based grants management tool employed by the Utah State Office of Education by which local education agencies submit plans and budgets for approval of the Utah State Office of Education.

M. "Utah eTranscript and Record Exchange (UTREx)" means a system that allows individual detailed student records to be exchanged electronically between public education local education agencies (LEAs) and the USOE, and allows electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service.

R277-470-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1a-513 which directs the Board to distribute funds for charter school students directly to the charter school, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and 20 U.S.C., Section 8063(3) which directs the Board to submit specific information prior to charter schools' receipt of federal funds.

~~B. The purpose of this rule is to establish procedures for authorizing, funding, and monitoring charter schools and for repealing charter school authorizations. The rule also establishes timelines as required by law to provide for adequate training for beginning charter schools.]~~ provide directions to charter schools for federal funds and startup and implementation funding. The rule also provides criteria for a charter school mentoring program and additional charter school-specific directives.

R277-470-3. Maximum Authorized Charter School Students.

A. Local school boards and institutions of higher education may approve charter schools by notifying the [~~State Charter School~~]Board by [~~April~~]October 1 of the [~~calendar~~]state fiscal year [~~two~~]one year[s] prior to opening of proposed charter schools, including authorized numbers of students and other information as required in Sections 53A-1a-515 and 53A-1a-521.

B. The Board, in consultation with the State Charter School Board and chartering entities, may approve schools,

expansions and satellite charter schools for the total number of students authorized under Section 53A-1a-502.5

C. The number of students requested from all chartering entities shall be considered as students are allocated ~~by the State Charter School Board~~ and approved by the Board.

R277-470-4. Charter Schools and ~~[NCLB]ESEA~~ Funds.

A. Charter schools that desire to receive ~~[NCLB]ESEA~~ funds shall comply with the requirements of R277-470-4.

B. To obtain its allocation of ~~[NCLB]ESEA~~ formula funds, a charter school shall complete all appropriate sections of the Utah Consolidated Application (UCA) and identify its economically disadvantaged students in the October ~~[upload of the Data Clearinghouse]UTREx submission.~~

C. If the school does not operate a federal school lunch program, the school:

(1) shall determine the economically disadvantaged status for its students on the basis of criteria no less stringent than those established by the U.S. Department of Agriculture for identifying students who qualify for reduced price lunch for the fiscal year in question; or

(2) may use the Charter School Declaration of Household Income form provided by the USOE for this purpose.

D. A school which does not use the form shall maintain equivalent documentation in its records, which may be subject to audit.

R277-470-5. Charter School Start-up and Implementation Grants.

A. Charter schools that desire to receive State Charter School Board start-up and implementation grant funds shall comply with the requirements of R277-470-5.

B. To receive a State Charter School Board start-up or implementation grant, a charter school shall be eligible and meet the requirements consistent with Section 53A-1a-507. New schools and satellite schools are eligible; school expansions are not eligible.

C. Eligible charter schools shall complete an application and may be awarded a grant for no more than 36 months.

D. Only schools that have not received state start-up or implementation grant funds in prior years are eligible.

E. Amounts and conditions of distribution of state start-up or implementation grant funds shall be determined annually in conjunction with the State Charter School Board's new charter approval process.

F. Grant funds may only be used for allowable expenditures as provided by the State Charter School Board.

G. Grant recipients shall participate in monitoring activities.

H. Grantee ~~[schools]recipients~~ shall provide monitoring information to the USOE, as directed.

I. Charter schools shall repay grant funds to the State Charter School Board if recipients change to non-charter status within ten years of receiving grant funds. An exception may be made for schools that convert status due to either federal or state law requirements for academic purposes.

R277-470-6. Charter School Mentoring Program.

A. Board-approved or existing charter schools may choose to participate in the mentoring program.

B. Charter schools choosing to participate in the mentoring program shall submit an application to the USOE, consistent with USOE timelines.

C. Subject to the availability of funds, participating charter schools shall be eligible for reimbursement of allowable expenditures through the mentoring program if the charter school:

- (1) submits an approved reimbursement form; and
- (2) submits an approved mentor and program evaluation.

D. Allowable expenditures in the mentoring program include all reasonable expenditures, including:

(1) mileage for mentor to and from home base to participating charter school, consistent with the USOE adopted travel policy;

(2) lodging consistent with the USOE adopted travel policy;

(3) meals consistent with the USOE adopted travel policy; ~~and~~

(4) substitute per diem (paid to mentor's employer) ~~[of \$65 for a full day or \$32.50 for a half day,] if the mentor has to miss work and a substitute is necessary[-];~~

(5) payment for mentors and teacher stipend, or both, consistent with USOE policy; and

(6) supplies and materials used in the training, consistent with USOE policy.

E. A mentor shall submit an application to the State Charter School Board to participate in the mentoring program that identifies areas of expertise and demonstrated competencies.

F. The State Charter School Board shall:

- (1) receive an annual program report from the USOE;
- (2) evaluate the mentoring program annually;
- (3) publish, on its website, information from participating schools regarding mentor evaluations; and
- (4) maintain a list of approved mentors.

R277-470-7. Charter School Parental Involvement.

A. Charter schools shall encourage and provide opportunities for parental involvement in management decisions at the school level.

B. Charter schools that elect to receive School LAND Trust funds shall have a committee ~~consisting of a majority of parents elected from parents of students currently attending the charter school that is designated to make decisions about the School LAND Trust funds~~ consistent with R277-477-3[E]A.

R277-470-8. Transportation.

A. Charter schools are not eligible for to-and-from school transportation funds.

B. A charter school that provides transportation to students shall comply with Utah law Section 53-8-211.

C. A school district may provide transportation for charter school students on a space-available basis on approved routes.

D. Charter school students and their parents who participate in transportation by the school district as guests shall receive notice of applicable district transportation policies and may forfeit with no recourse the privilege of transportation for violation of the policies.

R277-470-9. Miscellaneous Provisions.

A. The State Charter School Board shall provide a form on its website for individuals to report threats to health, safety or welfare of students consistent with Section 53A-1a-510(3).

(1) Individuals making reports shall be directed to report suspected criminal activity to local law enforcement and suspected child abuse to local law enforcement or the Division of Child and Family Services consistent with Sections 62A-4a-403 and 53A-11-605(3(a)).

(2) Additionally, individuals may report threats to the health, safety or welfare of students to the charter school governing board.

- (a) reports shall be made in writing;
- (b) reports shall be timely;
- (c) anonymous reports shall not be reviewed further.

(3) Charter school governing boards shall verify that potential criminal activity or suspected child abuse has been reported consistent with state law and this rule.

(4) Charter school governing boards shall act promptly to investigate disciplinary action, if appropriate, against students who may be participants in threatening activities or take appropriate and reasonable action to protect students or both.

~~[C. The Board shall have authority for final approval of all charter schools. All charter schools shall be subject to accountability standards established by the Board and to monitoring and auditing by the Board.]~~ B. The Board shall have authority for final approval of all charter schools that receive minimum school program funds. All charter schools shall be subject to accountability standards established by the Board and to monitoring and auditing by the Board.

KEY: education, charter schools

Date of Enactment or Last Substantive Amendment: ~~[August 8, 2012]~~ **2013**

Notice of Continuation: August 2, 2013

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1a-515; 53A-1a-505; 53A-1a-513; 53A-1-401(3); 53A-1a-510; 53A-1a-519; 53A-1a-501.5; 53A-1-301; 53A-1a-502.5; 53-8-211; 62A-4a-403; 53A-11-605; 53A-1a-522; 53A-1a-521; 53A-1a-501.3; 53A-1a-513.5

Education, Administration

R277-481

Charter School Oversight, Monitoring and Appeals

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37924

FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-481 is amended to remove the

requirement for elementary charter schools to be accredited, to add new language requiring local school boards and institutions of higher education chartering entities to audit and investigate claims of fraud or misuse of public assets or funds, and to clarify the governance with charter schools regarding the State Charter School Board and the chartering entity.

SUMMARY OF THE RULE OR CHANGE: Language requiring elementary schools to be accredited is removed, new language for review of governing boards is added, new language for audit and investigation of claims of fraud or misuse of public assets or funds is added, and the charter school governance language is amended throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Any additional requirements that may involve the Utah State Board of Education (Board), will be managed by the State Charter School staff at the Utah State Office of Education (USOE) within existing budgets.

◆ **LOCAL GOVERNMENTS:** Local school boards and institutions of higher education chartering entities have a new requirement to audit and investigate claims of fraud or misuse of public assets or funds. It is anticipated that this new requirement will be managed by existing staff within existing budgets.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments to the rule apply to public education and do not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The changes to the rule do not apply to individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Charter schools are subject to corrective action for deficiencies, but compliance cost(s) associated with the corrective action is unknown.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S

SALT LAKE CITY, UT 84111-3272

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.**R277-481. Charter School Oversight, Monitoring and Appeals.****R277-481-1. Definitions.**

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

B. "Chartering entities" means entities that authorize a charter school under Section 53A-1a-501.3(2).

C. "Charter schools" means schools acknowledged as charter schools by chartering entities under Sections 53A-1a-515, 53A-1a-521, and this rule or by the Board under Section 53A-1a-505.

D. "Charter school agreement (charter agreement)" means the terms and conditions for the operation of an approved charter school. The charter school agreement shall be maintained at the USOE and is considered the final, official and complete agreement.

E. "Charter school deficiencies" means the following information:

(1) a charter school is not satisfying financial, academic or operational obligations as required in its charter agreement;

(2) a charter school is not providing required documentation after being placed on warning status;

(3) compelling evidence of fraud or misuse of funds by charter school governing board members or employees. Fraud or misuse of funds need not rise to the minimal standard. It may include failure to properly account for funds received at the school; failure to follow regularly established accounting and receipting practices or failure to provide data, financial records or information as requested by the State Charter School Board or the Board.

F. "Charter school governing board" means the board designated by the charter school to make decisions for the operation of the school.

~~G. "Northwest" means the Northwest Accreditation Commission, the regional accrediting association of which Utah is a member.~~

~~H. "Probation" means a formal process and time period during which a school is permitted to demonstrate its full compliance with its charter agreement and all applicable laws, rules and regulations.~~

~~I. "State Charter School Board" means the board designated in Section 53A-1a-501.5.~~

~~J. "Superintendent" means the State Superintendent of Public Instruction as designated under Section 53A-1-301.~~

~~K. "USOE" means the Utah State Office of Education.~~

~~L. "Warning status" means an informal status in which a school is placed through written notification from the USOE for~~

the school's failure to maintain compliance with its charter agreement, applicable laws, rules or regulations.

R277-481-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and 20 U.S.C., Section 8063(3) which directs the Board to submit specific information prior to charter schools' receipt of federal funds.

B. The purpose of this rule is to establish procedures for oversight and monitoring charter agreements and charter schools for compliance with minimum standards. The rule also provides appeals criteria and a process for schools found out of compliance with ~~[State Charter School Board]~~ chartering entity findings.

R277-481-3. State Charter School Board Oversight, Minimum Standards, and Consequences.

A. The State Charter School Board shall provide direct oversight to the ~~state's Board~~ charter[ed] schools for which it is the chartering entity, including requiring all charter schools to:

(1) comply with their charter agreements containing clear and meaningful expectations for measuring charter school quality.

~~(2) be members of and fully accredited by the Northwest Accreditation Commission by the end of its fourth year of operation;~~

~~(3) annually review charter agreements, as maintained by the USOE;~~

~~(4) regularly review other matters specific to effective charter school operations[as recommended by the USOE staff], including a comprehensive review of governing board performance at least once every five years; and~~

~~(5) audit and investigate claims of fraud or misuse of public assets or funds.~~

B. All charter schools authorized by the State Charter School Board shall also meet the following minimum standards:

(1) charter schools shall have no unresolved material findings, financial condition findings or repeat significant findings in the school's independent financial audit, federal single audit or USOE audits;

(2) charter schools shall maintain a minimum of 30 days cash on hand or the cash or other reserve amount required in bond covenants, whichever is greater;

(3) charter schools shall have no violations of federal or state law or regulation, Board rules or Board directives;

(4) charter schools shall have all teachers properly licensed and endorsed for teaching assignments in CACTUS; and

(5) charter school governing boards shall ensure all employees and board members have criminal background checks on file.

C. Warning status

(1) A charter school that fails to meet any of the minimum standards or a significant number of ~~the guidance provisions found in the Utah Charter School Best Practice Guidelines~~ performance standards may be placed on warning status and notified in writing by the USOE.

(2) While a school is on warning status, the school may seek technical assistance from the USOE staff to remedy any deficiencies.

D. Probation status

(1) If any minimum standard or a significant number of ~~[the guidance provisions]~~ performance standards has not been met by an assigned date following designation of warning status, ~~[as evidenced by a second report identifying the same problem(s);]~~ the State Charter School Board shall notify the school in writing of the specific minimum standard(s) the school did not meet.

(2) Based on the State Charter School Board's review of the charter school's noncompliance, progress and response to technical assistance, the State Charter School Board may place the school on probation for up to one calendar year following the designation of warning status.

(3) Upon placing a school on probation, the State Charter School Board shall set forth a written plan outlining those provisions in the charter agreement, applicable laws, rules and regulations with which the school is not in full compliance. This written plan shall set forth the terms and conditions and the timeline that the school shall follow in order to be removed from probation.

(4) If the school complies with the written plan in a timely manner, the State Charter School Board shall remove the school from probation.

(5) While a school is on probation, it shall be required to satisfy certain requirements and conditions set forth by the State Charter School Board. If the school fails to satisfy specific requirements and conditions by a date established by the State Charter School Board, the State Charter School Board may terminate the school's charter.

(6) While a school is on probation, the school may seek technical assistance from the USOE staff to remedy any deficiencies.

(7) The State Charter School Board may, for good cause, or if the health, safety, or welfare of the students at the school is threatened at any time during the probationary period, terminate the charter immediately.

R277-481-4. Charter School Governing Board Compliance with Law.

A. The Board may review or terminate the charter based upon factors that may include:

(1) failure to meet measures of charter school quality which includes adherence to a charter agreement required and monitored by ~~[the State Charter School Board]~~ chartering entities; or

(2) charter school deficiencies; or

(3) failure of the charter school to comply with federal or state law or regulation, Board rules or Board directives.

B. If a charter school's charter conflicts with applicable federal or state law or rule, the charter shall be interpreted to require compliance with such law or rule; all other provisions of the school's charter shall remain in full force and effect.

C. A charter school shall notify the Board and the chartering entity of any and all lawsuits filed against the charter school within 30 days of the filing of the lawsuit.

R277-481-5. Chartering Entity Oversight and Monitoring.

A. Local school board and institutions of higher education chartering entities shall:

(1) visit a charter school at least once during its first year of operation in order to ensure adherence to and implementation of approved charter and to finalize a review process;

(2) visit a charter school as determined in the review process; ~~[and]~~

(3) provide written reports to a charter school after the visits that set forth strengths, deficiencies, corrective actions, timelines and the reason for charter termination, if applicable; ~~and~~

(4) audit and investigate claims of fraud or misuse of public assets or funds.

B. Chartering entities shall notify the Board within 20 days of charter school deficiencies that initiate corrective action by chartering entities.

R277-481-6. Charter School Financial Practices and Training.

A. Charter school business administrators shall attend USOE required business meetings for charter schools.

B. Charter school governing board members and school administrators shall be invited to all ~~[applicable]~~ appropriate Board-sponsored training, meetings, and sessions for traditional school district financial personnel.

C. The Board shall work with other education agencies to encourage their inclusion of charter school representatives at training and professional development sessions.

D. A charter school shall appoint a business administrator consistent with Sections 53A-3-302 and 303. The business administrator shall be responsible for the submission of all financial and statistical information required by the Board.

E. The Board may interrupt disbursements to charter schools for failure to comply with financial and statistical information required by law or Board rules.

F. Charter schools shall comply with the Utah State Procurement Code, Title 63G, Chapter 6.

G. Charter schools are not eligible for necessarily existent small schools funding under Section 53A-17a-109(2) and R277-445.

R277-481-7. Remedying Charter School Financial Deficiencies.

A. Upon receiving credible information of charter school deficiencies, the ~~[State Charter School Board]~~ chartering entity shall immediately direct an independent review or audit through the charter school governing board ~~[by State Charter School Board staff, or by an independent auditor hired by the State Charter School Board].~~

B. The ~~[State Charter School Board]~~ chartering entity or the Board through the ~~[State Charter School Board]~~ chartering entity may direct a charter school governing board or the charter school administration to take reasonable action to protect state or federal funds consistent with Section 53A-1a-510.

C. The ~~[State Charter School Board]~~ chartering entity or the Board may:

(1) allow a charter school governing board to hold a hearing to determine financial responsibility and assist the charter school governing board with the hearing process;

(2) immediately terminate the flow of state funds;

(3) recommend cessation of federal funding to the school;

(4) take immediate or subsequent corrective action with employees who are responsible for charter school deficiencies consistent with Section 53A-1a-509; or

(5) any combination of the foregoing (1), (2), (3) and (4).

D. The recommendation by the ~~[State Charter School Board]~~chartering entity shall be made within 20 school days of receipt of complaint of deficiency(ies).

E. The ~~[State Charter School Board]~~chartering entity may exercise flexibility for good cause in making recommendation(s) regarding deficiency(ies).

F. The Board shall consider and affirm or modify the ~~[State Charter School Board's]~~chartering entity's recommendation(s) for remedying a charter school's deficiency(ies) within 60 days of receipt of information from the ~~[State Charter School Board]~~chartering entity.

G. In addition to remedies provided for in Section 53A-1a-509, the ~~[State Charter School Board]~~chartering entity may provide for a remediation team to work with the school.

