

UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

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

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

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: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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EDITOR'S NOTES

Processing Error in the Publication of Rule R317-2, Filing No. 43586, in the April 1, 2019, Utah State Bulletin

Due to a processing error, a small amount of marked up text in Rule R317-2, Filing No. 43586, was not published in the April 1, 2019, issue of the Utah State Bulletin.

The text is reproduced below:

TABLE 2.14.3a
EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS STANDARD
WITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS STANDARD
BY APPLICATION OF A CONVERSION FACTOR (CF)

Parameter	4-Day Average (Chronic) Concentration (UG/L)
CADMIUM	$CF * e^{(0.7977 * \ln(\text{hardness}) - 3.909)}$ $CF = 1.101672 - \ln(\text{hardness}) (0.041838)$

The missing markup is in the entry for "CADMIUM", where a "3" is added to the last term in the exponent in the third line of text.

This change was clearly described in the rule analysis that accompanied the proposed rule. It is reproduced here for the sake of completeness. The proposed amendment to Rule R317-2 made by Filing No. 43586 was made effective on 07/01/2019.

Questions concerning this error may be directed to Mike Broschinsky, Coordinator, Office of Administrative Rules, at: 801-538-3003, or email at: mbroschi@utah.gov.

End of the Editor's Notes Section

SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for September 2019 Medicaid Rate Changes

Effective September 1, 2019, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, potential adjustments to existing codes, and nursing home rate changes to case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>

Health Health Care Financing, Coverage and Reimbursement Policy

Access Monitoring Review Plan

On November 2, 2015, the federal Centers for Medicare & Medicaid Services (CMS) published a final rule implementing the equal access provision that requires state Medicaid agencies to develop a medical assistance access monitoring review plan. The review plan must consider:

1. The extent to which beneficiary needs are fully met;
2. The availability of care through enrolled providers to beneficiaries in each geographic area, by provider type and site of service;
3. Changes in beneficiary utilization of covered services in each geographic area;
4. The characteristics of the beneficiary population (including considerations for care, service and payment variations for pediatric and adult populations and for individuals with disabilities); and
5. Actual or estimated levels of provider payment available from other payers, including other public and private payers, by provider type and site of service.

The rule requires states to develop review plans and update them periodically. States must make plans available to the public for at least 30 days, finalize them, and submit them to CMS for review. The plan is due by October 1, 2019.

The final rule excludes access reviews for Medicaid managed care arrangements.

In further efforts to provide comparable access to that which is provided to non-Medicaid enrollees, and in accordance with 42 CFR 447.203, the Division of Medicaid and Health Financing has developed an Access Monitoring Review Plan (AMRP) for service categories provided under a fee-for-service arrangement. The AMRP is available for review at <https://medicaid.utah.gov/uamrp-utah-access-monitoring-review-plan>.

The public may comment on the review plan during the comment period that began August 12, 2019, and will continue through September 15, 2019. Comments may be submitted to the same website at <https://medicaid.utah.gov/uamrp-utah-access-monitoring-review-plan>.

End of the Special Notices Section

EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either 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 Office of Administrative Rules for publication and distribution.

Wildland Fire Management, Utah Exec. Order No. 2019-3

EXECUTIVE ORDER

Wildland Fire Management

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

WHEREAS, wildfires are currently burning in some areas of the State;

WHEREAS, fire restrictions and wildfire warnings are in place across the State;

WHEREAS, extreme dry conditions have occurred and are forecasted throughout the State;

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

WHEREAS, we have seen fires that are not immediately extinguished soon after ignition have grown to large fires;

WHEREAS, immediate action will be required to suppress fires and mitigate post burn flash floods to protect public safety, property, natural resources and the environment should these dangerous conditions escalate to active wildfires;

WHEREAS, these conditions do create the potential for a disaster emergency within the scope 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, critical infrastructure, natural resources and the environment, effective for the month of August 2019, 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 1st day of August 2019.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2019/003/EO

Wildland Fire Management, Utah Exec. Order No. 2019-2

EXECUTIVE ORDER

Wildland Fire Management

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

WHEREAS, Spring precipitation in Utah contributed to high fuel loads of wildland vegetation;

WHEREAS, wildfires are currently burning in some areas of the State;

WHEREAS, fire restrictions and wildfire warnings are in place across the State;

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 will be required to suppress fires and mitigate post burn flash floods to protect public safety, property, natural resources and the environment should these dangerous conditions escalate to active wildfires;

WHEREAS, these conditions do create the potential for a disaster emergency within the scope 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, critical infrastructure, natural resources and the environment, effective for the month of July 2019, 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 1st day of July 2019.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2019/002/EO

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 substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between July 16, 2019, 12:00 a.m., and August 01, 2019, 11:59 p.m. are included in this, the August 15, 2019, 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 (example). Deletions made to existing rules are struck out with brackets surrounding them (~~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 usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may 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 Office 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 September 16, 2019. 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 13, 2019, the agency may notify the Office 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 Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Agriculture and Food, Animal Industry
R58-1
Admission, Identification, and
Inspection of Livestock, Poultry, and
Other Animals

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43911

FILED: 07/23/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Each time a horse enters the state the owner is required to obtain a Certificate of Veterinary Inspection which is valid for up to 30 days for a specified destination. These proposed changes would allow for an extended electronic certification of inspection which would be valid for up to six months.

SUMMARY OF THE RULE OR CHANGE: Generally, each time a horse moves between states, the owner is required to obtain a Certificate of Veterinary Inspection (CVI) which is valid for up to 30 days for a specified destination. This means they need to arrange for a veterinarian to visually inspect the horse and issue the CVI. An Extended Electronic Certificate of Veterinary Inspection (EECVI) functions the same as regular health certificates, but allow horse owners to move for up to six months after the veterinarian inspects the horse and issues the EECVI. Horse owners who choose the EECVI option will self-report their intended horse movement to the State Veterinarian's office in each state that they visit instead of obtaining a new CVI for each destination.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-2-103 and Title 4 Chapter 31

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The EECVI digital platform and automatic reporting features has the potential to reduce the amount of time the Department of Agriculture and Food (Department) staff spend manually entering CVI data into our electronic system. However, at this time it is not possible for the Department to estimate the savings possible as this is only one of the options available and the Department cannot determine how many horse owners will use the EECVI platform.

◆ **LOCAL GOVERNMENTS:** These rule changes are not anticipated to result in any costs or savings with respect to any local governments.