R277-481-8. Appeals Criteria and Procedures.

A. Only an operating charter school, a charter school that has been recommended for approval~~[-by the State Charter School Board]~~ to the Board, or a charter school applicant that has met State Charter School Board requirements for review by the full State Charter School Board, may appeal ~~[State Charter School Board]~~chartering entity administrative decisions or recommendations to the Board.

B. The following ~~[State Charter School Board]~~chartering entity administrative decisions may be appealed to the Board:

- (1) termination of a charter;
- (2) denial of proposed amendments to charter agreement;
- (3) denial or withholding of funds from charter school governing boards; and
- (4) denial of a charter.

C. Appeals procedures and timelines

(1) The ~~[State Charter School Board]~~chartering entity shall, upon taking any of the administrative actions:

- (a) provide written notice of denial to the charter school or approved charter school;
- (b) provide written notice of appeal rights and timelines to the charter school governing board chair or authorized agent; and
- (c) post information about the appeals process on ~~[the USOE]~~its website and provide training to charter school governing board members and authorized agents regarding the appeals procedure.

(2) A charter school governing board chair or authorized agent (appellant) may submit a written appeal to the State Superintendent within 14 calendar days of the ~~[State Charter School Board]~~chartering entity administrative action.

(3) The Superintendent shall, in consultation with Board Leadership, review the written appeal and determine if the appeal addresses an administrative decision by a chartering entity. If the Superintendent and Board Leadership determine that the appeal is appropriate, Board Leadership shall designate three to five Board members and a hearing officer, who is not a Board member, to act as an objective hearing panel.

(4) The hearing officer, in consultation with the Superintendent, shall set a hearing date and provide notice to all parties, including the ~~[State Charter School Board]~~chartering entity and staff.

(5) The Hearing shall be held no more than 45 days following receipt of the written appeal.

(6) The hearing officer shall establish procedures that provide fairness for all parties, which may include:

- (a) a request for parties to provide a written explanation of the appeal and related information and evidence;
 - (b) a determination of time limits and scope of testimony and witnesses;
 - (c) a determination for recording the hearing;
 - (d) preliminary decisions about evidence; and
 - (e) decisions about representation of parties.
- (7) The hearing panel shall make written findings and provide an appeal recommendation to the Board no more than 10 calendar days following the hearing.

(8) The Board shall take action on the hearing report findings at the next regularly scheduled Board meeting.

(9) The recommendation of the ~~[State Charter School Board]~~chartering entity shall be in place pending the conclusion of the appeals process, unless the Superintendent in his sole discretion, determines that the ~~[State Charter School Board's]~~chartering entity's recommendation or failure to act presents a serious threat to students or an imminent threat to public property or resources.

(10) All parties shall work to schedule and conclude hearings as fairly and expeditiously as possible.

(11) The Board's acceptance or rejection of the hearing report is the final administrative action on the issue.

KEY: charter schools, oversight, monitoring, appeals

Date of Enactment or Last Substantive Amendment: ~~[January 10, 2012]~~2013

Notice of Continuation: August 2, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1a-501.3; 53A-1a-515; 53A-1a-521; 53A-1a-505; 53A-1a-501.5; 53A-1a-510; 53A-1a-509; 53A-1-301; 53A-3-302; 53A-3-303; 53A-17a-109

Education, Administration **R277-482** Charter School Timelines and Approval Processes

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37925

FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide changes to the current timeline for approval of new charter schools, school expansions, and satellite school(s) for approved charter schools to ensure that the Utah State Office of Education (USOE) can meet its student projection obligation to the Common Data Committee.

SUMMARY OF THE RULE OR CHANGE: Timelines are changes for charter school starting dates, approved charter

school expansion dates, and satellite school for approved charter school dates.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. Timelines have been changed to better accommodate reporting deadlines.

◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Timelines have been changed to better accommodate reporting deadlines.

◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule and the amendments to the rule apply to public education and do not affect businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to small businesses, businesses, or local government entities. The amendment to this rule do not apply to individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes to the timelines do not include compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-482. Charter School Timelines and Approval Processes.

R277-482-1. Definitions.

A. "Amendment," for purposes of this rule, means a change or addition to the charter agreement.

B. "Board" means the Utah State Board of Education.

C. "Chartering entities" means entities that authorize a charter school under Section 53A-1a-501.3(2).

D. "Charter schools" means schools acknowledged as charter schools by chartering entities under Sections 53A-1a-515, 53A-1a-521, and this rule or by the Board under Section 53A-1a-505.

E. "Charter school agreement (charter agreement)" means the terms and conditions for the operation of an approved charter school. The charter school agreement shall be maintained at the USOE and is considered the final, official and complete agreement.

F. "Charter school application" means the official chartering document by which a prospective charter school seeks recognition and funding under Section 53A-1a-505. The application includes the basic elements of the charter to be established between the charter school and the chartering board.

G. "Charter school governing board" means the board designated by the charter school to make decisions for the operation of the school.

H. "Expansion" means a proposed [~~ten percent~~] increase of students or adding grade level(s) in an operating charter school at a single location.

[~~_____~~] I. "No Child Left Behind (NCLB)" means the federal law under the Elementary and Secondary Education Act, Title IX, Part A, 20 U.S.C. 7801.

[~~_____~~] J. "Satellite school" means a charter school affiliated with an operating charter school having a common governing board and a similar program of instruction, but located at a different site [~~or in a different geographical area~~]. The parent school and all satellites shall be considered a single local education agency (LEA) for purposes of public school funding and reporting.

[~~_____~~] K. "State Charter School Board" means the board designated in Section 53A-1a-501.5.

[~~_____~~] L. "USOE" means the Utah State Office of Education.

R277-482-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1a-513 which directs the Board to distribute funds for charter school students directly to the charter school, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and 20 U.S.C., Section 8063(3) which directs the Board to submit specific information prior to charter schools' receipt of federal funds.

B. The purpose of this rule is to establish procedures for timelines and approval processes for charter schools.

R277-482-3. State Charter School Board Application and Training.

A. All charter school applicants shall attend pre-application and planning year training sessions, as well as other training sessions designated by the State Charter School Board.

B. Pre-application training sessions shall be scheduled four times annually and may be available electronically, as determined by the State Charter School Board.

C. Charter schools and applicants that attend training sessions [~~shall~~] may be eligible for additional funds, upon approval, in an amount to be determined by the State Charter School Board provided through federal charter school funds or a General Fund

appropriation to the extent of funds available. Charter school applicants that attend training sessions may receive priority for approval from the State Charter School Board and the Board.

D. Training sessions shall provide information including:

- (1) charter school implementation requirements;
- (2) charter school statutory and Board requirements;
- (3) charter school financial and data management requirements;
- (4) charter school legal requirements;
- (5) federal requirements for charter school funding; and
- (6) other items as determined by the State Charter School Board.

R277-482-4. New or Expanding Charter School Notification to Prospective Students and Parents.

A. All new or expanding charter schools shall have available on its website and notify all families consistent with the schools' outreach plans described in the charter agreements of:

- (1) the school's approved charter, purpose, focus and governance structure, including names, qualifications, and contact information of all governing board members;
- (2) the number of new students that will be admitted into the school by grade;
- (3) the proposed school calendar for the charter school, including at a minimum the first and last days of school, scheduled holidays, scheduled professional development days (no student attendance), and other scheduled non-school days;
- (4) the charter school's timelines for acceptance of new students consistent with Section 53A-1a-506.5;
- (5) the requirement and availability of a ~~[State-approved]~~ charter school student application;
- (6) procedures for transferring to or from a charter school, together with applicable timelines; and
- (7) provisions for payment, if required, of a one-time fee per secondary school enrollment, not to exceed \$5.00, consistent with Section 53A-12-103.

B. New or expanding charter schools shall provide written notice of the information in R277-482-4A consistent with the school's outreach plan and on the school's website at least 180 days before the proposed opening day of school.

C. New or expanding charter schools shall have an operative and readily accessible electronic website providing information required under R277-482-4A in place. The completed charter school website shall be provided to the State Charter School Board for review at least 210 days prior to the proposed opening day of school and prior to posting the websites publicly.

D. The State Charter School Board and the Board shall, in the recommendation and approval process, consider and may give priority to charter school applications that target underserved student populations, or provide an innovative educational program, service, or setting as determined by the State Charter School Board, among traditional public schools and operating charter schools.

(1) Underserved student populations may include economically disadvantaged students, students with disabilities, English language learners, children of refugee families, or students in remote areas of the state who have limited access to the full range of academic courses;

(2) Innovative educational opportunities shall be described on the State Charter School Board's website;

(3) Priority may also be given to charter school applicants for proposed schools that do not have other charter schools within the school district; and

(4) To be given priority, the charter school application and proposed employee and site information shall support the school's designated focus.

E. The Board or ~~[State Charter School Board]~~ chartering entity may request documentation of underserved student criteria that schools designate and for which they request a preference.

F. The Board shall have authority for final approval of all charter schools.

R277-482-5. Timelines - Charter School Starting Date and Facilities.

A. ~~[The State Charter School Board]~~ Chartering entities shall accept a proposed starting date from a charter school applicant, or the ~~[State Charter School Board]~~ chartering entity shall negotiate and recommend a starting date prior to recommending final charter approval to the Board.

B. Only charter schools approved ~~[within the state]~~ as new charter schools by October 1, one fiscal year ~~[two years]~~ prior to the state fiscal year ~~[#]~~ they intend[s] to serve students shall be eligible for state funds.

C. A ~~[state-chartered]~~ State Charter School Board authorized school shall ~~[acquire a facility and enter into a written agreement, or]~~ begin construction on a new or existing facility requiring major renovation, such as requiring a project number consistent with R277-471, no later than January 1 of the year the school is scheduled to open.

~~[E]~~ D. A ~~[state-chartered]~~ State Charter School Board authorized school that intends to ~~[lease]~~ occupy a facility requiring only minimal renovation, such as renovation not requiring a project number according to R277-471, shall enter into a written agreement no later than May 1 of the calendar year the school is scheduled to open.

~~[D]~~ E. Each charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing the charter school facilities to its chartering entity for review and advice prior to the charter school entering into the lease, agreement, or contract, consistent with Section 53A-1a-507(9).

F. If students are not enrolled and attending classes by October 1, a charter school shall not receive funding from the state for that school year.

G. Despite a charter school meeting starting dates, a charter school shall be required to satisfy R277-419 requirements of 180 days and 990 hours of instruction time, unless otherwise exempted by the Board under Section 53A-1a-511.

H. The Board may, following review of information, approve the recommended starting date or determine a different charter school starting date after giving consideration to the ~~[State Charter School Board]~~ chartering entity's recommendation.

R277-482-6. Procedures and Timelines to Change Chartering Entities.

A. A charter school may change chartering entities.

B. A charter school shall submit an application provided by the new chartering entity to the Board to request a new chartering entity at least three months prior to the proposed change.

C. The application may require some or all of the following, as determined by the new chartering entity:

- (1) current board members and founding members;
- (2) financial records, including most recent annual financial report (AFR), annual project report (APR) and audited financial statement;
- (3) test scores, including ~~[U-PASS, Adequate Yearly Progress, and status under No Child Left Behind]~~ all state required assessments;
- (4) current employees: identifying assignments and licensing status, if applicable;
- (5) school calendar for previous school year and prospective school year;
- (6) course offerings, if applicable;
- (7) affidavits, signed by all board members providing or certifying (documentation may be required):
 - (a) the school's nondiscrimination toward students and employees;
 - (b) the school's compliance with all state and federal laws and regulations;
 - (c) that all information on application provided is complete and accurate;
 - (d) that school meets/complies with all health and safety codes/laws;
 - (e) that the school is current with all required policies (personnel, salaries, and fees), including board minutes for the most recent three months;
 - (f) that the school is operating consistent with the school's charter;
 - (g) that there are no outstanding lawsuits or judgments or identifying outstanding lawsuits filed or judgments against the school;

D. A charter school seeking to change chartering entities shall submit a position statement from the current chartering entity about school status, compliance with the chartering entity requirements and any unresolved concerns to the proposed new chartering entity.

E. An application for changing a chartering entity shall be reviewed for acceptance by the new chartering entity within 60 days of submission of complete application, including all required documentation.

F. The Board shall consider an application to change chartering entities to the State Charter School Board within 60 days of State Charter School Board approval, or next possible monthly Board meeting, whichever is sooner.

G. Final approval or denial of changing chartering entities to the State Charter School Board is final administrative action by the Board.

R277-482-7. Approved Charter School Expansion.

A. The following shall apply to requests for expansion from approved and operating charter schools:

- (1) The school satisfies all requirements of federal and state law, regulations, Board rule and charter agreement.
- (2) The approved charter agreement shall provide for an expansion consistent with the request; or
- (3) The charter school governing board has submitted a formal amendment request to the ~~[State Charter School Board that~~

~~provides documentation that]~~ chartering entity consistent with the chartering entity's requirements.

~~[~~ (a) the school district in which the charter school is located has been notified of the proposed expansion and location of the school in the same manner as required in Section 53A-1a-505(1);

~~_____ (b) the school can accommodate the expansion within existing facilities or that necessary structures will be completed, meeting all requirements of law and Board rule, by the proposed date of operation;~~

~~_____ (c) the securing of the building site shall be verified by a real estate closing document, signed lease agreement, or other contract indicating a right of occupancy pursuant to R277-482-5C;~~

~~_____ (d) failure to secure a site by the required date may, at the discretion of the State Charter School Board, delay the expansion for at least one school year;~~

~~_____ (e) written certification that no later than 15 days after securing a building site, the charter school governing board shall notify the State Charter School board and school district of the specific school location;~~

~~_____ (f) students at the school are performing on standardized assessments at or above the standard in the charter agreement; and~~

~~_____ (g) adequate qualified administrators and staff shall be available to meet the needs of the increased number of students at the time the expansion is implemented.~~

~~_____ B. If an expansion request requires a new facility, the request shall be submitted to the State Charter School Board before April 1 of the state fiscal year two state fiscal years prior to the date the school intends to expand.~~

~~_____ C. If the expansion request does not require a new facility, the request shall be made before April 1 of the state fiscal year one state fiscal year prior to the intended expansion date.~~

~~_____]~~ B. If the chartering entity approves a charter school expansion:

(1) requiring a construction project number under R277-471, the expansion shall be approved before October 1 of the state fiscal year prior to the school's intended expansion date.

(2) that does not require a construction project number under R277-471, the charter school shall be approved before May 1 of the state fiscal year prior to the school's intended expansion.

~~[~~ D. If the expansion request is for an increase in enrollment capacity in the amount of 0.25 times or less, the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program, the request shall be submitted to the Board by October 1 of the school year for which the increase is requested.

~~[~~ E. Requests under R277-482-7[D]C are subject to the availability of sufficient funds appropriated under Section 53A-1a-513 to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

~~[~~ E. Expansion requests shall be considered by the State Charter School Board as part of the total number of charter school students allowed under Section 53A-1a-502.5(1).

R277-482-8. Satellite School for Approved Charter Schools.

A. An existing charter school may submit an amendment request to the ~~[State Charter School Board]~~ chartering entity for a

satellite school ~~[no later than April 1 of the state fiscal year two state fiscal years prior to the date of the proposed implementation of the satellite]~~ if the charter school fully satisfies the following:

- (1) The school currently satisfies all requirements of state law and Board rule;
- (2) The school has operated successfully for at least three years meeting the terms of its charter agreement;
- (3) Students at the school are performing on standardized assessments at or above the standard in the charter agreement;
- (4) The proposed satellite school will provide educational services, assessment, and curriculum consistent with the services, assessment, and curriculum currently being offered at the existing charter school;
- (5) Adequate qualified administrators, including at least one onsite administrator, and staff are available to meet the needs of the proposed student population at the satellite school;
- (6) The school provides any additional information or documentation requested by the ~~[State Charter School Board]~~ chartering entity or the Board.
- (7) A satellite school that receives School LAND Trust funds shall have a School LAND Trust committee and satisfy all requirements for School LAND Trust committees consistent with R277-477.

~~[B. The satellite school amendment request shall include the following:~~

- ~~(1) Written certification from the charter school governing board that the charter school currently satisfies all requirements of federal and state law, Board rule and charter agreement;~~
- ~~(2) A detailed explanation of the governance structure for the satellite school, including appointed or elected representation on the governing board;~~
- ~~(3) Information detailing the grades to be served, the number of students to be served and general information regarding the physical facilities anticipated to serve the school;~~
- ~~(4) A detailed financial plan for the satellite school;~~
- ~~(5) A signed acknowledgment by the charter school governing board certifying board members' understanding that a physical site for the building must be secured no later than January 1 of the year the satellite school is scheduled to open;~~
 - ~~(a) the securing of the building site must be verified by a real estate closing document, signed lease agreement, or other contract indicating a right of occupancy pursuant to R277-482-5C;~~
 - ~~(b) failure to secure a site by the required date may, at the discretion of the State Charter School Board, delay the opening of the satellite school for at least one academic year.~~
- ~~(6) Notification to both the school district in which the charter school is located and the school district of the proposed satellite school location in the same manner as required in Section 53A-1a-505(1);~~
- ~~(7) Written certification that no later than 15 days after securing a building site, the charter school governing board shall notify the school district in which the satellite school is located of the school location, grades served, and anticipated enrollment by grade with a copy of the notification sent to the State Charter School Board; and~~
- ~~(8) A signed acknowledgment by the charter school governing board that the board understands the satellite school shall~~

~~be held to its own charter agreement, including academic and operational performance.~~

~~] B. Only a satellite school approved by October 1 of the state fiscal year prior to the year the school intends to serve students shall be eligible for state funds.~~

C. The approval of the satellite school by the ~~[State Charter School Board]~~ chartering entity requires ratification by the State Board of Education and will expire 24 months following such ratification if a building site has not been secured for the satellite school.