◆ **SMALL BUSINESSES:** Generally, each time a horse moves between states, the owner is required to obtain a CVI. The cost of a farm visit, in addition to the fee for issuing the CVI may range from \$30 to \$60 each time an owner wants to

move a horse across state lines. The cost of the EECVI option is expected to be comparable to the cost of a standard CVI. However, because the EECVI is valid for six months it means that horse owners will only need to pay for a veterinary inspection twice per year instead of each time they want to take their horse out of Utah. This will be especially useful to those who are bringing horses into the state to participate in recreation events.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The cost of a farm visit, in addition to the fee for issuing the CVI may range from \$30 to \$60 each time an owner wants to move a horse across state lines. The cost of the EECVI option is expected to be comparable to the cost of a standard CVI. However, because the EECVI is valid for six months it means that horse owners will only need to pay for a veterinary inspection twice per year instead of each time they want to take their horse out of Utah. This will be especially useful to those who are bringing horses into the state to participate in recreation events.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional cost to the affected persons as there is no change in the requirements, only offering an alternative method to comply with the requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The EECVI will make it easier and less costly for out of state horse owners from participating states to bring their horses to Utah for recreational purposes, potentially providing an economic benefit to rural areas of Utah.

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

AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kelly Pehrson by phone at 801-538-7102, or by Internet E-mail at kwpehrson@utah.gov
 ◆ Leann Hunting by phone at 801-538-7166, or by Internet E-mail at leannhunting@utah.gov
 ◆ Melissa Ure by phone at 801-538-4978, or by Internet E-mail at mure@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Kerry Gibson, Commissioner

Appendix 1: Regulatory Impact Analysis for Small and Non-Small Businesses

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

Generally, each time a horse moves between states, the owner is required to obtain a Certificate of Veterinary Inspection (CVI) which is valid for up to 30 days for a specified destination. This means they need to arrange for a veterinarian to visually inspect the horse and issue the CVI. The cost of a farm visit, in addition to the fee for issuing the CVI may range from \$30-\$60 each time an owner wants to move a horse across state lines. EECVIs function the same as regular health certificates, but allow horse owners to move for up to six months after the veterinarian inspects the horse and issues the EECVI. Horse owners who choose the EECVI option will self-report their intended horse movement to the State Veterinarian's office in each state that they visit instead of obtaining a new CVI for each destination. The cost of the EECVI option is expected to be comparable to the cost of a standard CVI. This means that horse owners will only need to pay for a veterinary inspection twice per year instead of each time they want to take their horse out of Utah.

The Commissioner of the Department of Agriculture and Food, Kerry Gibson, has reviewed and approved this fiscal analysis.

R58. Agriculture and Food, Animal Industry.

R58-1. Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals.

R58-1-1. Authority.

(1) Promulgated under the authority of Title 4, Chapter 31 and Subsections 4-2-103(c)(i), and 4-2-103(1)(i).

(2) It is the intent of these rules to eliminate or reduce the spread of diseases among animals by providing standards to be met in the movement of animals within the State of Utah (INTRASTATE) and the importation of animals into the state (INTERSTATE).

R58-1-2. Definitions.

(1) "Accredited Veterinarian" means a veterinarian approved by the Deputy Administrator of Veterinary Services (VS), Animal and Plant Health Inspection Services (APHIS), United States Department of Agriculture (USDA), in accordance with the provisions of 9 CFR 161 to perform functions required by cooperative State-Federal disease control and eradication programs.

(2) "Animal identification number (AIN)" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of 15 digits, with the first 3 being the country code (840 for the United States or a unique country code for any U.S. territory that has such a code and elects to use it in place of the 840 code).

(3) "Animals" means all vertebrates, except humans.

(4) "Approved livestock facility" means a stockyard, livestock market, buying station, concentration point, or any other premises under State or Federal veterinary inspection where livestock are assembled and that has been approved by the Department.

(5) "Approved Livestock Market" means a livestock market that is licensed by the Department under Title 4, Chapter 30, Livestock Markets.

(6) "Approved Slaughter Establishment" means a State or Federally inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by State or Federal inspectors.

(7) "Approved tagging site" means a premises, authorized by Department, where livestock may be officially identified on behalf of their owner or the person in possession, care, or control of the animals when they are brought to the premises.

(8) "Brand Inspection Certificate" means an official form, issued by a government agency or other agency responsible for animal identification in the state of origin, used to transfer title of livestock; listing the identification marks of the animal(s) as well as the consignor and consignee contact information.

(9) "Camelidae" means a term referring to members of the family of animals which for the purposes of these rules includes camels (*Camelus dromedarius* and *Camelus bactrianus*), llamas (*Lama glama*), alpacas (*Vicugna pacos*), guanacos (*Lama guanicoe*), and vicunas (*Vicugna vicugna*).

(10) "Captive Cervidae" means a term referring to members of the family of animals which for the purposes of these rules includes captive bred Caribou (Reindeer (*Rangifer tarandus*)), captive bred Elk (*Cervus canadensis nelsoni*), and captive bred Fallow deer (*Dama dama*) or any other captive bred cervidae allowed with permission from the State Veterinarian and the Utah Division of Wildlife Resources.

(11) "Certificate of Veterinary Inspection" means an official paper or electronic form completed by an accredited veterinarian that has examined the animal or animals listed on the certificate and has completed all disease testing or vaccinations as required.

(12) "Commuter herd" means a herd of cattle located in two or more states that is documented as a valid ranching operation by those states in which the herd is located and which requires movement of cattle interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premise owned, leased, or rented by the same individual.

(13) "Commuter herd agreement" means a written agreement between the owner(s) of a herd of cattle and the animal health officials for the States or Tribes of origin and destination specifying the conditions required for the interstate movement from one premises to another in the course of normal livestock management operations and specifying the time period, up to 1 year, that the agreement is effective. A commuter herd agreement may be renewed annually.

(14) "Dairy cattle" means all cattle, regardless of age or sex or current use, that are of a breed(s) used to produce milk or other dairy products for human consumption, including, but not limited to, Ayrshire, Brown Swiss, Holstein, Jersey, Guernsey, Milking Shorthorn, and Red and Whites.

(15) "Department" means the Utah Department of Agriculture and Food.

(16) "Designated brucellosis surveillance area" means an area within a state that has been designated by the animal health official of that state as an area of increased disease risk for bovine brucellosis.

(17) "Direct Movement" means the movement in which the animals are not unloaded enroute to their final destination, except for stops of less than 24 hours to feed, water, or rest the animals being moved, and not commingled with another producer's animals.

(18) "Exotic animal" means a rare or unusual animal pet or an animal, not commonly thought of as a pet, kept within a human household. For this chapter, rodents, reptiles, and amphibians are considered exotic animals.

(19) "Exposed Animal" means an animal that has been in contact with or on the same premises of or within a quarantine zone where animals with a contagious or communicable disease are present.

(20) "Farm of Origin" means the farm where the animal was born and remain prior to importation into the state.

(21) "Flock-based number system" means the flock-based number system that combines a flock identification number (FIN) with a producer's unique livestock production numbering system to provide a nationally unique identification number for an animal.

(22) "Flock identification number (FIN)" means a nationally unique number assigned by a State, Tribal, or Federal animal health authority to a group of animals that are managed as a unit on one or more premises and are under the same ownership.

(23) "Group/lot identification number (GIN)" means the identification number used to uniquely identify a "unit of animals" of the same species that is managed together as one group throughout the preharvest production chain.

(24) "Import Permit" means a number given by the Department to the issuing veterinarian that is recorded on the certificate of veterinary inspection and is required before movement of the animals into the state.

(25) "Interstate movement" means movement of animals from one State into or through any other State.

(26) "Livestock Market Veterinarian" means a Utah licensed and USDA accredited veterinarian appointed by the Utah Department of Agriculture and Food to work at approved livestock markets.

(27) "Location identification (LID) number" means a nationally unique number issued by a State, Tribal, and/or Federal animal health authority to a location as determined by the State or Tribe in which it is issued. The LID number may be used in conjunction with a producer's own unique livestock production numbering system to provide a nationally unique and herd-unique

identification number for an animal. It may also be used as a component of a group/lot identification number (GIN).

(28) "National Uniform Eartagging System (NUES)" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal.

(29) "Official Calfhood Vaccinate" means female bison or cattle vaccinated by a USDA Veterinary Services representative, State certified technician, or accredited veterinarian with an approved dose of RB51 vaccine or other USDA approved agent while from 4 to 12 months of age in accordance with its labeling. These cattle must be properly identified by official tattoos and ear tag or registration tattoo and be reported on an official vaccination certificate (VS Form 4-24) within 30 days to the State Veterinarian.

(30) "Official eartag" means an identification tag approved by the Department that bears an official identification number for individual animals. The official eartag must be tamper-resistant and have a high retention rate in the animal.

(31) "Official eartag shield" means the shield shaped graphic of the U.S. Route Shield with "U.S." or the State postal abbreviation or Tribal alpha code imprinted within the shield.

(32) "Official identification device or method" means a means approved by the Department of applying an official identification number to an animal of a specific species or associating an official identification number with an animal or group of animals of a specific species or otherwise officially identifying an animal or group of animals.

(33) "Official identification number" means a nationally unique number that is permanently associated with an animal or group of animals.

(34) "Officially identified" means identified by means of an official identification device or method approved by the Department.

(35) "Poultry" means domestic fowl (chickens, turkeys, ducks, geese, and guinea and pea fowl), pigeons and doves, pheasants and other gamebirds, and ratites.

(36) "Premises identification number (PIN)" means a nationally unique number assigned by a State, Tribal, and/or Federal animal health authority to a premises that is, in the judgment of the State, Tribal, and/or Federal animal health authority a geographically distinct location from other premises.

(37) "Qualified Feedlot" means a feedlot approved by the Utah Department of Agriculture and Food to handle heifers, cows or bulls which are either official calfhood vaccinated, or brucellosis unvaccinated animals confined to a drylot area which is used to upgrade or finish feeding animals going only to slaughter or another qualified feedlot. All such animals must be kept separate from other animals not destined for slaughter.

(38) "Quarantine" means a verbal or written restriction of movement of animals into or out of an area or premise, issued by a State Animal Health Official.

(39) "Reactor" means any animal that has been determined by a designated brucellosis epidemiologist to be infected with brucellosis based on test results, herd/flock history, and/or culture results.

(40) "Suspect" means any animal that may be infected with a contagious, infectious, or communicable disease based on test results and/or herd/flock history.

(41) "Test Eligible Cattle and Bison" means all cattle or bison six months of age or older, except:

1. Steers, spayed heifers;

2. Official calfhood vaccinates of any breed under 24 months of age which are not parturient, springers, or post parturient.

(42) "United States Department of Agriculture (USDA) approved backtag" means a backtag issued by APHIS that provides a temporary unique identification for each animal.

(43) "Zoological animal" means an animal kept at a zoological garden (zoo) or other exhibition that is inspected on a regular basis by the United States Department of Agriculture.

R58-1-3. Official Identification Devices and Methods.

(1) Any State, Tribe, accredited veterinarian, or other person or entity who distributes official identification devices must maintain for 5 years a record of the names and addresses of anyone to whom the devices were distributed.

(2) An official identification number is a nationally unique number that is permanently associated with an animal or group of animals and that adheres to one of the following systems:

(a) National Uniform Eartagging System (NUES).

(b) Animal identification number (AIN).

(c) Location-based number system.

(d) Flock-based number system.

(e) Any other numbering system approved by the animal health official of the state of origin for the official identification of animals.

(3) The Department has approved the following official identification devices or methods for the species listed.

(a) The Department may authorize the use of additional devices or methods for a specific species if the Department determines that such additional devices or methods will provide for adequate traceability.

(4) Cattle and bison that are required to be officially identified for interstate movement must be identified by means of:

(a) An official eartag; or

(b) Brands registered with a recognized brand inspection authority and accompanied by an official brand inspection certificate, when agreed to by the shipping and receiving State or Tribal animal health authorities; or

(c) Tattoos and other identification methods acceptable to a breed association for registration purposes, accompanied by a breed registration certificate, when agreed to by the shipping and receiving State or Tribal animal health authorities; or

(d) Group/lot identification when a group/lot identification number (GIN) may be used.

(5) Horses and other equine species that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) A description sufficient to identify the individual equine including, but not limited to, name, age, breed, color, gender, distinctive markings, and unique and permanent forms of identification when present (e.g., brands, tattoos, scars, cowlicks, blemishes or biometric measurements); or

(b) Electronic identification that complies with ISO 11784/11785; or

(c) Non-ISO electronic identification injected to the equine on or before June 30, 2013; or

(d) Digital photographs sufficient to identify the individual equine.

(6) Poultry that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) Sealed and numbered leg bands; or

(b) Group/lot identification when a group/lot identification number (GIN) may be used.

(7) Sheep and goats that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) Electronic implants when accompanied by a certificate or owner statement that includes the electronic implant numbers and the name of the chip manufacturer; or

(b) Official eartags, including tags approved for use in the Scrapie Flock Certification Program or APHIS-approved premises identification number eartags when combined with a unique animal identification number; or

(c) United States Department of Agriculture backtags or official premises identification backtags that include a unique animal identification number, when used on sheep or goats moving directly to slaughter and when applied within 3 inches of the poll on the dorsal surface of the head or neck; or

(d) Legible official registry tattoos that have been recorded in the book of record of a sheep or goat registry association when the animal is accompanied by either a registration certificate or a certificate of veterinary inspection.