KEY: training, timelines, expansion, satellites
Date of Enactment or Last Substantive Amendment: ~~[August 8, 2012]~~2013
Notice of Continuation: August 2, 2013
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1a-513; 53A-1-401(3); 53A-1a-502.5

Education, Administration
R277-492
Utah Science Technology and
Research Initiative (USTAR) Centers
Program

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 37926
 FILED: 08/14/2013

RULE ANALYSIS
 PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Minor amendments were made to the rule to change the program requirement dates.

SUMMARY OF THE RULE OR CHANGE: Replaces specific dates with annual dates for an ongoing program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no anticipated costs or savings to the state budget. Specific dates are replaced with annual dates.
- ◆ LOCAL GOVERNMENTS: There is no anticipated costs or savings to local government. Specific dates are replaced with annual dates.
- ◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule and the amendments to the rule apply to public education and do not affect businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated costs or savings to persons other than

small businesses, businesses, or local government entities. Specific dates are replaced with annual dates.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Outdated language regarding program dates is changed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-492. Utah Science Technology and Research Initiative (USTAR) Centers Program.

R277-492-1. Definitions.

A. "Annual report" means information and data identified under R277-492 provided by funding recipients to the USOE annually by June 30 as a requirement for continued funding of the school or school district program.

B. "Board" means the Utah State Board of Education.

C. "Extended year" means either a longer contract day or a longer contract year for participating teachers.

D. "Mathematics or science teacher" means a teacher with a secondary (7-12) mathematics or science teaching assignment.

E. "School district/charter school USTAR proposal" means a written proposal, including components required by the Board, developed and submitted by a school district/charter school applying for USTAR funding.

F. "STEM" means science, technology, engineering and mathematics.

G. "USOE" means the Utah State Office of Education.

H. "USTAR" means Utah Science Technology and Research.

I. "USTAR Program" means student and teacher opportunities to broaden their knowledge and experiences within STEM fields.

J. "Weighted Pupil Unit (WPU)" means the basic state funding unit.

R277-492-2. 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, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Section 53A-17a-159 which appropriates funding to establish extended contracts for mathematics and science teachers as part of the Utah Science Technology and Research (USTAR) Centers Initiative. The USOE shall provide statewide supervision of the program and budget and shall recommend funding for USTAR programs based on USTAR objectives, Board funding priorities and available funds.

B. This rule establishes standards and procedures to direct recipient public school districts or charter schools to develop proposals that create USTAR Centers that will enhance their ability to retain mathematics and science teachers while simultaneously offering more opportunities for students and more effectively using capital facilities.

R277-492-3. USTAR Proposal Criteria.

A. A school district/charter school shall first identify the purpose or goal(s) of its USTAR proposal.

B. Appropriate purposes may include:

(1) improvement in student test scores;

(2) satisfaction of specific academic goals for all students or various groups of students;

(3) increased retention of licensed educators in specific areas;

(4) improved school climate;

(5) increased opportunities for students to take remedial or college preparation courses;

(6) increased student enrollment in identified courses;

(7) additional opportunities for students to learn about specific or general higher education or career opportunities in math or science fields; or

(8) other purposes consistent with Section 53A-17a-159(1)(b).

C. A school district/charter school shall provide a school schedule showing how it will extend hours of the school day (Section 53A-17a-159(1)(b)(ii)) or days of the school year (Section 53A-17-a-159(1)(b)(ii)) to maximize employee and facility resources in furtherance of the proposal's goals.

D. The USTAR proposal shall explain how employees shall be used in the extended school day or expanded school year to maximize their effectiveness with students, including how various groups of employees will participate including classified employees, licensed employees, and appropriate supervisors for all groups. Though various school employee groups may be necessary or desirable to achieve the purposes of the proposal, the proposal shall use USTAR grant funds only to pay for hours or days worked by science or mathematics teachers with valid, current Utah educator licenses.

E. The USTAR proposal shall identify the number of designated employees that will participate in the expanded year or extended day program with the understanding that USTAR grant funds may only be used for licensed mathematics and science teachers.

F. The USTAR proposal shall identify the compensation that all necessary employees shall receive, including increased insurance and benefit costs, if appropriate; compensation may be determined by groups of employees or by individual employees.

G. The USTAR proposal shall identify how licensed educators will be evaluated for the extended hours or expanded days worked.

H. The USTAR proposal shall include a budget section, including anticipated costs and narrative.

I. The USTAR proposal shall include an evaluation component that provides opportunities for student, employee and parent participation in the assessment of the proposal's effectiveness. Proposals shall provide for evaluations of program effectiveness at least annually [~~beginning in July, 2009~~].

R277-492-4. Board/USOE Responsibilities.

A. The USOE shall carry out the responsibilities of the Board consistent with the Board's review and direction.

B. The USOE shall solicit proposals from school districts/charter schools to participate in the USTAR grant program.

C. Proposals shall be due to the USOE by June 2 [~~2008~~] annually.

(1) The USOE will work with applicants that submit proposals early to improve proposals to the extent of resources and time available.

(2) The USOE shall deliver final charter school proposals to the State Charter School Board for Review and recommendation.

D. The USOE shall receive a consolidated request from the State Charter School Board consistent with Section 53A-17a-159(4) by June 20 [~~2008~~] annually. The State Charter Board and State Charter Board staff shall work with charter school applicants that submit proposals early to improve proposals to the extent of resources and time available.

E. The USOE shall receive all proposals from school districts, considering the consolidated request submitted by the State Charter Board as a proposal from one school district, and rank them on an objective scale or rubric prepared by the USOE.

F. The Board may appoint an expert review panel to prioritize proposals and recommend proposals for funding.

G. The expert review panel or the USOE or both shall consider the priorities of Section 53A-17a-159(5) in recommending and selecting the recipients:

(1) rural, urban, large, small, growing and declining school districts (considering the consolidated charter request as one school district) having unique circumstances;

(2) as many pilot programs shall be funded as possible; and

(3) funded proposals should address the objectives and benefits of Section 53A-17a-159(1)(b).

H. The Board shall review recommendations, make final decisions for funding and notify applicants that receive funding no later than July 31 [~~2008~~] annually.

I. The USOE shall provide funds to school districts/charter schools (or the consolidated charter recipient) consistent with USOE distribution practices for grants.

R277-492-5. School District/Charter School Consolidated Proposal Responsibilities.

A. School districts shall submit proposals that meet the standards of R277-717-3 and Section 53A-17a-159 no later than June 2 [~~2008~~] annually.

B. The State Charter Board shall complete its work under Section 53A-17a-159(4) and submit its consolidated request to the USOE no later than June 20 [~~2008~~] annually.

C. School district and charter school proposals shall clearly demonstrate that all participants necessary for the success of a proposal are voluntary participants and understand the requirements of their participation.

D. School district and charter school participants shall demonstrate parent and community notification and support of the school district/charter school proposals.

E. Proposals shall clearly demonstrate that at least 95 percent of allocated funds shall be used for extended licensed mathematics and science teacher contracts.

F. Proposals shall clearly demonstrate that the remaining five percent of allocated funds is used only for purposes identified under Section 53A-17a-159(6)(b).

G. Funded school districts and charter schools shall provide all required evaluations to the USOE as identified by their proposals consistent with USOE timelines.

H. Funded school districts and charter schools shall provide information as requested by the USOE during the time periods identified in the proposals, including allowing for visits of USOE staff and review of student work or assessments.

R277-492-6. Final Decision-making and Reporting Requirements.

A. The Board's decisions for funding are final.

B. The USOE may request additional information, data or budget information if annual reports or student assessments indicate that USTAR funding is being used ineffectively, for ineligible employees or inconsistently with the school district/charter school proposal or the intent of the law or this rule.

C. The USOE may interrupt USTAR funding to school districts/charter schools that do not meet timelines required by this rule or that do not provide complete information or evaluations required under this rule.

D. The Board shall provide annual reports to Legislative committees as required by Section 53A-17a-159(8)

KEY: science, technology, research, USTAR

Date of Enactment or Last Substantive Amendment: [~~August 7, 2008~~] 2013

Notice of Continuation: August 2, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-159

Education, Administration
R277-609
Standards for School District, School
and Charter School Discipline Plans

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 37927
 FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to remove bullying, harassment, and retaliation language, as appropriate, and add the language to Rule R277-613. The rule also provides changes additional requirements for local education agencies (LEAs) to include in their discipline plans.

SUMMARY OF THE RULE OR CHANGE: Bullying, harassment, and retaliation language in the definitions and throughout the rule are removed, when appropriate, because the language is included in another rule, additional requirements for LEA discipline plans are provided, and terminology changes are made throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-15-603 and Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(b)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The changes are made so that this rule focuses on LEA discipline plans. Language regarding bullying, harassment, and retaliation is added to another rule.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The changes are made so that this rule focuses on LEA discipline plans. Language regarding bullying, harassment, and retaliation is added to another rule.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. This amendments to this rule apply to LEA responsibilities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes focus on LEA discipline plans. Language regarding bullying, harassment, and retaliation is added to another rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111-3272
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.
R277-609. Standards for [School District, School and Charter School]LEA Discipline Plans.
R277-609-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- ~~_____ B. "Bullying" means intentionally or knowingly committing an act that:~~
 - ~~_____ (1)(a) endangers the physical health or safety of a school employee or student;~~
 - ~~_____ (b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;~~
 - ~~_____ (c) involves consumption of any food, liquor, drug, or other substance;~~
 - ~~_____ (d) involves other physical activity that endangers the physical health and safety of a school employee or student; or~~
 - ~~_____ (e) involves physically obstructing a school employee's or student's freedom to move; and~~
 - ~~_____ (2) is done for the purpose of placing a school employee or student in fear of:~~
 - ~~_____ (a) physical harm to the school employee or student; or~~
 - ~~_____ (b) harm to property of the school employee or student.~~
 - ~~_____ (3) The conduct described in R277-609-1B constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.~~
- ~~_____ C. "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image~~

~~with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.~~

] ~~[D]~~B. "Discipline" means:

(1) Imposed discipline: Code of conduct prescribed for the highest welfare of the individual and of the society in which the individual lives; and

(2) Self-Discipline: A personal system of organized behavior designed to promote self-interest while contributing to the welfare of others.

~~[E]~~C. "Disruptive student behavior" includes:

(1) the grounds for suspension or expulsion described in Section 53A-11-904; and

(2) the conduct described in Section 53A-11-908(2)(b).

~~[F]~~F. "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.

~~G.~~ "Hazing" means intentionally or knowingly committing an act that:

~~(1)(a) endangers the physical health or safety of a school employee or student;~~

~~(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;~~

~~(c) involves consumption of any food, liquor, drug, or other substance;~~

~~(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or~~

~~(e) involves physically obstructing a school employee's or student's freedom to move; and~~

~~(f)(i) is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or~~

~~(ii) if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.~~

~~(2) The conduct described in R277-609-1G constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.~~

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

[H]E. "Plan" means a school district-wide and school-wide written model for prevention and intervention for student behavior management and discipline procedures for students who habitually disrupt school environments and processes.

[I]F. "Policy" means standards and procedures that include the provisions of Section 53A-11-901 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that defines hazing,

bullying, cyber-bullying, and harassment, prohibits hazing and bullying, requires annual discussion and training designed to prevent hazing, bullying, cyber-bullying, and harassment among school employees and students, and provides for enforcement through employment action or student discipline.

~~[J]~~J. "Retaliate or retaliation" means an act or communication intended:

~~(1) as retribution against a person for reporting bullying or hazing; or~~

~~(2) to improperly influence the investigation of, or the response to, a report of bullying or hazing.~~

] [K]G. "Qualifying minor" means a school-age minor who:

(1) is at least nine years old; or

(2) turns nine years old at any time during the school year.

[L]H. "School" means any public elementary or secondary school or charter school.

[M]I. "School board" means:

(1) a local school board; or

(2) a local charter board.

[N]L. "School employee" means:

(1) school teachers;

(2) school staff;

(3) school administrators; and

(4) all others employed, directly or indirectly, by the

~~[school, school board, or school district]~~LEA.

[O]K. "USOE" means the Utah State Office of Education.

R277-609-2. 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, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-1-402(1)(b) which requires the Board to establish rules concerning discipline and control, Section 53A-15-603 which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction, and Section 53A-11-901 which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards.

B. The purpose of this rule is to ~~[define hazing, bullying, cyber-bullying, and harassment and]~~outline requirements for school discipline plans and policies which ~~[school districts and charter schools]~~LEAs shall meet.

R277-609-3. ~~[School District, School and Charter School]~~LEA Responsibility to Develop Plans.

A. Each ~~[school district, or school and each charter school]~~LEA or school shall develop and implement a board approved comprehensive ~~[school district, school or charter school]~~LEA plan or policy for student and classroom management, and school discipline. The plan shall include:

(1) the definitions of Section 53A-11-910;

(2) written standards for student behavior expectations, including school and classroom management;

(3) effective instructional practices for teaching student expectations, including self-discipline, citizenship, civic skills, and social skills;

(4) systematic methods for reinforcement of expected behaviors and uniform methods for correction of student behavior;

(5) uniform methods for at least annual school level data-based evaluations of efficiency and effectiveness;

(6) an ongoing staff development program related to development of student behavior expectations, effective instructional practices for teaching and reinforcing behavior expectations, effective intervention strategies, and effective strategies for evaluation of the efficiency and effectiveness of interventions;

(7) policies and procedures relating to the use and abuse of alcohol and controlled substances by students; and

(8) policies and procedures related to bullying, cyber-bullying, harassment, hazing, and retaliation consistent with requirements of R277-613. ~~[to define, prohibit, and intervene in bullying, including cyber-bullying, including the requirement of awareness and intervention strategies, including training for social skills, for students, parents, and school staff. The policies shall:~~

~~(a) provide for training specific to overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;~~

~~(b) provide for training specific to relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;~~

~~(c) provide training and education specific to bullying based upon students':~~

~~(i) actual or perceived identities;~~

~~(ii) conformance or failure to conform with stereotypes.~~

~~(d) provide for training specific to cyber-bullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school;~~

~~(e) provide for student assessment of the prevalence of bullying in school districts, schools and charter schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas;~~

~~(f) complement existing safe and drug-free school policies and school harassment and hazing policies;~~

~~(g) include required strong responsive action against retaliation including assistance to harassed students and their parents in reporting subsequent problems and new incidents; and~~

~~(h) include strategies for providing students and staff, including aides, custodians, kitchen and lunchroom workers, secretaries, paraprofessionals, and coaches, with awareness and intervention skills such as social skills training.]~~

B. The plan shall also provide direction ~~[to school districts]~~ for dealing with bullying and disruptive students. This part of the plan shall:

(1) direct schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;

(2) provide for identification, by position(s), of individual(s) designated to issue notices of disruptive and bullying student behavior; ~~and~~

(3) designate to whom notices shall be provided;

~~(3)4) provide for documentation of disruptive student behavior prior to referral of disruptive students to juvenile court[-];~~

~~[-----C. School district or school plans or sections of plans, including directives about bullying and disruptive students, shall also:~~

~~] (1)5) include strategies to provide for necessary adult supervision;~~

~~(2)6) require that policies be clearly written and consistently enforced; and~~

~~(3)7) include administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility[-]; and~~

(8) provide notice to employees that violation of this rule may result in employee discipline or action.

D. Plans required under R277-609-3 shall include gang prevention and intervention policies.

(1) The required plans shall account for an individual ~~[school or school district's]~~ LEA's or school's unique needs or circumstances.

(2) The required plans may include the provisions of Section 53A-15-603(2).

(3) The required plans may provide for publication of notice to parents and school employees of policies by reasonable means.

R277-609-4. Implementation.

A. ~~[School districts, schools and charter schools]~~ LEAs shall implement strategies and policies consistent with their plans.

B. ~~[School districts, schools and charter schools]~~ LEAs shall develop, use and monitor a continuum of intervention strategies to assist students whose behavior in school falls repeatedly short of reasonable expectations, including teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to administrative referral.

C. As part of any suspension or expulsion process that results in court involvement, once an ~~[school district, school or charter school]~~ LEA receives information from the courts that disruptive student behavior will result in court action, the ~~[school district, school or charter school]~~ LEA shall provide a formal written assessment of habitually disruptive students. Assessment information shall be used to connect parents and students with supportive school and community resources.

D. Nothing in state law or this rule restricts ~~[local districts/charter schools]~~ LEAs from implementing policies to allow for suspension of students of any age consistent with due process and with all requirements of Individuals with Disabilities Education Act 2004.

R277-609-5. Parent/Guardian Notification and Court Referral.

A. Through school administrative and juvenile court referral consequences, [~~school district, and school and charter school~~]LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

B. Policies shall provide for notice to parents and information about resources available to assist parents in resolving school-age minors' disruptive behavior.

C. Policies shall provide for notices of disruptive behavior to be issued by schools to qualifying minor(s) and parent(s) consistent with:

- (1) numbers of disruptions and timelines in accordance with Section 53A-11-910;
- (2) school resources available; and
- (3) cooperation from the appropriate juvenile court in accessing student school records, including attendance, grades, behavioral reports and other available student school data.

D. Policies shall provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

R277-609-6. USOE Model Policies.

The USOE shall develop, review regularly, and provide to [~~local school boards and charter school governing~~]LEA boards model policies to address disruptive student behavior and appropriate consequences.