(i) These tattoos may also be used as premises identification if they contain a unique premises prefix that has been linked in the National Scrapie Database with the assigned premises identification number of the flock of origin; or

(e) Premises identification eartags or tattoos, if the premises identification method includes a unique animal number or is combined with a flock eartag that has a unique animal number and the animal is accompanied by an owner statement; or

(f) Premises identification when premises identification is allowed and the animal is accompanied by an owner statement; or

(g) Any other official identification method or device approved by the animal health official of the state of origin.

(8) Swine that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) Official eartags; or

(b) United States Department of Agriculture backtags, when used on swine moving to slaughter; or

(c) Official swine tattoos, when used on swine moving to slaughter; or

(d) Ear notching when used on any swine, if the ear notching has been recorded in the book of record of a purebred registry association; or

(e) Tattoos on the ear or inner flank of any swine, if the tattoos have been recorded in the book of record of a swine registry association;

(f) For slaughter swine and feeder swine, an eartag or tattoo bearing the premises identification number assigned by the State animal health official to the premises on which the swine originated; or

(g) Any other official identification device or method that is approved by the animal health official of the state of origin; or

(h) Group/lot identification when a group/lot identification number (GIN) may be used.

(9) Captive cervids that are required to be officially identified for interstate movement must be identified by one of the following methods:

- (a) Official eartag; and
- (b) A tattoo that is placed peri-anally or inside the right ear and consist of a number assigned by the animal health official of the state of origin; or
- (c) A microchip that has been placed in the right ear.

R58-1-4. Intrastate Cattle Movement - Rules - Brucellosis.

(1) The State Veterinarian may require brucellosis testing of cattle, bison, and elk, moving intrastate as necessary to protect against potential disease threat or outbreak.

(2) Utah Department of Agriculture and Food Livestock Inspectors will help regulate intrastate movement of cattle according to Brucellosis rules at the time of change of ownership inspection.

R58-1-5. Interstate Importation Standards.

(1) No animal, poultry or bird of any species or other animal including wildlife, that is known to be affected with or has been exposed to a contagious, infectious or communicable disease, or that originates from a quarantined area, shall be shipped, transported or moved into the State of Utah until written permission for such entry is first obtained from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services Division, and the Utah Department of Agriculture and Food, State Veterinarian or Commissioner of Agriculture.

(a) Failure to obtain written permission may result in a citation.

(2) An official Certificate of Veterinary Inspection issued by an accredited veterinarian is required for importation of all animals.

(3) A copy of the certificate shall be immediately forwarded to the Utah Department of Agriculture and Food by the issuing veterinarian or the animal health official of the state of origin within 7 calendar days from date on which the Certificate of Veterinary Inspection or other document is received or issued.

(4) Import permits for livestock, poultry and other animals may be obtained by telephone or via the internet to the accredited veterinarian responsible for issuing a Certificate of Veterinary Inspection.

(5) Certificates of Veterinary Inspection are considered valid for 30 days from the date of inspection.

R58-1-6. Cattle and Bison.

(1) A Certificate of Veterinary Inspection and an import permit must accompany all cattle and bison imported into the state.

(2) All cattle and bison must carry some form of individual identification as listed in R58-1-3(4).

(a) Individual identification must be listed on the Certificate of Veterinary Inspection.

(i) Official individual identification used for testing purposes must be shown on the Certificate of Veterinary Inspection; or

(ii) A copy of the official brucellosis or tuberculosis test sheets must be stapled to each copy of the Certificate of Veterinary Inspection.

(b) All cattle and bison imported into Utah from Canada, except those imported directly to slaughter, must be permanently branded with the letters CAN, not less than two (2) inches high nor more than three (3) inches high, placed high on the right hip.

(3) The import permit number must be listed on the Certificate of Veterinary Inspection.

(4) The following cattle are exempted from (1) above:

(a) Cattle consigned directly to slaughter at an approved slaughter establishment; or

(b) Cattle consigned directly to a State or Federal approved Auction Market.

(c) Movements under Subsections R58-1-5(4)(a), and R58-1-5(4)(b) must be in compliance with state and federal laws and regulations and must be accompanied by a weighbill, brand certificate, or similar document showing some form of positive identification, signed by the owner or shipper stating the origin, destination, number and description of animals and purpose of movement.

(d) Commuter cattle are exempt as outlined in Subsection R58-1-5(6).

(5) A brand inspection certificate or proof of ownership, which indicates the intended destination, is required for cattle entering the state.

(6) Commuter cattle may enter Utah or return to Utah after grazing if the following conditions are met.

(a) A commuter permit approved by the import state and the State of Utah must be obtained prior to movement into Utah. This will allow movements for grazing for the current season if the following conditions are met:

(i) All cattle shall meet testing requirements as to State classification for interstate movements as outlined in 9 CFR 1-78, which is incorporated by reference; USDA, Animal and Plant Health Inspection Services, Brucellosis Eradication, Uniform Methods and Rules, October 1, 2003, and approved by cooperating States.

(ii) Commuter cattle shall not be mixed with quarantined, exposed, or suspect cattle nor change ownership during the grazing period.

(iii) All bulls used in the commuter herd must be tested annually for trichomoniasis as required by the State of Utah.

(b) No quarantined, exposed or reactor cattle shall enter Utah.

(7) Prior to importation of cattle or bison into Utah the following health restrictions must be met.

(a) Bison and cattle heifers of vaccination age between four and 12 months must be officially calfhood vaccinated for brucellosis prior to entering Utah, unless;

(i) going directly to slaughter, or

(ii) qualified feedlot to be sold for slaughter, or

(iii) to an approved livestock market to be sold for slaughter or for vaccination.

(iv) Bison and cattle heifers of vaccination age may be vaccinated upon arrival by special permit from the State Veterinarian.

(b) All female bison and cattle over 12 months of age imported to Utah must have evidence of a brucellosis calfhood vaccination tattoo to be imported or sold into the State of Utah, unless;

(i) going directly to slaughter, or

(ii) qualified feedlot to be sold for slaughter, or

(iii) to an approved livestock market to be sold for slaughter, or

(iv) tested negative for *Brucella abortus* within 30 days prior to entry.

(c) Test eligible cattle imported from states designated as brucellosis free, but are coming from a designated brucellosis

surveillance area within that state, must be tested negative for brucellosis within 30 days prior to entry.

(i) Test eligible cattle may enter the state prior to testing with approval from the State Veterinarian but must be tested immediately upon arrival and the cattle must be kept isolated away from other cattle until tested negative.

(d) All test eligible cattle imported from states that have not been designated as brucellosis free must test negative for brucellosis within 30 days before movement into Utah.

(e) Exceptions to the above testing requirements include exhibition animals and test eligible cattle imported to Utah and moving directly to:

(i) an approved livestock market, or

(ii) to a "qualified feedlot", or

(iii) for immediate slaughter to an approved slaughter establishment.

(f) No reactor cattle, or cattle from herds under quarantine for brucellosis will be allowed to enter the state except when consigned to an approved slaughter establishment. An import permit and a Veterinary Services Form 1-27 prior to shipment are also required.

(g) Entry of cattle which have been retattooed is not permitted unless they are moved for immediate slaughter to an approved slaughter establishment or to not more than one state or federal approved market for sale to a qualified feedlot or slaughtering establishment.

(h) A negative tuberculosis test is required within 60 days prior to shipment for all dairy cattle 2 months of age and older and bison 6 months of age and older.

(i) Breeding cattle originating within a quarantined area or from reactor or exposed herds and all cattle from an area which is not classified as Tuberculosis Free are required to be tested for tuberculosis within 60 days prior to entry to Utah.

(j) Rodeo bulls and roping steers must be tested annually during the calendar year for tuberculosis prior to entry to Utah.

(k) No cattle infested with, or exposed to scabies shall be moved into Utah. Cattle from a county where scabies has been diagnosed during the past 12 months must be officially treated within 10 days prior to shipment into Utah. The date of treating and products used must be shown on the Certificate of Veterinary Inspection.

(l) No cattle infested with ticks that can transmit splenic or tick fever, or exposed to tick infestations shall be imported into the State of Utah for any purpose.

(m) All bulls imported to Utah shall be in compliance with R58-21-3(A), which requires testing of all bulls over twelve months of age for trichomoniasis prior to entry, with some exceptions which are for slaughter, rodeo, exhibition, and bulls kept in confinement.

R58-1-7. Horses, Mules, Asses, and Other Equidae.

(1) Equidae may be imported into the State of Utah when accompanied by an official Certificate of Veterinary Inspection or an electronic Extended Equine Certificate of Veterinary Inspection created by a platform approved by the department.

(2) The Certificate of Veterinary Inspection must show a negative Equine Infectious Anemia (EIA)(Coggins - AGID or ELISA) test within one year previous to the time the certificate was issued.

(a) Entry of equidae into Utah shall not be allowed until the EIA test has been completed and reported negative.

(b) Equidae which test positive to the EIA test shall not be permitted entry into Utah, except by special written permission from the State Veterinarian.

(c) A nursing foal less than six (6) months of age accompanied by its EIA negative dam and equidae moving directly to an approved livestock market are exempt from the test requirements.

(3) Utah horses returning to Utah as part of a commuter livestock shipment are exempted from the Certificate of Veterinary Inspection requirements; however, a valid Utah horse travel permit as outlined under Sections 4-24-405 or 4-24-406 and Section R58-9-4 is required for re-entering Utah.

(4) An import permit issued by the Department must accompany all stallions or semen.

(5) All stallions used for breeding that enter Utah or stallions whose semen will be shipped to Utah shall be tested for Equine Viral Arteritis (EVA) by an accredited veterinarian within 30 days prior to entry.

(a) Exceptions are stallions that have proof of negative EVA status prior to vaccination and proof of subsequent yearly vaccination.

(b) The EVA test or vaccination status must be recorded on the Certificate of Veterinary Inspection.

(c) Breeding stallions and semen infected with Equine Arteritis Virus must be handled only on an approved facility as required by R58-23.

R58-1-8. Swine.

(1) Swine may be shipped into the state if the following requirements are met:

(a) All swine must be accompanied by an approved Certificate of Veterinary Inspection stating they have not been fed raw garbage.

(i) The Certificate of Veterinary Inspection must show individual identification, ear tags, tattoos, registration numbers, microchips or other permanent means.

(b) An import permit issued by the Department must accompany all swine imported into the state.

(c) All breeding and exhibition swine over the age of three months shipped into Utah shall be tested negative for brucellosis within 30 days prior to movement into the state or originate from a validated brucellosis free herd or brucellosis free state.

(i) A validated brucellosis free herd number and date of last test is required to be listed on the Certificate of Veterinary Inspection.

(ii) Swine from states with serious disease occurrences or known populations of feral or wild hogs may be required to be tested for Brucellosis prior to entry to Utah.

(d) All breeding, feeding and exhibition swine shall be tested negative for pseudorabies within thirty days unless they originate from a recognized qualified pseudorabies free herd or pseudorabies Stage V state.

(i) Swine that have been vaccinated with any pseudorabies vaccine shall not enter the state.

(ii) Swine which are infected or exposed to pseudorabies may not enter the state, except swine consigned to a slaughterhouse for immediate slaughter and must be moved in compliance with 9 CFR 71, which is incorporated by reference.

(iii) Swine from states with known populations of feral or wild hogs may be required to be tested for Pseudorabies prior to entry to Utah.

(2) Prohibition of Non-domestic and Non-native Suidae and Tayassuidae

(a) Javelina or Peccary, and feral or wild hogs such as Eurasian or Russian wild hogs (*Sus scrofa*) are considered invasive species in Utah, capable of establishing wild reservoirs of disease such as brucellosis and pseudorabies.

(b) These animals are prohibited from entry to Utah except when approved by special application only for purposes of exhibition and after meeting the above testing requirements.

(c) Any person who imports Javelina, Peccary or feral or wild hogs such as Eurasian or Russian wild hogs (*Sus scrofa*) into Utah without prior approval by the Department shall be subject to citation and fines as prescribed by the Department or may be called to appear before an administrative proceeding by the department.

R58-1-9. Sheep.

(1) All sheep imported must be accompanied by a Certificate of Veterinary Inspection and an import permit.

(a) No sheep exhibiting clinical signs of blue tongue may enter Utah.

(b) Sheep must be thoroughly examined for evidence of foot rot and verified that they are free from foot rot.

(c) Sheep entering Utah must comply with federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(d) Sheep from scrapie infected, exposed, quarantined or source flocks may not be permitted to enter the state unless an official post-exposure flock eradication and control plan has been implemented.

(e) Breeding rams six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis free flock.

(i) Rams entering Utah for exhibition purposes only and returning immediately to their home state are exempt from the testing requirement.

R58-1-10. Poultry.

(1) All poultry and hatching eggs being imported into Utah must meet the following requirements:

(a) All poultry and hatching eggs must have an import permit from the Department.

(b) All poultry and hatching eggs entering Utah must have a Certificate of Veterinary Inspection or a National Poultry Improvement Plan VS Form 9-3.

(c) All poultry and hatching eggs shall originate from flocks or hatcheries that have a Pullorum-Typhoid Clean rating given by the official state agency of the National Poultry Improvement Plan (NPIP) of the state, or

(d) All poultry entering Utah from a flock or hatchery which does not have a clean rating through NPIP certification must have been tested negative for Pullorum-Typhoid within the last 30 days.