KEY: disciplinary actions, disruptive students

Date of Enactment or Last Substantive Amendment: [~~July 11, 2011~~]2013

Notice of Continuation: August 2, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-402(1)(b); 53A-15-603; 53A-11-901

**Education, Administration
R277-613**

**School District and Charter School
Bullying and Hazing Policies and
Training**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 37928
FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to reflect required changes resulting from H.B. 134, Parental Notification Related to Student Safety, from the 2013 General Legislative Session. The new law requires LEAs to notify a student's parent or legal guardian of certain incidents and threats and provides for specific records management and confidentiality. The rule

is also amended to require LEA discipline plans and have all bullying, cyber-bullying, hazing and harassment language within one rule.

SUMMARY OF THE RULE OR CHANGE: Definitions are added and revised, new language is added to the authority and purpose section, language for local education agency responsibilities is added and revised, new language is added regarding parent notification, and language for LEA training specific to participants in public school athletic programs and school clubs is added and revised.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. This rule is amended to provide language consistent and required in recent legislation. LEAs are responsible for implementing policies required in this rule.
- ◆ LOCAL GOVERNMENTS: There may be costs associated with parent notification required in this amended rule. It is anticipated that existing staff will manage tasks within existing budgets.
- ◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule applies to public education and does not affect businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. LEAs are responsible for implementing policies required in this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. LEAs will develop policies and train employees as appropriate to comply with the requirements of this rule and the law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-613. ~~[School District and Charter School]~~LEA Bullying, ~~and~~Cyber-bullying, Hazing and Harassment Policies and Training.

R277-613-1. Definitions.

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

B. "Bullying" means intentionally or knowingly committing an act that:

(1)(a) endangers the physical health or safety of a school employee or student;

(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(c) involves consumption of any food, liquor, drug, or other substance;

(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or

(e) involves physically obstructing a school employee's or student's freedom to move; and

(2) is done for the purpose of placing a school employee or student in fear of:

(a) physical harm to the school employee or student; or

(b) harm to property of the school employee or student.

(3) The conduct described in R277-613-1B constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(4) Bullying is commonly understood as aggressive behavior that:

(a) is intended to cause distress and harm;

(b) exists in a relationship in which there is an imbalance of power and strength; and

(c) is repeated over time.

C. "Civil rights violations," for purposes of this rule, means bullying, cyber-bullying, hazing or harassing that is targeted at a federally protected class.

[E]D. "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

E. "Federally protected class" means any group protected from discrimination under the following federal laws:

(1) Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin;

(2) Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex;

(3) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 prohibits discrimination on the basis of disability; and

(4) Other areas included under these acts prohibit discrimination on the basis of religion, gender identity, and sexual orientation.

[D]E. "Harassment" means repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.

[E]G. "Hazing" means intentionally or knowingly committing an act that:

(1)(a) endangers the physical health or safety of a school employee or student;

(b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(c) involves consumption of any food, liquor, drug, or other substance;

(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or

(e) involves physically obstructing a school employee's or student's freedom to move; and

(f)(i) is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or

(ii) if the person committing the act against a school employee or student knew that the school employee or student is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.

(2) The conduct described in R277-613-1[E]G constitutes hazing, regardless of whether the person against whom the conduct is committed, directed, consented to, or acquiesced in, the conduct.

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

I. "Parent," for purposes of this rule, means a student's guardian consistent with Section 53A-11a-203(1).

J. "Participant" means any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity.

[F]K. "Policy" means standards and procedures that include the provisions of Section 53A-11-901 and additional standards, procedures, and training adopted in an open meeting by an [local board of education or charter school]LEA board that define [hazing and]bullying, cyber-bullying, hazing and harassment, prohibit [hazing and]bullying, cyber-bullying, hazing and harassment, require regular annual discussion and training designed to prevent [hazing and]bullying, cyber-bullying, hazing and harassment among school employees and students and provide for enforcement through employment action or student discipline.

~~[G]~~L. "Retaliate or retaliation" means an act or communication intended:

- (1) as retribution against a person for reporting bullying, ~~[or] cyber-bullying, hazing and harassment;~~ or
- (2) to improperly influence the investigation of, or the response to, a report of bullying, ~~[or] cyber-bullying, hazing and harassment.~~

R277-613-2. 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, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and the responsibility of the Board to provide assistance with and ensure ~~[school district/charter school]~~LEA compliance with Section 53A-11a-301.

B. The purpose of the rule is to require ~~[school districts and charter schools]~~LEAs to implement bullying, ~~[and] cyber-bullying, hazing and harassment~~ policies district and school wide~~[-];~~ to provide for regular and meaningful training of school employees and students~~[-and];~~ to provide for enforcement of the policies in schools, at the state level and in public school athletic programs; to require LEAs to notify parents of specific bullying, cyber-bullying, hazing, harassment and suicide threat incidents; and to require LEAs to maintain documentation as required by law.

R277-613-3. Utah State Board of Education Responsibilities.

A. To the extent of resources available, the Board shall provide training opportunities or materials or both for employees of ~~[school districts and charter schools]~~LEAs on bullying, ~~[including] cyber-bullying, [and] hazing and harassment.~~

B. The Board may interrupt disbursements of funds consistent with Section 53A-1-401(3) for failure of an ~~[school district or charter school]~~LEA to comply with this rule.

R277-613-4. ~~[Local School District and Charter School]LEA Responsibility[ies] to Create Bullying Policies.~~

A. Each ~~[school district and charter school]~~LEA shall implement an updated policy prohibiting bullying~~[-and], cyber-bullying, hazing, harassment and retaliation,~~ and making a false report, consistent with Section 53A-11a-301.

B. Each ~~[school district and charter school]~~LEA shall:

- (1) post a copy of its policy on the ~~[school district/charter school]~~LEA website; and
 - (2) provide a copy of the ~~[school district/charter school]~~LEA policy or uniform resource locator (URL) to the State Superintendent of Public Instruction at the Utah State Office of Education.
- ~~[-----C. The local board/charter school board shall annually review and immediately post the policy following the first board meeting of the school year.]~~
- C. The policy shall include parental notification of:
- (1) a parent's student's threat to commit suicide; and
 - (2) an incident of bullying, cyber-bullying, hazing, harassment or retaliation involving the parent's student.
- (3) This part of the policy shall also include:
- (a) timely parent notification;
 - (b) designation of the appropriate school employee(s) to provide parent notification;

(c) designation of the format in which notification shall be provided to parents and maintained by the LEA;

(d) directives for secure maintenance of the notification record as required under Section 53A-11a-203(1);

(e) a retention period and destruction process for the notification; and

(f) an LEA definition of parent(s) consistent with Section 53A-11-203 and this rule.

D. The policy shall provide for student assessment of the prevalence of bullying, cyber-bullying, hazing and harassment in LEAs and schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.

E. The policy shall include required strong responsive action against retaliation, including assistance to harassed students and their parents in reporting subsequent problems and new incidents.

~~[D]E. The [P]olic[ies]y shall provide [for training to]that students, staff, and volunteers [consistent with the following:]receive training on bullying, cyber-bullying, hazing and harassment from individuals qualified to provide such training. The LEA shall determine how often training shall be provided.~~

(1) The training should be specific to:

(a) overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;

~~[(2)b] [training specific to-]relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;~~

~~[(3)c] [training specific to prohibitions against bullying or hazing]sexual aggression or acts of a sexual nature or with sexual overtones;~~

~~[(4)d] [training specific to-]cyber-bullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school; and~~

(e) civil rights violations, appropriate reporting and investigative procedures. This includes bullying, cyber-bullying, hazing and harassment based upon the students' actual or perceived identities and conformance or failure to conform with stereotypes.

(2) Training should also include awareness and intervention skills such as social skills training for students and staff, including aides, custodians, kitchen and lunchroom workers, secretaries, paraprofessionals, and coaches.

(3) Training on bullying, cyber-bullying, hazing and harassment required of LEA policies under the rule should complement the suicide prevention program required for students under R277-620 and the suicide prevention training required for licensed educators consistent with Section 53A-1-603(9).

~~[E]G. Policies shall also[;]~~

~~-----[4]-] complement existing safe and drug free school policies and [school harassment and hazing policies]school discipline plans.;~~

(2) include strategies for providing students and staff, including aides, custodians, kitchen and lunchroom workers, secretaries, paraprofessionals, and coaches, with awareness and intervention skills such as social skills training; and

~~(3) include required strong responsive action against retaliation including assistance to harassed students and their parents in reporting subsequent problems and new incidents.~~

~~F. The policy shall also provide direction to employees about bullying and~~ Consistent with R277-609, the discipline plan shall provide direction for dealing with bullying, cyber-bullying, hazing, harassment and disruptive students. This part of the ~~policy~~ plan shall:

(1) direct schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;

(2) provide for identification, by position(s), of individual(s) designated to issue notices of disruptive student and bullying, cyber-bullying, hazing and harassment behavior;

(3) designate to whom notices shall be provided;

(4) provide for documentation of disruptive student behavior prior to referral of disruptive students to juvenile court;

(5) include strategies to provide for necessary adult supervision;

(6) be clearly written and consistently enforced;

(7) include administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility; and

(8) provide notice to employees that violation(s) of this rule may result in employment discipline or action.

R277-613-5. Training by ~~[School Districts and Charter Schools]~~LEAs Specific to Participants in Public School Athletic Programs and School Clubs.

A. Prior to any student~~[or]~~, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, ~~[a]~~ the student, employee or coach shall participate in bullying, ~~and~~ cyber-bullying, hazing and harassment prevention training. This training shall be offered to new participants on an annual basis and to all participants at least once every three years.

B. ~~[School districts and charter schools]~~ LEAs may collaborate with the Utah High School Activities Association to develop and provide training.

C. Student athletes and extracurricular club members shall be informed of prohibited activities under this rule and notified of potential consequences for violation of the law ~~[or]~~ and the rule~~[or both]~~.

~~[D. School districts and charter schools that offer athletics shall provide annual training to all new students and new employees and require refresher training for all students and employees at least once every three years.~~

~~]~~ [E]D. Training curriculum outlines, training schedules, and participant lists or signatures shall be maintained by each ~~[school or school district]~~ LEA and provided to the Utah State Office of Education upon request.

R277-613-6. Professional Responsibilities of Employee and Volunteer Coaches.

A. All public school coaches shall act consistent with professional standards of R277-515 in all responsibilities and activities of their assignments.

B. Failure to act consistently with R277-515 toward students, colleagues and parents may result in discipline against an educator's license or termination of volunteer services.

KEY: bullying, cyber-bullying, hazing, harassment~~[policies, training]~~

Date of Enactment or Last Substantive Amendment: ~~[July 11, 2011]~~ 2013

Notice of Continuation: August 2, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-11a-301

Education, Administration
R277-620
Suicide Prevention Programs

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37929

FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Legislature passed H.B. 15, Suicide Prevention Programs, in the 2013 General Legislative Session. The legislation establishes a staff position at the USOE to oversee youth suicide prevention programs in collaboration with the Department of Human Services. This new rule addresses requirements of the legislation.

SUMMARY OF THE RULE OR CHANGE: The new rule provides definitions and Utah State Board of Education (Board), Utah State Office of Education (USOE), and local education agency (LEA) responsibilities.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Funding is appropriated for a youth suicide prevention specialist to coordinate the program.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government beyond the legislative appropriation. It is anticipated that LEA responsibilities and requirements will be managed with existing staff within existing budgets.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule applies to public education and does not affect businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Responsibilities are at a state and local level.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The state and LEAs will comply with the requirements of state law and this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-620. Suicide Prevention Programs.

R277-620-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Intervention" means an effort to prevent a student from attempting suicide.
- C. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- D. "Parent notification" means a notice provided by a public school to a students' parent(s) consistent with Section 53A-11a-203(2) and 53A-11a-301(3)(e).
- E. "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.
- F. "Program for secondary grades" means a youth suicide prevention program for students in grades 7 through 12, including grade 6 if middle or junior high school includes grade 6.

G. "State suicide prevention coordinator" means the person designated by the Department of Health - State Division of Substance Abuse and Mental Health in Section 62A-15-1101.

H. "USOE" means the Utah State Office of Education.

I. "USOE suicide prevention coordinator" means person designated by the Board to oversee the youth suicide prevention programs of LEAs and who is responsible to coordinate prevention programs, services, and efforts with the state suicide prevention coordinator.

J. "Youth protection and mental health seminar" means an evening seminar offered by an LEA to parents of students consistent with Section 53A-15-1301.

R277-620-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X Section 3 which vests general control and supervision of public education in the Board, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purposes of this rule are:

(1) to provide for collaboration with the Department of Health and Department of Human Services to establish, oversee, and provide model policies, programs for LEAs and training for parents about youth suicide prevention programs;

(2) to require LEAs to have and update youth protection policies; and

(3) to direct LEAs to send notice to parents and protect the confidentiality of the required parent notification record regarding bullying and suicide incidents.

R277-620-3. Board, USOE and LEA Responsibilities.

A. Board and USOE responsibilities:

(1) The USOE suicide prevention coordinator shall oversee LEA youth suicide prevention programs.

(2) The USOE in collaboration with the Department of Health - State Division of Substance Abuse and Mental Health and the state suicide prevention coordinator shall establish model youth suicide prevention programs for LEAs that include training and resources addressing prevention of youth suicides, youth suicide intervention, and postvention for family, students and faculty.

(3) Based on legislative appropriation, the Board shall distribute funds to implement LEA programs.

(4) The Board shall report jointly with the state suicide prevention coordinator to the Legislature's Education Interim Committee in November 2013 and 2014 on:

(a) the progress of LEA programs; and

(b) the Board's coordination efforts with the Department of Health - State Division of Substance Abuse and Mental Health and the state suicide prevention coordinator.

B. LEA responsibilities:

(1) LEAs shall implement youth suicide prevention programs for students in secondary grades, including grades 7 through 12 and grade 6, if grade 6 is part of a secondary grade model.

(2) The programs shall include components provided in Section 53A-15-1301(2).

(3) LEAs shall update bullying, cyber-bullying, harassment, hazing, and retaliation policy(ies) consistent with Section 53A-11a-301 and R277-613, including the required parent

notification outlined in Sections 53A-11a-203(2) and 53A-11a-301(3)(e) and R277-613-4C and D.

(4) LEAs shall provide necessary reporting information consistent with Section 53A-15-1301(3) and (5) for the Board's report on the coordination of suicide prevention programs and seminar program implementation to the Legislature's Education Interim Committee.

KEY: public schools, suicide prevention programs, parent notification, seminars

Date of Enactment or Last Substantive Amendment: 2013

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

Education, Administration R277-750-3 Standards and Procedures

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 37930

FILED: 08/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to change the revision date of the Utah State Board of Education Special Education rules.

SUMMARY OF THE RULE OR CHANGE: The revision date of the Utah State Board of Education Special Education rules is changed from August 2007 to August 2013.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-402(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The revision date of the Utah State Board of Education Special Education rules is changed in Section R277-750-3.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. A revision date change to the Utah State Board of Education Special Education rules is not a cost/savings issue.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. The amendment to this rule applies to public education and does not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. A revision date change to the Utah State Board of Education Special Education rules is not a cost/savings issue.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons. A revision date change to the Utah State Board of Education Special Education rules does not have compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-750. Education Programs for Students with Disabilities.

R277-750-3. Standards and Procedures.

A. As its rules for programs for students with disabilities, the Board adopts and hereby incorporates by reference the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C., 1400.

B. The Board shall act in accordance with:

(1) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. 794, incorporated by reference in R277-112;

(2) R277-750;

(3) State Board of Education Special Education Rules, August [2007]2013; and

(4) The annual Utah State Federal Application under Part B of the Individuals with Disabilities Education Act as amended in 2004.

C. Students with disabilities shall be entitled to dual enrollment consistent with Section 53A-11-102.5 and R277-438.

KEY: special education

Date of Enactment or Last Substantive Amendment: [December 8, 2009]2013

Notice of Continuation: August 14, 2012

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1);[53A-17a-111]; 53A-15-301; 53A-1-401(3)

Environmental Quality, Air Quality
R307-110-10
Section IX, Control Measures for Area
and Point Sources, Part A, Fine
Particulate Matter

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37903

FILED: 08/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Air Quality Board has proposed changes to State Implementation Plan (SIP) Section IX, Part A.23. When sections of the SIP are amended, the rule that incorporates those sections into the Air Quality Rules must be updated to incorporate the most recent version of the SIP as adopted by the Air Quality Board.

SUMMARY OF THE RULE OR CHANGE: The rule is amended to incorporate by reference the most recent version of SIP Section IX Part A adopted by the Air Quality Board. The Board has proposed to amend Chapter 7 of SIP Section IX.A.23 by establishing a motor vehicle emission budget (MVEB) for on-road direct PM2.5 emissions and establishing a trading mechanism to allow future increases in on-road direct PM2.5 emissions to be offset by future decreases in plan precursor emissions from on-road mobile sources at appropriate ratios established by the air quality model. The version of SIP Section IX.A.23 that is being proposed for public comment can be found on the Division of Air Quality's website here: <http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm> and a public comment period for the SIP will run simultaneously with the public comment period for this proposed rulemaking.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Utah State Implementation Plan, Section IX, Part A.23, Control Measures for Area and Point Sources, Fine Particulate Matter, PM2.5 SIP for the Logan, UT-ID Nonattainment Area, published by Utah Division of Air Quality, 11/06/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Incorporating the proposed changes to the SIP into this rule does not create any new requirements for the state, therefore, there are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Incorporating the proposed changes to the SIP into this rule does not create any new requirements for local government, therefore, there are no anticipated costs or savings to local government.