R58-1-11. Goats and Camelids.

(1) Goats being imported into Utah must meet the following requirements:

(a) Dairy goats must have an import permit from the Department and an official Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified

brucellosis free herd and accredited tuberculosis free herd. Thereto; there must be no evidence of caseous lymphadenitis (abscesses).

(b) Meat type goats must have an import permit from the Department and an official Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis (abscesses).

(c) Goats entering Utah must comply with Federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(d) Goats for slaughter may be shipped into Utah directly to an approved slaughter establishment or to an approved auction market without an official Certificate of Veterinary Inspection and an import permit but must comply with Federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(2) Camelids being imported into Utah must have an import permit from the Department and an official Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and accredited tuberculosis free herd.

(3) Test eligible age for both brucellosis and tuberculosis shall be 6 months of age or older for both goats and camelids.

(4) Dairy goats and camelids entering Utah for exhibition purposes only and returning immediately to their home state are exempt from the testing requirement.

R58-1-12. Psittacine and Passerine Birds and Raptors.

(1) No psittacine or passerine birds or raptors shall be shipped into the State of Utah unless an official Certificate of Veterinary Inspection accompanies the birds.

(2) The number and kinds of birds to be shipped into Utah, their origin, date to be shipped and destination must be listed on the Certificate of Veterinary Inspection.

R58-1-13. Dogs, Cats, and Ferrets.

(1) All dogs, cats and ferrets shall be accompanied by an official Certificate of Veterinary Inspection.

(2) All dogs, cats and ferrets over three months of age must be currently vaccinated against rabies before entering Utah.

(a) The date of vaccination, name of product used, and expiration date must be written on the Certificate of Veterinary Inspection.

(3) No puppies or kittens less than 8 weeks of age shall be imported into the state unless accompanied by the mother.

R58-1-14. Exotic Animals.

(1) It is unlawful for any person to import into the State of Utah any species of exotic animal that is prohibited for importation or possession as listed in Utah Administrative Code R657-3.

(2) All exotic animals (birds, mammals, and reptiles) must be accompanied by an official Certificate of Veterinary Inspection.

(3) All aquatic animals (fish, mollusk, crustacean, or amphibians) must fulfill all requirements of Utah Administrative Code R58-17 prior to importation into the State of Utah.

R58-1-15. Game and Fur-Bearing Animals.

(1) No game or fur bearing animals will be imported into Utah without an import permit being obtained from the Department.

(2) Each shipment shall be accompanied by an official Certificate of Veterinary Inspection.

(3) All mink entering Utah shall have originated on ranches where mink viral enteritis has not been diagnosed or exposed to within the past three years.

R58-1-16. Captive Cervidae.

(1) All captive cervidae entering Utah must meet the following requirements:

(a) No captive elk will be imported into Utah unless the destination premises is licensed with the Utah Department of Agriculture and Food.

(b) No captive caribou or fallow deer will be imported into Utah unless a Certificate of Registration (COR) has been obtained from the Utah Division of Wildlife Resources.

(c) No captive cervidae will be allowed to be imported into Utah that have originated from or have ever been east of the 100 degree meridian.

(d) All captive elk imported into Utah must meet the genetic purity requirement as referenced in Title 4, Chapter 39, Section 301, Utah Code Unannotated.

(e) All captive elk must meet the following Chronic Wasting Disease (CWD) requirements:

(i) Elk must come from a state with a USDA approved herd certification program.

(ii) Elk must originate from a herd that is not affected with or is a trace back or forward herd for CWD.

(iii) Elk must originate from a herd that has had a CWD herd surveillance program for 5 years prior to movement.

(f) All captive cervidae must be permanently identified using either a microchip or tattoo.

(g) All captive cervidae must have an import permit from the Department.

(h) All captive cervidae must have an official Certificate of Veterinary Inspection showing the following:

(i) A negative tuberculosis test within 60 days of import.

(ii) Negative Brucella abortus test results from a single sample that has been tested by two USDA approved tests.

(iii) Two forms of individual animal identification.

(iv) A statement that the animals listed on the certificate are not known to be infected with Johne's Disease (Paratuberculosis) or Malignant Catarrhal Fever and have never been east of the 100 degree meridian.

R58-1-17. Zoological Animals.

(1) The entry of zoological animals to be kept in zoological gardens, or shown at exhibitions is authorized when an import permit, subject to requirements established by the State Veterinarian, has been obtained from the Department and the animals are accompanied by an official Certificate of Veterinary Inspection.

(2) Movement of these animals must also be in compliance with the Federal Animal Welfare Act, 7 USC 2131-2159.

R58-1-18. Wildlife.

(1) It is unlawful for any person to import into the State of Utah any species of live native or exotic wildlife except as provided in Title 23, Chapter 13 and Utah Administrative Code R657-3.

(2) All wildlife imports shall meet the same Department requirements as required for the importation of domestic animals.

R58-1-19. Duties of Carriers.

Owners and operators of railroads, trucks, airplanes, and other conveyances are forbidden to move any livestock, poultry, or other animals into or within the State of Utah or through the State except in compliance with the provisions set forth in these rules.

(1) Sanitation. All railway cars, trucks, airplanes, and other conveyances used in the transportation of livestock, poultry or other animals shall be maintained in a clean, sanitary condition.

(2) Movement of Infected Animals. Owners and operators of railway cars, trucks, airplanes, and other conveyances that have been used for movement of any livestock, poultry, or other animals infected with or exposed to any infectious, contagious, or communicable disease as determined by the Department, shall be required to have cars, trucks, airplanes, and other conveyances thoroughly cleaned and disinfected under official supervision before further use is permissible for the transportation of livestock, poultry or other animals.

(3) Compliance with Laws and Rules. Owners and operators of railroad, trucks, airplanes, or other conveyances used for the transportation of livestock, poultry, or other animals are responsible to see that each consignment is prepared for shipment in keeping with the State and Federal laws and regulations. Certificate of Veterinary Inspection, brand certificates, and permits should be attached to the waybill accompanying the attendant in charge of the animals.

KEY: disease control, import requirements

Date of Enactment or Last Substantive Amendment: [~~August 12, 2015~~]2019

Notice of Continuation: January 12, 2017

Authorizing, and Implemented or Interpreted Law: 4-31; 4-2-2(1) (i)

**Alcoholic Beverage Control,
Administration**

R81-1-23

**Sales Restrictions on High Demand
Products of Limited Availability**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43944

FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments are necessary to establish the procedure for allocating high demand products of limited availability.

SUMMARY OF THE RULE OR CHANGE: Section 32B-1-103 requires that alcoholic product control be operated as a public business using sound management principles. Section 32B-2-202 authorizes the Department of Alcoholic Beverage

Control (Department) to control liquor merchandise inventory. These rule amendments authorize the Department to make policies governing procedures for fair distribution of high demand products including policies for a drawing.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-1-103 and Section 32B-2-202

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: These rule amendments do not create additional cost or savings.
- ◆ LOCAL GOVERNMENTS: These rule amendments do not create additional cost or savings.
- ◆ SMALL BUSINESSES: These rule amendments do not create additional cost or savings.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule amendments do not create additional cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no fees associated with this process. These rule amendments do not create additional cost or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule amendments are necessary to establish the procedure for allocating high demand products of limited availability. The procedure will result in a fairer distribution of high demand products. There are no fees associated with this process so no additional cost or savings are realized.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ALCOHOLIC BEVERAGE CONTROL
 ADMINISTRATION
 1625 S 900 W
 SALT LAKE CITY, UT 84104-1630
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Sal Petilos, Executive Director

Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 None--These amendments do not create additional cost or savings. There are no fees associated with this process

The head of the department of Alcoholic Beverage Control, Salvador Petilos, has reviewed and approved this fiscal analysis.

R81. Alcoholic Beverage Control, Administration.
R81-1. Scope, Definitions, and General Provisions.
R81-1-23. Sales Restrictions on High Demand Products of Limited Availability.

(1) Authority and Purpose. This rule is pursuant to Section 32B-1-103, which requires that alcoholic product control be operated as a public business using sound management principles, and 32B-2-202, which authorizes the Department to control liquor merchandise inventory. Some alcoholic beverage products[~~especially wines,~~] are of very limited availability from their manufacturers and suppliers to retailers including the department. When the department perceives that customer demand for these limited products may exceed the

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0

department's current and future stock levels, the department, as a public agency, may place restrictions on their sales to ensure their fair distribution to all consumers. This also encourages manufacturers and suppliers to continue to provide their products to the department. This rule establishes the procedure for allocating products of limited availability.

(2) Application of Rule.

(a) The purchasing and wine divisions of the department shall identify those products that are of limited availability and designate them as "Limited /Allocated Status" ("L Status") items. The products shall be given a special "L Status" product code designation.

(b) "L Status" products on the department's price list, in stock, or on order, do not have to be sold on demand. Their sales to the general public and to licensees and permittees may be restricted. The purchasing and wine divisions of the department may issue system-wide restrictions directing the allocation of such products which may include placing limits on the number of bottles sold per customer.

(c) Signs noting this rule shall be posted in state stores and package agencies that carry "L Status" products.

(3) The Department may make policies governing procedures for the fair distribution of high demand products, including policies for a drawing, when the director determines a special procedure is appropriate.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [~~December 24, 2018~~2019]

Notice of Continuation: May 2, 2016

Authorizing, and Implemented or Interpreted Law: 32B-2-201(10); 32B-2-202; 32B-2-204; 32B-2-206; 32B-3-203(3)(c); 32B-3-205(2)(b); 32B-5-304; 32B-1-305; 32B-1-306; 32B-1-307; 32B-1-607; 32B-1-304(1)(a); 32B-6-702; 32B-6-805(3); 32B-9-204(4); 32B-4-414(1)(b) and (c)

**Alcoholic Beverage Control,
Administration
R81-1-33
Alcohol Content**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43943

FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed section is necessary to implement provisions of H.B. 453 passed in the 2019 General Session. The proposed section defines the tolerance range when taking samples of the alcohol content of beer or heavy beer.

SUMMARY OF THE RULE OR CHANGE: This amendment is necessary to implement provisions of H.B. 453 (2019). Sections 32B-1-607 and 32B-2-204 authorize rulemaking related to measuring the alcohol content of beer. This

proposed section defines the tolerance range when testing samples for the alcohol content of beer or heavy beer as up to a 0.18% above or below when measured by volume, or 0.15% above or below when measured by weight.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32-2-204 and Section 32B-1-607

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** None--Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

♦ **LOCAL GOVERNMENTS:** None--Any anticipated cost or savings to local governments are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

♦ **SMALL BUSINESSES:** None--Any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--Any anticipated cost or savings are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment is necessary to establish the tolerance range when testing samples for the alcohol content of beer or heavy beer as up to 0.18% above or below when measured by volume, or 0.15% above or below when measured by weight.

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

1625 S 900 W
 SALT LAKE CITY, UT 84104-1630
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Sal Petilos, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in

this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

None--Any anticipated cost or savings to persons other than small business, businesses or local government entities are a result of statutory requirements of H.B.453 (2019). Any anticipated cost or savings were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

The head of the department of Alcoholic Beverage Control, Salvador Petilos, has reviewed and approved this fiscal analysis.

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope, Definitions, and General Provisions.

R81-1-33. Alcohol Content.

(1) This rule is made pursuant to Section 32B-1-607, which authorizes the Commission to make rules implementing Part 6, and 32B-2-204, which authorizes the Department to make rules related to measuring the alcohol content of beer.

(2) Before November 1, 2019, a product complies with Title 32B and rules governing labeling if:

(a) the product is beer and if, after sampling, it is determined to contain no more than 3.35% alcohol by weight or 4.18% alcohol by volume; or

(b) the product is heavy beer and if, after sampling, it is determined to contain at least 3.82% alcohol by volume.

(3) On or after November 1, 2019, a product complies with Title 32B and rules governing labeling if:

(a) the product is beer and if, after sampling, it is determined to contain no more than 4.15% alcohol by weight or 5.18% alcohol by volume; or

(b) the product is heavy beer and if, after sampling, it is determined to contain at least 4.82% alcohol by volume.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [~~December 24, 2018~~]2019

Notice of Continuation: May 2, 2016

Authorizing, and Implemented or Interpreted Law: 32B-2-201(10); 32B-2-202; 32B-2-204; 32B-2-206; 32B-3-203(3)(c); 32B-3-205(2)(b); 32B-5-304; 32B-1-305; 32B-1-306; 32B-1-307; 32B-1-607; 32B-1-304(1)(a); 32B-6-702; 32B-6-805(3); 32B-9-204(4); 32B-4-414(1)(b) and (c)

**Alcoholic Beverage Control,
 Administration**

R81-1-34

Transfer Agreements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43940

FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new section is necessary to implement provisions of H.B. 453 passed in the 2019 General Session. This proposed rule section explains how an "interim alcoholic beverage management agreement" may be approved by the Department of Alcoholic Beverage Control (Department) during a license transfer.