◆ **SMALL BUSINESSES:** Incorporating the proposed changes to the SIP into this rule does not create any new requirements for small business, therefore, there are no anticipated costs or savings to small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Incorporating the proposed changes to the SIP into this rule does not create any new requirements for persons other than small businesses, businesses, or local government entities, therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed changes to the SIP that are being proposed to be incorporated into this rule do not create any additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Incorporating the proposed changes to the SIP into this rule should not have any fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/06/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan.

R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on [~~December 5, 2012~~]November 6, 2013, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: [~~December 6, 2012~~]**2013**

Notice of Continuation: February 1, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(e)

Environmental Quality, Air Quality
R307-110-36
Section X, Vehicle Inspection and
Maintenance Program, Part F, Cache
County

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37904

FILED: 08/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Air Quality Board has proposed changes to State Implementation Plan (SIP) Section X, Part F. When sections of the SIP are amended, the rule that incorporates those sections into the Air Quality Rules must be updated to incorporate the most recent version of the SIP as adopted by the Air Quality Board.

SUMMARY OF THE RULE OR CHANGE: The rule is amended to incorporate by reference the most recent version of SIP Section X Part F adopted by the Air Quality Board. The Board has proposed to amend SIP Section X Vehicle Inspection and Maintenance Program, Part F, Cache County by adding a description of Cache I/M programs. The I/M program is a test-and-repair program that will exempt vehicles less than six years old as of January 1 of any given year from an emissions inspection. The program requires 1996 and newer light duty vehicles having a gross vehicle weight of 8,500 pounds or less to go through a biennial On-Board Diagnostics inspection and requires vehicles 1995 and older to go through a biennial two-speed idle test. It is also being proposed to add the Cache County Emission Inspection/Maintenance Program Ordinance 2013-04 and Bear River Health Department Regulation 2013-1 as appendices to the SIP. The public comment period for the proposed changes to the SIP will be from September 1 to October 1, 2013. The proposed amendments to the SIP can be viewed here: <http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm>.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Utah State Implementation, Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County, published by Utah Division of Air Quality, 11/06/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The changes made in the SIP that are incorporated into the Air Quality Rule reflect requirements made in the Cache County Emission Inspection/Maintenance Program Ordinance 2013-04 and Bear River Health

Department Regulation 2013-1. Because these ordinances and regulations are not operated or funded by the state, there are no anticipated costs or savings to the state budget.

- ◆ **LOCAL GOVERNMENTS:** The Cache County Emission Inspection/Maintenance Program Ordinance and the Bear River Health Department Regulation will add enforcement and operation costs to Cache County and the Health Department; however, incorporating the SIP into the Air Quality rules will not add any additional costs already created by the ordinance and regulation.

- ◆ **SMALL BUSINESSES:** The Cache County Emission Inspection/Maintenance Program Ordinance and the Bear River Health Department Regulation create an I/M program that small businesses may participate in. By participating, they will need to make an initial investment; however, by doing so it is anticipated that they will benefit financially. Furthermore, incorporating the changes to the SIP into the Air Quality rules will not add any additional costs or savings already created by the ordinance and regulation.

- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Cache County ordinance and the Bear River Health Department regulation create an I/M program that will require many persons other than small business, businesses, or local government entities located in Cache County to have their vehicles go through a biennial inspection that will cost them no more than \$20 per inspection. Incorporating the changes in the SIP into the Air Quality rules will not add any additional costs or savings already created by the ordinance and regulation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Cache County ordinance and the Bear River Health Department regulation create an I/M program that will require many persons to have their vehicles go through a biennial inspection that will cost them no more than \$20 per inspection. Incorporating the changes in the SIP into the Air Quality rules will not add any additional compliance costs or savings already created by the ordinance and regulation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Incorporating the changes in the SIP into the Air Quality rules will not have an additional fiscal impact on businesses that the Cache County ordinance and Bear River Health Department regulation already do.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-36. Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County, as most recently adopted by the Utah Air Quality Board on [~~December 5, 2012~~ November 6, 2013], pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
Date of Enactment or Last Substantive Amendment: [~~December 6, 2012~~ 2013]
Notice of Continuation: February 1, 2012
Authorizing, and Implemented or Interpreted Law: 19-2-104(3) (e)

Health, Family Health and
 Preparedness, Children with Special
 Health Care Needs
R398-3
 Children's Hearing Aid Pilot Program

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE NO.: 37899
 FILED: 08/05/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule will govern administration of the Children's Hearing Aid Pilot Program.

SUMMARY OF THE RULE OR CHANGE: This rule includes the process to identify children who are financially eligible for services and the process to review and pay for services provided to a child.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-10-11

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** Costs include staff time to administer the account and volunteer time from committee members to serve an advisory role, develop application process and review applications from treatment providers,

and process payment requests from providers. As this is a new program, there are no records to indicate cost burden or savings.

♦ **LOCAL GOVERNMENTS:** None anticipated--Funds will be disbursed to audiologists for hearing aids to eligible children.

♦ **SMALL BUSINESSES:** Cost--Time for audiologists to prepare applications to receive funds for eligible children. As this is a new program, there are no records to indicate cost burden or savings.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Cost to families--Time to identify audiologist and obtain testing for hearing aids. Savings to families--Hearing aids will be provided free to families up to the full amount appropriated. The agency estimates approximately 25 children will receive hearing aids through the current amount appropriated. As this is a new program, there are no records to indicate cost burden or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost to audiologists and families--Time to complete application processes involved. As this is a new program, there are no records to indicate cost burden or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This will provide some additional payment for hearing aid providers.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 CHILDREN WITH SPECIAL HEALTH CARE NEEDS
 44 N MARIO CAPECCHI DR
 SALT LAKE CITY, UT 84113
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Rebecca Giles by phone at 801-538-6259, or by Internet E-mail at rgiles@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.

R398-3. Children's Hearing Aid Pilot Program.

R398-3-1. Definitions.

- a. "UDOH" is Utah Department of Health.
- b. "Hearing aid" is any traditional non-surgical device providing acoustic amplification.
- c. "CHAPP" is Children's Hearing Aid Pilot Program.

d. "CSHCN" is the Bureau of Children with Special Health Care Needs.

e. "L&D" is loss and damage, referring to warranty or insurance coverage for hearing aids.

f. "Managing audiologist" is a non-UDOH licensed audiologist with expertise in pediatric audiology who is responsible for the provision of hearing aids and follow-up care to eligible children.

R398-3-2. Purpose and Authority.

The purpose of this rule is to set forth the process to identify children who are financially eligible to receive services under the pilot program and describe how the department will review and pay for services provided to a child under the pilot program.

This rule is authorized by Section 26-10-11(5) which provides that the department shall make rules regarding implementation of the hearing aid pilot program.

R398-3-3. Process to Identify Children Who Are Financially Eligible for Services.

(1) Participant financial eligibility

a. Children younger than three years old, with hearing loss who do not yet own a hearing aid or for whom current amplification is no longer appropriate may be eligible for hearing aids under this pilot program.

b. Participant must complete and submit CSHCN Financial Form (PFR) with application to the managing audiologist.

c. Upon request, the family must provide a copy of the most recent federal income tax filing to CHAPP to verify family income as reported by the child's parents. If the federal income tax filing is unavailable, the parents may submit the prior three months' check stubs to extrapolate annual income.

d. Family must be at or below 300% of Federal Poverty Level.

e. This is a one-time benefit per child.

R398-3-4. Process to Review and Pay for Services Provided to a Child.

(1) Applications

a. Participant application

i. Must be completed by parent or guardian.

ii. Child shall participate in a Part C Early Intervention program.

iii. Application must be submitted to managing audiologist with:

1. Proof of denial for Medicaid or evidence that family is ineligible for Medicaid.

2. Proof of denial for coverage by current insurance provider.

i. Family/guardian shall provide coverage for all out-of-warranty repairs.

ii. If L&D is claimed during the warranty period, the family shall provide supplemental hearing aid insurance including L&D.

iii. Child will receive hearing aids directly from managing audiologist.

a. Audiologist qualifications and application

i. Hearing aid must be dispensed by a licensed audiologist.

ii. A separate application must be submitted for each child.

(2) Review of applications

a. All applications will be reviewed for completeness and eligibility by the Advisory Committee chair or UDOH designee.

b. Eligibility shall be communicated to the managing audiologist.

(3) Payment process

a. Within 30 days of hearing aid fitting, the managing audiologist will submit the Payment Request Cover Sheet with all supporting documentation.

b. UDOH will review documentation to assure that managing audiologist has submitted all items listed in payment request.

c. Payments will go directly to the managing audiologist.

KEY: hearing aids

Date of Enactment or Last Substantive Amendment: 2013

Authorizing and Implemented or Interpreted Law: 26-10-11

Health, Health Care Financing R410-14 Administrative Hearing Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37906

FILED: 08/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to clarify that the Division of Medicaid and Health Financing (DMHF) conducts all hearings on a de novo basis.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies that DMHF conducts all hearings on a de novo basis.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-24 and Section 26-1-5

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because this amendment simply clarifies that DMHF conducts all hearings on a de novo basis.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because this amendment simply clarifies that DMHF conducts all hearings on a de novo basis.

◆ **SMALL BUSINESSES:** There is no impact to small businesses because this amendment simply clarifies that DMHF conducts all hearings on a de novo basis.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because this amendment simply clarifies that DMHF conducts all hearings on a de novo basis.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid recipient because this amendment simply clarifies that DMHF conducts all hearings on a de novo basis.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on business--This clarifies current policy.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH CARE FINANCING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

R410. Health, Health Care Financing.

R410-14. Administrative Hearing Procedures.

R410-14-2. Definitions.

(1) The definitions in Rule R414-1 and Section 63G-4-103 apply to this rule.

(2) The following definitions also apply:

(a) "Action" means a denial, termination, suspension, or reduction of medical assistance for a recipient, or a reduction, denial or revocation of reimbursement for services for a provider; or a denial or termination of eligibility for participation in a program, or as a provider.

(b) "Aggrieved Person" means any recipient or provider who is adversely affected by any action or inaction of the Division of Medicaid and Health Financing (DMHF) within the Department of Health, the Department of Human Services (DHS), the Department of Workforce Services (DWS), or any managed health care plan.

(c) "De novo" means anew, or considering the question of a case for the first time.

([e]d) "Ex Parte" communications mean direct or indirect communication in connection with an issue of fact or law between the hearing officer and one party only.

([d]e) "Hearing Officer" means solely any person designated by the DMHF Director to conduct administrative hearings for the Medicaid program.

([e]f) "Managed Care Organization" means a health maintenance organization or prepaid mental health plan that contracts

with DMHF to provide medical or mental health services to medical assistance recipients.

([f]g) A "medical record" is a record that contains medical data of a client.

([g]h) "Order" means a ruling by a hearing officer that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons.

R410-14-12. Conduct of Hearing.

(1) DMHF shall conduct hearings in accordance with Section 63G-4-206. DMHF will conduct all hearings on a de novo basis.

(2) DMHF shall appoint an impartial hearing officer to conduct formal hearings. Previous involvement in the initial determination of the action precludes an officer from appointment.

(3) The hearing officer may elect to hold a prehearing meeting to:

(a) formulate or simplify the issues;

(b) obtain admissions of fact and documents that will avoid unnecessary proof;

(c) arrange for the exchange of proposed exhibits or prepared expert testimony;

(d) outline procedures for the formal hearing; or

(e) to agree to other matters that may expedite the orderly conduct of the hearing or settlement.

(4) DMHF shall record agreements that the parties reach during the prehearing or the parties may enter into a written stipulation.

(5) DMHF may conduct all formal hearings only after adequate written notice of the hearing has been served on all parties setting forth the date, time and place of the hearing.

(6) The hearing officer shall take testimony under oath or affirmation.

(7) Each party has the right to:

(a) present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence;

(b) introduce exhibits;

(c) impeach any witness regardless of which party first called the witness to testify; and

(d) rebut the evidence against the party.

(8) DMHF shall follow the rules of evidence as applied in Utah civil actions. Each party may admit any relevant evidence and use hearsay evidence to supplement or explain other evidence. Hearsay, however, is not sufficient by itself to support a finding unless admissible over objection in civil actions. The hearing officer shall give effect to the rules of privilege recognized by law and may exclude irrelevant, immaterial and unduly repetitious evidence.

(9) The hearing officer may question any party or witness.

(10) The hearing officer shall control the evidence to obtain full disclosure of the relevant facts and to safeguard the rights of the parties. The hearing officer may determine the order in which he receives the evidence.

(11) The hearing officer shall maintain order and may recess the hearing to regain order if a person engages in disrespectful, disorderly or disruptive conduct. The hearing officer may remove any person, including a participant from the hearing, to maintain order. If a person shows persistent disregard for order and procedure, the hearing officer may:

(a) restrict the person's participation in the hearing;

- (b) strike pleadings or evidence; or
- (c) issue an order of default.

(12) If a party desires to employ a court reporter to make a record of the hearing, it must file an original transcript of the hearing with the hearing officer at no cost to the agency.

(13) The party ~~that~~ who initiates the hearing process through a request for agency action has the burden of proof as the moving party.

(14) When a party possesses but fails to introduce certain evidence, the hearing officer may infer that the evidence does not support the party's position.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [January 9,] 2013

Notice of Continuation: September 27, 2012

Authorizing, and Implemented or Interpreted Law: 26-1-24; 26-1-5; 63G-4-102

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-2A-6** Service Coverage

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37898

FILED: 08/05/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to implement by rule the updated "three-day window" policy for inpatient hospital admissions and services.

SUMMARY OF THE RULE OR CHANGE: This change implements by rule the updated "three-day window" policy for inpatient hospital admissions and services.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department does not anticipate any impact to the state budget as this amendment only clarifies the current policy for inpatient hospital admissions and services.

◆ **LOCAL GOVERNMENTS:** There is no anticipated impact to local governments as this amendment only clarifies the current policy for inpatient hospital admissions and services.

◆ **SMALL BUSINESSES:** The Department does not anticipate any impact to small businesses as this amendment only clarifies the current policy for inpatient hospital admissions and services.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department does not anticipate any impact to Medicaid providers and to Medicaid recipients as this amendment only clarifies the current policy for inpatient hospital admissions and services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department does not anticipate any impact to a single Medicaid provider or to Medicaid recipient as this amendment only clarifies the current policy for inpatient hospital admissions and services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-2A. Inpatient Hospital Services.

R414-2A-6. Service Coverage.

(1) Inpatient hospital services encompass all medically necessary and therapeutic medical services and supplies that the physician or other practitioner of the healing arts orders that are appropriate for the diagnosis and treatment of a patient's illness. Inpatient hospital care is limited to medical treatment of symptoms that will lead to medical stabilization of the patient. This medical stabilization care is irrespective of any underlying psychiatric diagnosis.

(2) The Department does not pay for physician services rendered by a non-Medicaid provider.

(3) Services performed for a patient by the admitting hospital or by an entity wholly-owned or wholly-operated by the hospital within three days of patient admission, are considered

inpatient services. This three-day window applies to diagnostic and non-diagnostic services that are clinically related to the reason for the patient's inpatient admission regardless of whether the inpatient and outpatient diagnoses are the same[Diagnostic services performed by the admitting hospital or by an entity wholly owned or operated by the hospital within three days prior to the date of admission to the hospital, are inpatient services].

(4) Medical supplies, appliances, drugs, and equipment required for the care and treatment of a client during an inpatient stay are reimbursed as part of payment under the DRG.

(5) Services associated with pregnancy, labor, and vaginal or C-section delivery are reimbursed as inpatient service as part of payment under the DRG, even if the stay is less than 24 hours

(6) Services provided to an inpatient that could be provided on an outpatient basis are reimbursed as part of payment under the DRG.

(7) Inpatient hospital psychiatric services are available only to clients not residing in a county covered by a prepaid mental health plan.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2012]~~**2013**

Notice of Continuation: October 10, 2012

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-18-3.5

**Human Services, Administration,
Administrative Services, Licensing
R501-7
Child Placing Adoption Agencies**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37900

FILED: 08/06/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to make changes necessary to clarify the requirements of S.B. 183 from the 2013 General Legislative Session.

SUMMARY OF THE RULE OR CHANGE: This rule clarifies that any child placing adoption agencies cannot misrepresent or withhold any facts or information relating to their services, any individual, or the applicable law.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-101 and Section 62A-2-106

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no increase or savings to the state budget because these proposed changes do not require additional staff or resources.

◆ **LOCAL GOVERNMENTS:** Local governments are not affected by this rule and it will have no fiscal impact on them.

◆ **SMALL BUSINESSES:** There will be no increase or savings to small businesses because these proposed changes do not require additional staff or resources.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** While individuals may be adoptive parents for whom this rule applies, there is no expected fiscal impact for individuals in the category of "persons other than small businesses, or local government entities."

COMPLIANCE COSTS FOR AFFECTED PERSONS: Office of Licensing determined that there will be no compliance costs for affected persons because there are no specific costs involved with the changes being made with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
195 N 1950 W 1ST FLR
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ John Ortiz by phone at 801-374-7672, by FAX at 801-538-4553, or by Internet E-mail at jortiz@utah.gov
- ◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
- ◆ Vilma Mosier by phone at 801-538-4041, by FAX at 801-538-4553, or by Internet E-mail at vmosier@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: John Ortiz, Acting Director

**R501. Human Services, Administration, Administrative Services, Licensing.
R501-7. Child Placing Adoption Agencies.
R501-7-3. Legal Requirements.**

A. In addition to this rule, all child placing adoption agencies shall comply with R495-876, R501-1, R501-2-1 through 501-2-5, R501-2-8 through R501-2-14, R501-14; Title 58, Chapter 60; title 62A, Chapters 2 and 4a; Section 76-7-203; 78A-6; 78B-6 and 78B-13; and other applicable local, State and Federal laws.

B. Child placing adoption agencies that do not provide housing for birth mothers are exempt from R501-2-5, 10, 11, and 12.

C. A child placing adoption agency shall not:

a. delay or deny the placement of a child or the opportunity to become an adoptive parent on the basis of race, color, ethnicity, cultural heritage, or national origin. A child placing adoption agency shall comply with all State and Federal laws regarding discrimination.

D. A child placing adoption agency shall be legally responsible for the child following relinquishment of the child to the adoption agency until the adoption is finalized, unless a court of competent jurisdiction places legal responsibility with another party, in accordance with Section 78B-6-134.

E. A child placing adoption agency which serves Indian children shall comply with the Indian Child Welfare Act.

F. A child placing adoption agency that provides foster care shall comply with R501-12.

H. A child placing adoption agency shall comply with the Interstate Compact for Placement of Children, in accordance with Section 62A-4a-701 et seq.

I. A child placing adoption agency shall ensure that its employees, contractors, volunteers and agents comply with all laws relating to adoption services.

R501-7-5. Ethical Conduct.

A. A child placing adoption agency shall:

1. not give preferential treatment to its board members, employees, volunteers, agents, consultants, independent contractors, donors, or their respective families with regard to child placing decisions;

2. not provide or accept any payment or other considerations for any referral;

3. work only with agencies, entities or individuals that are authorized to provide child placing adoption services by the laws of this state or the jurisdiction in which that agency, entity or individual performs child placing adoption services;

4. not permit its employees, volunteers, agents, consultants, or independent contractors to provide adoption services to both the birth parents and the adoptive parents unless all parties are made aware of potential conflicts of interest and sign a voluntary consent;

5. not require its clients to use or pay for specified attorneys or other service providers, shall inform clients that they are free to select independent attorneys and other service providers, and shall not charge clients fees for services that clients obtain independently;~~and~~

6. not refer or steer any individual to any private practice in which the agency's board members, volunteers, employees, agents, consultants, independent contractors, or their respective families are engaged, without first disclosing any potential conflicts of interest and informing said individuals that they are free to select independent service providers~~[-]; and~~

7. not misrepresent or withhold any facts or information relating to its services, any individual, or the applicable law.

B. The members of the governing body of a child placing adoption agency shall disclose, in writing, to the chairperson of the governing body, any direct or indirect financial interest in the agency.

C. The child placing adoption agency, its board members, volunteers, employees, or agents shall not solicit donations from an adoptive family that is under consideration for placement of a child. A generalized mass solicitation through newsletters or the media shall not constitute a violation under this rule.

D. The child placing adoption agency, its board members, volunteers, employees, or agents shall not accept donations from an adoptive family that is under consideration for placement of a child.

KEY: licensing, human services, child placing

Date of Enactment or Last Substantive Amendment: ~~July 1, 2004~~2013

Notice of Continuation: October 18, 2012

Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.

Human Services, Services for People with Disabilities

R539-15

Time-Limited Respite Care Program

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 37919

FILED: 08/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was created to provide standards for a Time-Limited Respite Program. The program is no longer being implemented and therefore, this rule is no longer needed.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-5-102(3) and Subsection 63A-5-102(6)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The repeal of this rule will not impact the state budget since the program that this rule refers to is no longer in use. There will be no cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** There are no costs or savings for local government because there are no contracts for local government and this rule never impacted them.

◆ **SMALL BUSINESSES:** There is no cost or savings to small businesses because the program that may have impacted them is no longer being implemented. The rule is being repealed due to the fact the program this rule referred to is no longer there.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no compliance costs for affected persons because no person or small business is affected by the repeal of this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost or savings for other persons because the program that may have impacted them is no longer being implemented. The rule is being repealed due to the fact the program this rule referred to is no longer there.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on businesses due to the repeal of this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 SERVICES FOR PEOPLE WITH DISABILITIES
 195 N 1950 W 3RD FLR
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhones@utah.gov
 ♦ Nathan Wolfley by phone at 801-538-4154, by FAX at 801-538-4279, or by Internet E-mail at nwolfley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2013

AUTHORIZED BY: Paul Smith, Director

R539. Human Services, Services for People with Disabilities.
[R539-15. Time-Limited Respite Care Program.

R539-15-1. Purpose and Authority.
 (1) The purpose of this rule is to provide:
 (a) procedures and standards for the determination of eligibility for the Division's Time-Limited Respite Care Program for Persons on the Division's Waiting List as specified in R539-2-4.
 (2) This rule is authorized from July 1, 2008 to June 30, 2009 by Legislative appropriation and established under Section 62A-5-103.

R539-15-2. Definitions.
 (1) Terms used in this rule are defined in Section 62A-5-101, and
 (2) "Person": Individual who meets eligibility requirements in Rule R539-1.
 (3) "Active Status": Has a current Needs Assessment Score on the Division wait list.
 (4) "Respite": A service to give relief to the Person's primary caregiver.

R539-15-3. Eligibility.
 (1) A Person is eligible for the Time-Limited Respite Care Program who meets the eligibility requirements listed in Rule 539-1; provided that:
 (2) the Person is not receiving ongoing services with the Division;
 (3) the Person is currently in active status on the Division waiting list.

R539-15-4. Limitations.
 (1) A Person who meets eligibility requirements for the Time-Limited Respite Care Program is limited to no more than \$1,000 for respite care services from July 1, 2008 to June 30, 2009.
 (2) Funds are granted for 12 months. After six months, the Person must report the expenditure of funds to the Division. The use of the respite care funds will be evaluated by the Division. If there is no plan to use the funds or funds are unused, those funds may be reallocated to another eligible Person.
 (3) Persons receiving ongoing services are not eligible for time-limited respite services.

R539-15-5. Priority.
 (1) As of July 1, 2008, the first 250 persons who are not brought into ongoing services and who remain on the Division waiting list will receive priority for respite care services. If any of the first 250 choose not to use time-limited respite care services, then Persons will be offered this service in the order of their position on the waiting list.

R539-15-6. Respite Care Services Providers.
 (1) Respite services may be provided by an employee of the Person or through an agency or program that provides respite care services.
 (2) If the Person elects to hire an employee, Division requirements for a background check must be met.
 (3) Payments to an employee must be made through a fiscal agent.

KEY: disabilities
Date of Enactment or Last Substantive Amendment: August 21, 2008
Authorizing, and Implemented or Interpreted Law: 62A-5-103

Public Service Commission,
 Administration
R746-405-2
 Format and Construction of Tariffs

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 37908
 FILED: 08/09/2013

RULE ANALYSIS
 PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Change in Proposed Rule (CPR) under DAR No. 37447, published in the June 15, 2013, Bulletin, could not be made effective consistent with regular rulemaking procedure. This filing replaces that CPR. The rule changes are intended to update the format of rule filings to be consistent with current technologies.

SUMMARY OF THE RULE OR CHANGE: The requirement for utilities to use symbols to identify tariff changes is replaced

with the requirement to provide marked-up versions of the tariff indicating changes as part of an advice letter filing. The marked-up version of the proposed revised tariff sheet shall indicate deleted text by strike-through and additional text by underline. Utilities with public websites shall provide access to a searchable copy of the utility's presently effective tariff.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-3-2 and Section 54-3-4 and Section 54-4-4 and Section 54-7-12.8

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: This filing codifies practices that exist for tariff filings, and should not impact the operations of any state agencies.
- ◆ LOCAL GOVERNMENTS: This filing codifies practices that exist for tariff filings, and should not impact the operations of local government.
- ◆ SMALL BUSINESSES: This filing codifies practices that exist for tariff filings, and should not impact the operations of any small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This filing codifies practices that exist for tariff filings, and should not impact the operations of persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This filing codifies practices that exist for tariff filings, and should not impact the operations of any affected person.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule changes were intended to update the format of tariff filings to be consistent with current technologies. No fiscal impact should result other than a potential unquantifiable cost savings as a result of the additional clarity this rule change provides.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

PUBLIC SERVICE COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jordan White by phone at 801-530-6712, or by Internet E-mail at jordanwhite@utah.gov
- ◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2013

AUTHORIZED BY: Jordan White, Legal Counsel

R746. Public Service Commission, Administration.

R746-405. Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities.

R746-405-2. Format and Construction of Tariffs.

A. Format--Tariffs shall be in loose-leaf form for binding in a stiff-backed book or books as required and consist of parts or subdivisions arranged in order set forth as follows:

1. Title:
"TARIFF"
Applicable to
Kind of
SERVICE
NAME OF UTILITY

2. Table of Contents: a complete index of numbers and titles of effective sheets listed in the order in which the tariff sheets are arranged in the tariff book. Table of contents sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

3. Preliminary statement: a brief description of the territory served, types and classes or service rendered and general conditions under which the service is rendered. Preliminary sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C). ~~The preliminary statement shall clearly define the symbols used in the tariffs. For example:~~

- ~~a. "C" to signify changed listing, rule or condition which may affect rates or charges;~~
- ~~b. "D" to signify discontinued material, including listing, rate, rule or condition;~~
- ~~c. "I" to signify increase;~~
- ~~d. "L" to signify material relocated from or to another part of the tariff schedules with no change in text, rate, rule or condition;~~
- ~~e. "N" to signify new material including listing, rate, rule or condition;~~
- ~~f. "R" to signify reduction;~~
- ~~g. "T" to signify change in wording of text but no change in rate, rule or condition.]~~

4. Service area maps: maps for telecommunication utilities shall clearly indicate the boundaries of the service area, the principal streets, other main identifying features therein, the general location of the service area in relation to nearby cities, major highways or other well-known reference points and the relation between service area boundaries and map references. Service area maps shall be approximately 8-1/2 x 11 inches in size, or folded to that size in order to fit within the borders of the space provided on tariff sheets. Maps for gas, water and electric utilities shall clearly indicate the boundaries of the service area.

B. Tariff Books--

1. Utilities shall ~~constantly~~ maintain their presently effective tariff at each business office open to the public. Utilities with public websites shall provide access to a searchable copy of the utility's presently effective tariff.

2. Utilities shall remove canceled tariff sheets from their currently effective tariffs. Utilities shall permanently retain a file of canceled tariff sheets.

C. Construction of Tariffs for Filing--

1. The loose-leaf sheets used in tariffs shall be of paper stock not less than 16 lb. bond or of equal durability and 8-1/2 x 11

inches in size and electronically~~[Tariffs may be]~~ printed or copied~~;~~ ~~typewritten or mimeographed or other similar process~~. Tariffs may not be hand-written. One side of a sheet only may be used and a binding margin of at least 1-1/8 inches at the left of the sheet.

a. The tariff sheets of each utility shall provide the following information:

- i. the name of the utility;
- ii. the sheet, or page number, along with information to designate whether it is the first version of the sheet or whether the sheet has been revised since it was originally issued. Sheets shall be numbered consecutively;
- iii. the number of the advice letter with which the sheet is submitted to the Commission or the docket number if the sheet is filed in accordance with a report and order of the Commission;
- iv. information to indicate the date the sheet was filed with the Commission and the date the sheet became effective.

2. Tariffs shall include the following information and as nearly as possible in the following order:

- a. schedule number or other designation;
- b. class of service, such as business or residential;
- c. character of applicability, such as heating, lighting or power, or individual and party-line service;
- d. territory to which the tariff applies;
- e. rates, in tabular form if practicable;
- f. special conditions, limitations, qualifications and restrictions. The conditions shall be brief and clearly worded to cover all special conditions of the rate. Amounts subject to refund shall be specified.

3. If a rate schedule or a rule is carried forward from one sheet to another, the word "Continued" shall be shown.

D. Submission of Tariff Sheets and Advice Letters--

1. Tariff sheets shall be transmitted by an advice letter or in response to a Commission order. A revised table of contents sheet shall be transmitted with each proposed tariff change, if the change requires alteration of the table of contents.

2. An original of each advice letter and tariff sheet shall be filed with the commission, along with the number of paper copies specified at <http://www.psc.utah.gov/filingrequirements.html>. In addition, each advice letter and tariff filing shall be presented as an electronic word processing or spreadsheet document that is substantially the same as the filed paper copy.

3. Advice letters shall include the following:

- a. sheet numbers and titles of the tariff sheets being filed, together with the sheet numbers of the sheets being canceled;
- b. essential information as to the reasons for the filing;
- c. dates on which the tariff sheets are proposed to become effective;
- d. increases or decreases, more or less restrictive conditions, or withdrawals;
- e. in the case of an increase authorized by the Commission, reference to the report and order authorizing the increase and docket number;
- f. if the filing covers a new service not previously offered or rendered, an explanation of the general effect of the filing, including a statement as to whether present rates or charges will be affected, or service withdrawn from a previous user and advice whether the proposed rates are cost-based;
- g. a statement that the tariff sheets proposed do not constitute a violation of state law or Commission rule. The filing of

proposed tariff sheets shall of itself constitute the representation of the filing utility that it, in good faith, believes the proposed sheets or revised sheets to be consistent with applicable statutes, rules and orders. The Commission may, after hearing, impose sanctions for a violation hereof.

4. If authorized to file a notice that the effective tariff of a previous owner for the same service area is being adopted, the notice of adoption shall be submitted in the form of an advice letter.

5. Advice letters shall be numbered annually and chronologically. The first two digits represent the year followed by a hyphen and two or more digits, beginning with 01, as submitted by a utility for class of utility service rendered.

6. If a change is proposed on a tariff sheet, both clean and marked-up versions of the tariff sheet shall be included as part of the advice letter filing. The marked-up version of the proposed revised tariff sheet shall indicate deleted text by strike-through and additional text by underline.~~[attention shall be directed to the change by an appropriate character along the right hand margin of the tariff sheet using the symbols set forth in the preliminary statement.]~~

7. At the time of making a tariff filing with the Commission, the utility shall furnish a copy of the advice letter and a copy of each related tariff sheet to:

- a. the Division;
- b. the Office; and
- c. interested parties having requested notification.

8. If the suspension is lifted by order of the Commission, the filing shall be resubmitted under a new advice letter number. If the suspension is made permanent by the Commission, the advice letter number shall not be used again.

E. Approval of Filed Tariff Sheets--

1. Utility tariffs may not increase rates, charges or conditions, change classifications which result in increases in rates and charges or make changes which result in lesser service or more restrictive conditions at the same rate or charge, unless a showing has been made before and a finding has been made by the Commission that the increases or changes are justified. This requirement does not apply to electrical or telephone cooperatives in compliance with Section 54-7-12(6), or by telecommunications utilities with less than 5,000 subscribers access lines in compliance with Section 54-7-12(7).

2. New tariff sheets covering a service or commodity not previously furnished or supplied, or revised tariff sheets, not increasing, or increasing pursuant to Commission order, a rate, toll, rental or charge, may be filed by the advice letter. Tariff sheets, unless otherwise authorized by the Commission either on complaint or on its own motion, shall become effective after not less than 30 calendar days after the filed date.

3. Upon application in the advice letter and for good cause shown, the Commission may authorize tariff sheets to become effective on a day before the end of the 30 day notice period.

4.a. The Commission may reject, suspend, alter, or modify the effectiveness of tariff sheets that do not conform to these rules, which have alterations on the face thereof or contain errors, or for other reasons as the Commission determines.

b. Any party recommending that the Commission reject, suspend, alter, or modify the effectiveness of tariff sheets shall file its request no later than 15 calendar days after the date the tariff sheets were filed with the Commission.

c. The Commission shall notify the utility of its action by a letter stating the reasons for the action.

d. Rejected tariff sheets shall be retained in the utility's file of canceled and superseded sheets.

e. Advice letter numbers of rejected filings shall not be reused.

F. Public Inspection of Tariffs--

1. Utilities shall maintain, open for public inspection at their main office, a copy of the complete tariff and advice letters filed with the Commission. Utilities shall maintain, open for public inspection, copies of their effective tariffs applicable within the territories served by the offices.

2. Utilities shall post in a conspicuous place in their major manned business office, a notice to the effect that copies of the schedule of applicable rates in the territory are on file and may be inspected by anyone desiring to do so.

G. Contracts Authorized by Tariff--Tariff sheets expressly providing that a written contract shall be executed by a customer as a

condition to the receipt of service, relating either to the quantity or duration of service or the installation of equipment, the contract need not be filed with the Commission. A copy of the general form of contract to be used in each case shall be filed with the tariff as provided in these rules.

This contract shall be subject to changes or modifications by the Commission.

KEY: rules and procedures, public utilities, tariffs, utility regulations

Date of Enactment or Last Substantive Amendment: 2013

Notice of Continuation: March 28, 2013

Authorizing, and Implemented or Interpreted Law: 54-3-2; 54-3-3; 54-3-4; 54-4-1; 54-4-4; 54-7-12

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-Day (EMERGENCY) RULE** when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-Day RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-Day RULE** including the name of a contact person, justification for filing a **120-Day RULE**, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-Day RULE** is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A **120-Day RULE** is effective for 120 days or until it is superseded by a permanent rule.

Because **120-Day RULES** are effective immediately, the law does not require a public comment period. However, when an agency files a **120-Day RULE**, it usually files a **PROPOSED RULE** at the same time, to make the requirements permanent. Comments may be made on the **PROPOSED RULE**. Emergency or **120-Day RULES** are governed by Section 63G-3-304; and Section R15-4-8.

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-1-5** Incorporations by Reference

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 37905
FILED: 08/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to implement by rule the provision of speech augmentative communication devices for Medicaid clients who meet medically necessary criteria.

SUMMARY OF THE RULE OR CHANGE: This amendment incorporates by reference the 08/02/2013 version of the Speech-Language Services Provider Manual to provide speech augmentative communication devices to Medicaid clients who meet medically necessary criteria.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 U.S.C. Sec. 1396a and Section 26-1-5 and Section 26-18-3

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
JUSTIFICATION: This amendment is necessary to comply with provisions of federal law that require the Department to

provide speech augmentative communication devices to Medicaid clients who meet medically necessary criteria.

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Speech-Language Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 08/02/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because this amendment does not change the amount of funds that the Legislature has already appropriated for speech-language services.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor provide speech-language services to Medicaid clients.
- ◆ **SMALL BUSINESSES:** Small business providers may see a slight increase in revenue with this change that allows all Medicaid eligible clients to receive speech augmentative communication devices. Nevertheless, there is not enough data to estimate the basis or frequency of how many newly eligible clients will need this service.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Providers of speech-language services may see a slight increase in revenue with this change that allows all Medicaid eligible clients to receive speech augmentative communication devices. Nevertheless, there is not enough data to estimate the basis or frequency of how many newly eligible clients will need this service. In addition, there is not enough data to estimate the increase in savings to Medicaid clients who become eligible for this service.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only increases revenue or savings to a single Medicaid provider or to a Medicaid client.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It may benefit providers of speech augmentative devices because of expanded coverage.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

EFFECTIVE: 08/08/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-1. Utah Medicaid Program.

R414-1-5. Incorporations by Reference.

(1) The Department incorporates the August 2, 2013 version of the Speech-Language Services Utah Medicaid Provider Manual by reference:

(2) The Department incorporates the July 1, 2013 versions of the following by reference:

([1]a) Utah State Plan, including any approved amendments, under Title XIX of the Social Security Act Medical Assistance Program;

([2]b) Medical Supplies Utah Medicaid Provider Manual, Section 2, Medical Supplies, as applied in Rule R414-70;

([3]c) Hospital Services Utah Medicaid Provider Manual with its attachments;

([4]d) Definitions found in the Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid;

~~(5) Speech Language Services Utah Medicaid Provider Manual;~~

([6]e) Audiology Services Utah Medicaid Provider Manual;

([7]f) Hospice Care Utah Medicaid Provider Manual;

([8]g) Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments;

([9]h) Personal Care Utah Medicaid Provider Manual with its attachments;

([10]i) Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual;

([11]j) Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual;

([12]k) Utah Home and Community-Based Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual;

([13]l) Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual;

([14]m) Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual;

([15]n) Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual;

([16]o) Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual;

([17]p) Office of Inspector General Administrative Hearings Procedures Manual;

([18]q) Pharmacy Services Utah Medicaid Provider Manual with its attachments;

([19]r) Coverage and Reimbursement Code Look-up Tool found at <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>;

([20]s) Certified Nurse - Midwife Services Utah Medicaid Provider Manual;

([21]t) CHEC Services Utah Medicaid Provider Manual with its attachments;

([22]u) Chiropractic Medicine Utah Medicaid Provider Manual;

([23]v) Dental Services Utah Medicaid Provider Manual;

([24]w) General Attachments for the Utah Medicaid Provider Manual;

([25]x) Indian Health Utah Medicaid Provider Manual;

([26]y) Laboratory Services Utah Medicaid Provider Manual with its attachments;

([27]z) Medical Transportation Utah Medicaid Provider Manual;

([28]aa) Mental Health Centers/Prepaid Mental Health Plans Utah Medicaid Provider Manual;

([29]bb) Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments;

([30]cc) Certified Family Nurse Practitioner and Pediatric Nurse Practitioner Utah Medicaid Provider Manual;

([31]dd) Oral Maxillofacial Surgeon Services Utah Medicaid Provider Manual;

([32]ee) Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual;

([33]ff) Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments;

([34]gg) Podiatric Services Utah Medicaid Provider Manual;

([35]hh) Primary Care Network Utah Medicaid Provider Manual with its attachments;

([36]ii) Psychology Services Utah Medicaid Provider Manual;

([37]jj) Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual;

([38]kk) Rehabilitative Mental Health Services for Children Under Authority of Department of Human Services,

Division of Child and Family Services or Division of Juvenile Justice Services Utah Medicaid Provider Manual;

(~~39~~ll) Rural Health Clinic Services Utah Medicaid Provider Manual with its attachments;

(~~40~~mm) School-Based Skills Development Services Utah Medicaid Provider Manual;

(~~41~~nn) Section I: General Information of the Utah Medicaid Provider Manual;

(~~42~~oo) Services for Pregnant Women Utah Medicaid Provider Manual;

(~~43~~pp) Substance Abuse Treatment Services & Targeted Case Management Services for Substance Abuse Utah Medicaid Provider Manual;

(~~44~~qq) Targeted Case Management for CHEC Medicaid Eligible Children Utah Medicaid Provider Manual;

(~~45~~rr) Targeted Case Management for the Chronically Mentally Ill Utah Medicaid Provider Manual;

(~~46~~ss) Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual; and

(~~47~~tt) Vision Care Services Utah Medicaid Provider Manual.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~May 29,~~ 2013

Notice of Continuation: March 2, 2012

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to remove obsolete rules from the Utah Administrative Code. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **NOTICE**. By filing a Notice, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. **NOTICES** are effective upon filing.

NOTICES are governed by Section 63G-3-305.

Commerce, Consumer Protection **R152-32a**

Pawnshop and Secondhand Merchandise Transaction Information Act Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37897
FILED: 08/05/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 13-2-5(1) grants the Division Director the authority to issue rules to administer and enforce consumer protection statutes. Subsection 13-32a-112(8) provides that the Secondhand Merchandise Advisory Board may propose administrative rules. Section 13-32a-112.5 provides that the Division may exempt specific classes of businesses from regulation by administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received in support of or opposing the administrative rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of the administrative rule is necessary in order for the Division to administer and enforce the Pawnshop and Secondhand Merchandise Transaction Information Act. Continuation of the administrative rule is

also necessary to protect the exempt status of specific classes of businesses currently exempt from regulation pursuant to the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE
CONSUMER PROTECTION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Hendricks by phone at 801-530-6035, by FAX at 801-538-6001, or by Internet E-mail at ahendricks@utah.gov

AUTHORIZED BY: Daniel O'Bannon, Director

EFFECTIVE: 08/05/2013

Education, Administration **R277-425**

Budgeting, Accounting, and Auditing for Utah Local Education Agencies (LEAs)

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37884
FILED: 08/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: Subsection 53A-1-402(1)(e)(iv) allows the Utah State Board of Education (Board) to adopt rules regarding financial, statistical, and student accounting requirements and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it specifies uniform budgeting, accounting, and auditing procedures for local education agencies consistent with Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards (GAAS). Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 08/02/2013

**Education, Administration
R277-470**

Charter Schools - General Provisions

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37885
FILED: 08/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides procedures for authorizing and funding charter schools. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 08/02/2013

**Education, Administration
R277-481
Charter School Oversight, Monitoring
and Appeals**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37886
FILED: 08/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides for oversight and monitoring of charter agreements and charter schools for compliance with minimum public education standards. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 08/02/2013

Education, Administration

R277-482

Charter School Timelines and Approval Processes

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37887
FILED: 08/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because

it provides procedures, timelines and approval criteria for new charter school authorization. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 08/02/2013

Education, Administration

R277-492

Utah Science Technology and Research Initiative (USTAR) Centers Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37888
FILED: 08/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures to direct recipient local education agencies (LEAs) to develop proposals to apply for USTAR Center grants. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 08/02/2013

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 08/02/2013

Education, Administration

R277-526

Paraeducator to Teacher Scholarship Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37889
FILED: 08/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities and Subsection 53A-6-802(8) requires the Board to make rules to administer the Paraeducator to Teacher Scholarship Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because a rule is required in statute and it provides application and accountability procedures and criteria for distribution of funds to paraeducators seeking to become licensed educators. Therefore, this rule should be continued.

Education, Administration

R277-609

Standards for School District, School and Charter School Discipline Plans

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37890
FILED: 08/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities; Subsection 53A-1-402(1) (b) requires the Board to establish rules concerning student discipline and control; and Section 53A-15-603 requires the Board to adopt rules that require local education agencies (LEAs) to enact gang prevention and intervention policies for all schools within the Board's jurisdiction.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides requirements for local education agency (LEA) school discipline plans and policies. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 08/02/2013

Education, Administration

R277-613

School District and Charter School
Bullying and Hazing Policies and
Training

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37891
FILED: 08/02/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides minimum criteria for local education agency (LEA) policies that prohibit bullying, cyber-bullying, harassment, hazing, and retaliation. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:

EDUCATION

ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 08/02/2013

Environmental Quality, Air Quality

R307-107

General Requirements: Breakdowns

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37902
FILED: 08/08/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources..." and Subsection 19-2-104(1)(c)(iii) allows the Board to write rules that require persons engaged in operation that result in air pollution to provide access to records relating to emissions that cause or contribute to air pollution. Thus, the Board may make rules such as Rule R307-107 that reduce the incidence of breakdowns that contribute to air pollution, and reduce the emissions that occur during breakdowns.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-107 was amended one time since the last five-year review. In 2012, the rule was repealed and reenacted. During the public comment period, the Division of Air Quality (DAQ) received multiple comments. Twelve comments were received from the general public that supported the proposed rule. Six community organizations submitted comments, all in favor of the proposed rule, but several submitted suggested changes to the proposed rule, such as amending definitions and adding language. DAQ received five comments from industry and trade associations, the majority of which did not favor the proposed rulemaking. These comments made suggestions such as removing the rule from the SIP, not modeling the rule after Wyoming's rule, and keeping the two-hour threshold reporting requirement.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Typically, startups and shutdowns in industrial operations cause more emissions of air pollutants than are emitted during normal operations. Breakdowns in processing equipment can cause excess emissions. The rule is needed to ensure that excess emissions are promptly reported so that the DAQ can take action to protect public health and require that the operator do everything possible to reduce excess emissions. In addition, this rule is part of Utah's State Implementation Plan, and cannot be deleted without EPA approval. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 08/08/2013

**Environmental Quality, Air Quality
 R307-123**

**General Requirements: Clean Fuels
 and Vehicle Technology Grant and
 Loan Program**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37901
 FILED: 08/08/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Clean Fuels and Vehicle Technology Program Act, Sections 19-1-401 through 19-1-405, creates the Clean Fuels and Vehicle Technology Fund in Section 19-1-403. Section 19-1-405 authorizes the Air Quality Board to make rules to establish state-wide eligibility requirements for technologies qualified to be awarded grant and loan monies from the Fund.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no amendments to this rule since it was adopted in 2008. When the rule was first adopted, the Division of Air Quality (DAQ) received comments recommending that the Board should extend the grant and loan program, as well as the alternative fuel tax credits to include vehicles that have been granted testing exemptions from EPA and to allow the seller of a vehicle to capture the tax credit in the event the buyer of the vehicle is a non-taxpaying entity.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Air Quality Board created Rule R307-123 to specify the requirements of the program as outlined in Sections 19-1-401 through 19-1-405. The rule defines certification criteria and proof of purchase requirements for eligible technology. Rule R307-123 allows the DAQ to administer this program. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 08/08/2013

**Health, Family Health and
 Preparedness, Children with Special
 Health Care Needs
 R398-20
 Early Intervention**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37892
 FILED: 08/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule implements the parent participation fee for the Baby Watch Early Intervention Program. This fee was mandated by the Utah State Legislature in 2003. Section 26-10-2 instructs the Department of Health to provide services for children with a disability. Section 26-1-5 grants the Department of Health rulemaking authority to implement all of Title 26. Section 63G-3-201 states that rulemaking is required when an agency provides a material benefit, or when an agency issues a written interpretation of a state mandate.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no public comments received on this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Baby Watch Early Intervention Program continues to operate, and to implement the parent participation fee required by the Utah State Legislature. In the 2013 General Legislative Session, the Utah Legislature increased the parent fee requirement under S.B. 2. The Department will be submitting a rule amendment to implement the new requirement.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILDREN WITH SPECIAL HEALTH CARE NEEDS
44 N MARIO CAPECCHI DR
SALT LAKE CITY, UT 84113
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Susan Ord by phone at 801-584-8441, by FAX at 801-584-8496, or by Internet E-mail at sord@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 08/02/2013

**Health, Family Health and
Preparedness, Licensing
R432-1
General Health Care Facility Rules**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37912
FILED: 08/12/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. Subsection 26-21-6(1) states: The department shall enforce rules established pursuant to this chapter and authorize an agent of the department to conduct inspections of health care facilities pursuant to this chapter. Subsection 26-21-6(2) states: The department may exercise all incidental powers necessary to carry out the purposes of this chapter, review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee, and make rules as necessary to implement the provisions of this chapter.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department agrees with the need to continue the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 08/12/2013

**Health, Family Health and Preparedness, Licensing
R432-2
General Licensing Provisions**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37913
FILED: 08/12/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. Subsection 26-21-6(1) states: The department shall enforce rules established pursuant to this chapter and authorize an agent of the department to conduct inspections of health care facilities pursuant to this chapter. Subsection 26-21-6(2) states: The department may exercise all incidental powers necessary to carry out the purposes of this chapter, review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee, and make rules as necessary to implement the provisions of this chapter.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department agrees with the need to continue the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov

♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 08/12/2013

**Health, Family Health and Preparedness, Licensing
R432-3
General Health Care Facility Rules Inspection and Enforcement**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37914
FILED: 08/12/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. Subsection 26-21-6(1) states: The department shall enforce rules established pursuant to this chapter and authorize an agent of the department to conduct inspections of health care facilities pursuant to this chapter. Subsection 26-21-6(2) states: The department may exercise all incidental powers necessary to carry out the purposes of this chapter, review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee, and make rules as necessary to implement the provisions of this chapter.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department agrees with the need to continue the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
FAMILY HEALTH AND PREPAREDNESS,

LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 08/12/2013

**Health, Family Health and
Preparedness, Licensing
R432-4
General Construction**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37915
FILED: 08/12/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. Subsection 26-21-6(1) states: The department shall enforce rules established pursuant to this chapter and authorize an agent of the department to conduct inspections of health care facilities pursuant to this chapter. Subsection 26-21-6(2) states: The department may exercise all incidental powers necessary to carry out the purposes of this chapter, review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee, and make rules as necessary to implement the provisions of this chapter.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: This rule continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department agrees with the need to continue the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 08/12/2013

**Health, Family Health and
Preparedness, Licensing
R432-5
Nursing Facility Construction**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37916
FILED: 08/12/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. Subsection 26-21-6(1) states: The department shall enforce rules established pursuant to this chapter and authorize an agent of the department to conduct inspections of health care facilities pursuant to this chapter. Subsection 26-21-6(2) states: The department may exercise all incidental powers necessary to carry out the purposes of this chapter, review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee, and make rules as necessary to implement the provisions of this chapter.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department agrees with the need to continue the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 LICENSING
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 08/12/2013

**Health, Family Health and
 Preparedness, Licensing
 R432-6
 Assisted Living Facility General
 Construction**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37917
 FILED: 08/12/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. Subsection 26-21-6(1) states: The department shall enforce

rules established pursuant to this chapter and authorize an agent of the department to conduct inspections of health care facilities pursuant to this chapter. Subsection 26-21-6(2) states: The department may exercise all incidental powers necessary to carry out the purposes of this chapter, review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee, and make rules as necessary to implement the provisions of this chapter.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department agrees with the need to continue the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 LICENSING
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 08/12/2013

**Human Services, Child and Family
 Services
 R512-309
 Out-of-Home Services, Foster Parent
 Reimbursement of Motor Vehicle
 Insurance Coverage for Youth in Foster
 Care**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37931
FILED: 08/15/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide reimbursement to a foster parent who is willing to provide motor vehicle insurance for a youth in their care to operate a motor vehicle pursuant to Section 62A-4a-121.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 08/15/2013

**Human Services, Services for People
with Disabilities**

R539-15

Time-Limited Respite Care Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37918
FILED: 08/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 62A-5-103(2) states that the Division of Services for People with Disabilities shall administer an array of services and supports for persons with disabilities and their families throughout the state, and make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule was created to provide standards for a Time-Limited Respite Care Program. This program is no longer being implemented and this rule is no longer needed. However, this rule is continued until a repeal can be put through the rulemaking process. (DAR NOTE: See the proposed repeal under DAR No. 37919 in this issue, September 1, 2013, of the Bulletin.)

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
195 N 1950 W 3RD FLR
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
♦ Nathan Wolfley by phone at 801-538-4154, by FAX at 801-538-4279, or by Internet E-mail at nwolfley@utah.gov

AUTHORIZED BY: Paul Smith, Director

EFFECTIVE: 08/13/2013

**Insurance, Administration
R590-246**

**Professional Employer Organization
(PEO) License Application Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37911

FILED: 08/09/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) authorizes the commissioner to write rules to implement the provisions of Title 31A. Section 31A-40-103 requires a rule to prescribe requirements for forms required under Chapter 40; prescribe requirements and process for correcting deficiency in working capital or negative working capital; may make rules to prescribe the requirements for the review and submission of a financial statement; and allows the commission to make rules to prescribe the requirements and process for when a PEO license is terminated. Section 31A-40-302 requires a rule to establish the licensing application form procedure for submitting it to the commissioner. Section 31A-40-306 addresses how to comply with the requirements of Sections 31A-40-205, 31A-40-302, and 31A-40-305 on a combined or consolidated basis files an audited financial statement.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written statements within the past five years regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule continue in force. It provides forms and instruction for the licensure of Professional Employer Organizations, which are a unique group, unlike other licensees of the department and without guidance from the insurance code.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 08/09/2013

**Insurance, Administration
R590-250**

**PEO Assurance Organization
Designation**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37907

FILED: 08/09/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-40-303(2) gives the commissioner authority to designate by rule one or more assurance organizations for certifying the qualifications of a professional employer organization. The purpose of the rule is to establish a process by which an assurance organization can be designated for certifying the qualifications of a professional provider organization.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As long as the law allows PEOs to be qualified by an assurance organization, this rule will be necessary to provide the steps to become an assurance organization. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 08/09/2013

Insurance, Administration
R590-251
Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37909
FILED: 08/09/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to write rules to implement the provisions of Title 31A. Subsection 31A-17-402(1) allows the commissioner to write rules to specify the liabilities required to be reported by an insurer in a financial statement provided to the department, as well as the method for valuing the liabilities listed in the statement. Subsection 31A-22-408(11) gives the commissioner the authority to adopt rules interpreting, describing, and clarifying the application of the nonforfeiture law to a life insurance form that the commissioner considers necessary. The rule establishes minimum mortality standards for reserves and nonforfeiture reserves.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule in effect because it helps protect the public interest on preneed policies by: increasing reserves to an appropriate level; promoting a responsible competitive environment by ensuring all insurers are acting responsibly; creating equitable value for consumers by increasing cash values; and promoting the reliability, solvency and financial solidity of insurance institutions by increasing the reserve requirement on preneed policies.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 08/09/2013

Lieutenant Governor, Administration
R622-1
Adjudicative Proceedings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37910
FILED: 08/09/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is required by Title 63G, Chapter 4, the Utah Administrative Procedures Act, and is enacted under the authority of Title 63G, Chapter 3, the Utah Administrative Rulemaking Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides the informal adjudicative procedures for submission, review, and disposition of petitions for agency declaratory rulings on the applicability of statutes, rules, and orders governing or issued by the agency governing: appeal and review of a decision by the Lieutenant Governor's Office regarding elections, certifications, lobby licensing, filing of documents. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 LIEUTENANT GOVERNOR
 ADMINISTRATION
 ROOM 220 STATE CAPITOL
 350 N STATE ST
 SALT LAKE CITY, UT 84114-2325
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Spencer Hadley by phone at 801-538-1041, by FAX at 801-538-1133, or by Internet E-mail at spencerhadley@utah.gov

AUTHORIZED BY: Mark Thomas, Chief Deputy

EFFECTIVE: 08/09/2013

**Natural Resources, Wildlife Resources
 R657-19
 Taking Nongame Mammals**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37893
 FILED: 08/05/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 23-14-18, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-19 were received since August 2008, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Wildlife Resources has carefully reviewed the biological data and purposes for which the Wildlife Board allows the taking of species listed in this rule and has determined that such species may be taken without harming the resource, while allowing recreational opportunities and depredation control on private lands. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 08/05/2013

**Natural Resources, Wildlife Resources
 R657-57
 Division Variance Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37894
 FILED: 08/05/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide authority, standards, and procedures for granting remedial relief to persons precluded from obtaining or using a wildlife document because of an event or condition beyond their control.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-57 have been received since 08/21/2008, when the rule was created.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-57 provides the authority, standards, and procedures for granting remedial relief to persons precluded from obtaining or using a wildlife document because of an event or condition beyond their control. Continuation of this rule is necessary for continued success with the remedial relief to those impacted by an event or condition beyond their control.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 08/05/2013

Natural Resources, Wildlife Resources **R657-59** Private Fish Ponds

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37895
FILED: 08/05/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-15-9 and 23-15-10, the Wildlife Board is authorized and required to provide the standards and procedures for private fish ponds.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-59 have been received since 08/21/2008, when the rule was created.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: Rule R657-59 provides the standards and procedures for private fish ponds. Continuation of this rule is necessary for continued success with the control of aquaculture facilities and products in the state.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 08/05/2013

Natural Resources, Wildlife Resources **R657-60** Aquatic Invasive Species Interdiction

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37896
FILED: 08/05/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated pursuant to authority granted to the Wildlife Board in Sections 23-27-401, 23-14-18, and 23-14-19.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-60 have been received since 08/21/2008, when the rule was created.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-60 defines the procedures and regulations designed to prevent and control the spread of aquatic invasive species within the State of Utah. Continuation of this rule is necessary for continued success with the control of aquatic invasive species.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 08/05/2013

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Administrative Services

Archives

No. 37658 (AMD): R17-7. Archival Records Care and

Access at the State Archives

Published: 06/15/2013

Effective: 08/15/2013

Commerce

Occupational and Professional Licensing

No. 37697 (AMD): R156-11a. Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule

Published: 07/01/2013

Effective: 08/08/2013

No. 37707 (AMD): R156-17b. Pharmacy Practice Act Rule

Published: 07/01/2013

Effective: 08/08/2013

No. 37706 (AMD): R156-69-302b. Qualifications for

Licensure - Examination Requirements - Dentist

Published: 07/01/2013

Effective: 08/08/2013

No. 37705 (AMD): R156-70a-304. Continuing Education

Published: 07/01/2013

Effective: 08/08/2013

Real Estate

No. 37678 (AMD): R162-2c. Utah Residential Mortgage Practices and Licensing Rules

Published: 06/15/2013

Effective: 08/07/2013

Education

Administration

No. 37734 (AMD): R277-406. K-3 Reading Improvement Program and the State Reading Goal

Published: 07/01/2013

Effective: 08/07/2013

No. 37735 (AMD): R277-407-3. Classes and Activities During the Regular School Day

Published: 07/01/2013

Effective: 08/07/2013

No. 37736 (AMD): R277-422-3. Requirements and Timelines for State-Supported Voted Local Levy

Published: 07/01/2013

Effective: 08/07/2013

No. 37737 (AMD): R277-445-3. Standards

Published: 07/01/2013

Effective: 08/07/2013

No. 37738 (R&R): R277-477. Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program

Published: 07/01/2013

Effective: 08/07/2013

No. 37739 (AMD): R277-484. Data Standards

Published: 07/01/2013

Effective: 08/07/2013

No. 37740 (AMD): R277-487. Public School Data Confidentiality and Disclosure

Published: 07/01/2013

Effective: 08/07/2013

No. 37741 (AMD): R277-489. Early Intervention Program

Published: 07/01/2013

Effective: 08/07/2013

No. 37742 (AMD): R277-490. Beverley Taylor Sorenson Elementary Arts Learning Program

Published: 07/01/2013

Effective: 08/07/2013

NOTICES OF RULE EFFECTIVE DATES

No. 37743 (AMD): R277-602. Special Needs Scholarships - Funding and Procedures
Published: 07/01/2013
Effective: 08/07/2013

No. 37744 (REP): R277-606. Grants to Purchase or Retrofit Clean School Buses
Published: 07/01/2013
Effective: 08/07/2013

No. 37745 (AMD): R277-617. Smart School Technology Program
Published: 07/01/2013
Effective: 08/07/2013

No. 37746 (NEW): R277-619. Student Leadership Skills Development
Published: 07/01/2013
Effective: 08/07/2013

Environmental Quality

Air Quality

No. 37582 (AMD): R307-101-3. Version of Code of Federal Regulations Incorporated by Reference
Published: 06/01/2013
Effective: 08/08/2013

Health

Administration

No. 37679 (AMD): R380-250. HIPAA Privacy Rule Implementation
Published: 07/01/2013
Effective: 08/07/2013

Health Care Financing, Coverage and Reimbursement Policy
No. 37715 (AMD): R414-1-5. Incorporations by Reference
Published: 07/01/2013
Effective: 08/07/2013

No. 37696 (AMD): R414-51. Dental, Orthodontia
Published: 07/01/2013
Effective: 08/14/2013

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Published: 07/01/2013
Effective: 08/08/2013

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No. 37717 (AMD): R708-21. Third-Party Testing
Published: 07/01/2013
Effective: 08/08/2013

No. 37718 (R&R): R708-45. Renewal or Duplicate License for a Utah Resident Temporarily Residing Out of State
Published: 07/01/2013
Effective: 08/08/2013

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2013 through August 15, 2013. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the Rules Index is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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R17-7	Archival Records Care and Access at the State Archives	37659	5YR	05/28/2013	2013-12/50
R17-7	Archival Records Care and Access at the State Archives	37658	AMD	08/15/2013	2013-12/8
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R25-6	Relocation Reimbursement	37522	5YR	04/15/2013	2013-9/29
R25-7	Travel-Related Reimbursements for State Employees	37523	5YR	04/15/2013	2013-9/30
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 R68-2 Utah Commercial Feed Act Governing Feed. 37632 NSC 06/07/2013 Not Printed
 R68-5 Grain Inspection 37249 5YR 02/05/2013 2013-5/189
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R861-1A-26	Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63G-4-204 through 63G-4-209	37104	AMD	02/21/2013	2013-1/15

R861-1A-37	Provisions Relating to Disclosure of Commercial Information Pursuant to Utah Code Ann. Section 59-1-404	37106	AMD	02/21/2013	2013-1/17
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R994-405	Ineligibility for Benefits	37648	5YR	05/16/2013	2013-12/60
R994-406	Fraud, Fault and Nonfault Overpayments	37024	AMD	01/02/2013	2012-22/148
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R994-508-102	Time Limits for Filing an Appeal from an Initial Department Determination	37670	AMD	08/01/2013	2013-12/39

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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	37167	R270-2	NSC	01/30/2013	Not Printed
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	36554	R305-6	CPR	01/31/2013	2013-1/32
	36553	R305-7	NEW	01/31/2013	2012-16/45
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	37140	R612-12	REP	02/25/2013	2013-2/55
	37141	R612-13	REP	02/25/2013	2013-2/57
	37124	R612-100	NEW	02/25/2013	2013-2/58
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	37513	R311-500	NSC	04/29/2013	Not Printed
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	36723	R307-101-2	CPR	02/01/2013	2013-1/38
	37702	R307-101-2	NSC	07/09/2013	Not Printed
	37582	R307-101-3	AMD	08/08/2013	2013-11/24
	37261	R307-102	5YR	02/06/2013	2013-5/191
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	37260	R307-115	5YR	02/06/2013	2013-5/192
	37901	R307-123	5YR	08/08/2013	Not Printed
	37259	R307-170	5YR	02/06/2013	2013-5/192
	36481	R307-208	NEW	04/10/2013	2012-15/12
	36481	R307-208	CPR	04/10/2013	2012-23/56
	36481	R307-208	CPR	04/10/2013	2013-5/184
	37258	R307-220	5YR	02/06/2013	2013-5/193
	37257	R307-221	5YR	02/06/2013	2013-5/194
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	37255	R307-223	5YR	02/06/2013	2013-5/195
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	36741	R307-307	CPR	02/01/2013	2013-1/45
	37234	R307-307	NSC	02/15/2013	Not Printed
	36740	R307-312	NEW	02/01/2013	2012-19/45
	36740	R307-312	CPR	02/01/2013	2013-1/47
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	36725	R307-340	CPR	02/01/2013	2013-1/48
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	37275	R307-342	CPR	08/01/2013	2013-13/208
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	36738	R307-343	CPR	05/01/2013	2013-1/49
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	36728	R307-346	CPR	02/01/2013	2013-1/57
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	36729	R307-347	CPR	02/01/2013	2013-1/59
	36730	R307-348	NEW	02/01/2013	2012-19/73
	36730	R307-348	CPR	02/01/2013	2013-1/61
	36731	R307-349	NEW	02/01/2013	2012-19/74
	36731	R307-349	CPR	02/01/2013	2013-1/63
	36732	R307-350	NEW	02/01/2013	2012-19/76
	36732	R307-350	CPR	02/01/2013	2013-1/65
	36733	R307-351	NEW	02/01/2013	2012-19/80
	36733	R307-351	CPR	02/01/2013	2013-1/69
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	36734	R307-352	NEW	02/01/2013	2012-19/84
	36734	R307-352	CPR	02/01/2013	2013-1/73
	36735	R307-353	NEW	05/01/2013	2012-19/86
	36735	R307-353	CPR	05/01/2013	2013-1/75
	36735	R307-353	CPR	05/01/2013	2013-7/46
	36736	R307-354	NEW	02/01/2013	2012-19/88
	36736	R307-354	CPR	02/01/2013	2013-1/79
	36737	R307-355	NEW	02/01/2013	2012-19/91
	36737	R307-355	CPR	02/01/2013	2013-1/82
	37237	R307-355-5	NSC	02/15/2013	Not Printed
	37276	R307-357	NEW	08/01/2013	2013-5/22
	37276	R307-357	CPR	08/01/2013	2013-13/213
	37037	R307-401-15	AMD	02/07/2013	2012-23/40
	37236	R307-401-15	NSC	02/15/2013	Not Printed
	37268	R307-401-19	AMD	07/01/2013	2013-5/36
	37268	R307-401-19	CPR	07/01/2013	2013-11/72
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	37264	R307-403-2	CPR	07/01/2013	2013-11/74
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	37363	R81-1-31	CPR	06/25/2013	2013-10/206
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	37788	R309-215	NSC	07/19/2013	Not Printed

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	37178	R865-9I-46	NSC	01/31/2013	Not Printed	
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	37720	R309-605	NSC	07/09/2013	Not Printed	
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	37463	R671-517	AMD	05/22/2013	2013-8/33	
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Commerce, Occupational and Professional Licensing	37395	R156-1	NSC	04/01/2013	Not Printed	
	37199	R156-1-102	AMD	03/11/2013	2013-3/2	
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	37597	R313-12-3	NSC	06/07/2013	Not Printed	
	37194	R313-19	AMD	03/19/2013	2013-3/45	
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Education, Administration	37495	R277-483	5YR	04/08/2013	2013-9/31	
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	37453	R384-201	AMD	07/01/2013	2013-8/6	
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	37359	R277-517-5	NSC	03/15/2013	Not Printed
Health, Center for Health Data, Vital Records and Statistics	37418	R436-1	5YR	03/19/2013	2013-8/55
	37429	R436-10	5YR	03/21/2013	2013-8/60
	37430	R436-12	5YR	03/21/2013	2013-8/60
	37431	R436-13	5YR	03/21/2013	2013-8/61
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Administrative Services, Finance	37521	R25-5	5YR	04/15/2013	2013-9/29
	37558	R25-5	AMD	06/21/2013	2013-10/6
	37523	R25-7	5YR	04/15/2013	2013-9/30
	37556	R25-7	AMD	06/21/2013	2013-10/7
	37524	R25-8	5YR	04/15/2013	2013-9/30
	37557	R25-8	AMD	06/21/2013	2013-10/12
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Human Services, Substance Abuse and Mental Health, State Hospital	37212	R525-6	5YR	01/23/2013	2013-4/58
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	37392	R27-3-5	AMD	06/07/2013	2013-7/4
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	37415	R277-702	AMD	05/16/2013	2013-7/26
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	37517	R994-403	AMD	06/12/2013	2013-9/23
	37671	R994-403-115c	AMD	08/01/2013	2013-12/38
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	37634	R277-411	NEW	07/08/2013	2013-11/16
	37496	R277-485	5YR	04/08/2013	2013-9/32
	37144	R277-487	AMD	02/21/2013	2013-2/7
	37740	R277-487	AMD	08/07/2013	2013-13/43
	37746	R277-619	NEW	08/07/2013	2013-13/58
	37405	R277-709	5YR	03/12/2013	2013-7/64
	37244	R277-709-3	NSC	02/15/2013	Not Printed

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Education, Administration	37628	R277-460	5YR	05/15/2013	2013-11/98	
	37419	R277-460-6	NSC	04/15/2013	Not Printed	
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Environmental Quality, Radiation Control	37187	R313-38	NSC	01/31/2013	Not Printed	
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	37199	R156-1-102	AMD	03/11/2013	2013-3/2	
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	36725	R307-340	CPR	02/01/2013	2013-1/48	
	36728	R307-346	NEW	02/01/2013	2012-19/69	
	36728	R307-346	CPR	02/01/2013	2013-1/57	
	36729	R307-347	NEW	02/01/2013	2012-19/71	
	36729	R307-347	CPR	02/01/2013	2013-1/59	
	36730	R307-348	NEW	02/01/2013	2012-19/73	
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	37186	R313-36	NSC	01/31/2013	Not Printed	
	37187	R313-38	NSC	01/31/2013	Not Printed	
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	37447	R746-405	AMD	06/20/2013	2013-8/38	
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	37104	R861-1A-26	AMD	02/21/2013	2013-1/15
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	37510	R277-508	AMD	06/07/2013	2013-9/8
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	37638	R686-102	5YR	05/16/2013	2013-12/58
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	37745	R277-617	AMD	08/07/2013	2013-13/56
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	37758	R746-340	5YR	06/24/2013	2013-14/120
	37449	R746-343-15	AMD	07/01/2013	2013-8/37
	37869	R746-344	5YR	07/31/2013	2013-16/67
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	37530	R162-2f	AMD	06/21/2013	2013-10/17	
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	37482	R311-201	NSC	04/29/2013	Not Printed	
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	37484	R311-204	NSC	04/29/2013	Not Printed	
	37485	R311-205	NSC	04/29/2013	Not Printed	
	37486	R311-206	NSC	04/29/2013	Not Printed	
	37579	R311-207	NSC	05/17/2013	Not Printed	
	37488	R311-208	NSC	04/29/2013	Not Printed	
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	37652	R994-306	5YR	05/16/2013	2013-12/58	
	37651	R994-307	5YR	05/16/2013	2013-12/59	
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