SUMMARY OF THE RULE OR CHANGE: This section is necessary to implement provisions of H.B. 453 (2019). Section 32B-5-310 authorizes the Department to make rules governing requirements for interim alcoholic beverage management agreements. The proposed rule section explains how an "interim alcoholic beverage management agreement" may be approved by the Department during a license transfer.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-1-607 and Section 32B-5-310

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

◆ **LOCAL GOVERNMENTS:** None--Any anticipated cost or savings to local governments are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

◆ **SMALL BUSINESSES:** None--Any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--Any anticipated cost or savings are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no fees associated with this process. Any anticipated cost or savings are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering this change were calculated as part of the fiscal note. This amendment does not create additional cost or savings beyond what was anticipated during the legislative process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed section is necessary to implement provisions of H.B. 453 (2019). Section 32B-5-310 authorizes the Department to make rules governing requirements for interim alcoholic beverage management agreements. This proposed amendment explains how an "interim alcoholic beverage management agreement" may be approved by the Department during a license transfer.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Sal Petilos, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

None--Any anticipated cost or savings to persons other than small business, businesses or local government entities are a result of statutory requirements of H.B. 453 (2019). Any anticipated cost or savings were calculated as part of the fiscal note. This new section does not create additional cost or savings beyond what was anticipated during the legislative process.

The head of the department of Alcoholic Beverage Control, Salvador Petilos, has reviewed and approved this fiscal analysis.

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope, Definitions, and General Provisions.

R81-1-34. Transfer Agreements.

(1) This rule is pursuant to Section 32B-5-310, which authorizes the Department to make rules governing requirements for interim alcoholic beverage management agreements.

(2) An interim alcoholic beverage management agreement is required if a buyer will be performing the day-to-day operations of the business before the Commission approves the transfer of the license from seller to buyer.

(3)(a) Before a retail licensee enters into an interim alcoholic beverage management agreement, it shall provide the proposed interim alcoholic beverage management agreement to the Department for its approval.

(b) The Department shall create a checklist of information that an interim alcoholic beverage management agreement must contain and may create an optional form to assist licensees in providing necessary information.

(c) The Department shall review a proposed interim alcoholic beverage management agreement and, no later than 15 business days after the day on which the agreement is received by the Department:

(i) approve the interim alcoholic beverage management agreement if it contains all the necessary information; or

(ii) return the proposed interim alcoholic beverage management agreement to the licensee, if the agreement is lacking in information or specificity, with guidance on how to remedy any errors or omissions.

(4) Once an interim alcoholic beverage management agreement has been approved by the Department, the seller may allow the buyer to use their license to purchase alcoholic product from the Department, but all revenue from the sale of alcohol during the

transition period must be retained by the buyer, less the cost of reimbursing the seller for the cost of the alcoholic product paid to the Department.

(5) The seller must maintain the required bond, insurance, and business license during the transition period, as these are statutory requirements to hold a license, but the buyer may agree to reimburse the seller for any necessary costs incurred to maintain the bond, insurance, and business license.

(6) Nothing in this rule authorizes a licensee to close business without approval from the Department or Commission, as required by statute.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [December 24, 2018]2019

Notice of Continuation: May 2, 2016

Authorizing, and Implemented or Interpreted Law: 32B-2-201(10); 32B-2-202; 32B-2-204; 32B-2-206; 32B-3-203(3)(c); 32B-3-205(2)(b); 32B-5-304; 32B-1-305; 32B-1-306; 32B-1-307; 32B-1-607; 32B-1-304(1)(a); 32B-6-702; 32B-6-805(3); 32B-9-204(4); 32B-4-414(1)(b) and (c)

**Alcoholic Beverage Control,
Administration
R81-10-2
Off-Premise Beer Retailer State
License and Master Off-Premise Beer
Retailer State License**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43942

FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments are necessary to implement provisions of H.B. 453 passed in the 2019 General Session. These proposed changes create the process to apply for the master off-premise beer retailer license.

SUMMARY OF THE RULE OR CHANGE: These amendments are necessary to implement provisions of H.B. 453 (2019). These proposed changes create the process to apply for the master off-premise beer retailer license, applicable to off-premise retailers with at least five locations. Section 32B-7-408 authorizes the Alcoholic Beverage Control Commission (Commission) to make rules establishing how a person may apply for a master off-premise beer retailer state license.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-2-202 and Section 32B-7-408

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering these changes were calculated as part of the fiscal note. These amendments do not create additional cost or savings beyond what was anticipated during the legislative process.

◆ **LOCAL GOVERNMENTS:** None--Any anticipated cost or savings to local governments are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering these changes were calculated as part of the fiscal note. These amendments do not create additional cost or savings beyond what was anticipated during the legislative process.

◆ **SMALL BUSINESSES:** None--Any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering these changes were calculated as part of the fiscal note. These amendments do not create additional cost or savings beyond what was anticipated during the legislative process.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--Any anticipated cost or savings are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering these changes were calculated as part of the fiscal note. These amendments do not create additional cost or savings beyond what was anticipated during the legislative process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any anticipated cost or savings are a result of statutory requirements of H.B. 453 (2019). Costs and savings for administering these changes were calculated as part of the fiscal note. These amendments do not create additional cost or savings beyond what was anticipated during the legislative process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes are necessary to implement provisions of H.B. 453 (2019). These proposed amendments create the master off-premise beer retailer license, applicable to off-premise retailers with at least five locations. Section 32B-7-408 authorizes the Commission to make rules establishing how a person may apply for a master off-premise beer retailer state license.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ALCOHOLIC BEVERAGE CONTROL
 ADMINISTRATION
 1625 S 900 W
 SALT LAKE CITY, UT 84104-1630
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Sal Petilos, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

None--Any anticipated cost or savings to persons other than small business, businesses or local government entities are a result of statutory requirements of H.B.453 (2019). Any anticipated cost or savings were calculated as part of the fiscal note. These amendments do not create additional cost or savings beyond what was anticipated during the legislative process.

The head of the department of Alcoholic Beverage Control, Salvador Petilos, has reviewed and approved this fiscal analysis.

R81. Alcoholic Beverage Control, Administration.**R81-10. Off-Premise Beer Retailers.****R81-10-2. Off-Premise Beer Retailer State License and Master Off-Premise Beer Retailer State License.**

(1) Authority and General Purpose. This rule is pursuant to 32B-2-202(1)(c) which requires the commission to set policy by written rules that establishes criteria and for issuing and denying licenses and 32B-7-408, which authorizes the commission to make rules establishing how a person may apply for a master off-premise beer retailer state license.

(2) No license application will be included on the agenda of a monthly commission meeting for consideration for issuance of a license until in accordance with 32B-7-404(2):

(a) The applicant has submitted a complete application to the department in accordance with 32B-7-402 or 32B-7-408; and

(b) the department has completed an investigation [~~pursuit to 32B-7-404(1)~~] and inspected the proposed licensed premises.

(c) A "complete application" includes the department's application form and all supplemental materials listed on the department's application checklist.

(3)(a) All application requirements of Subsection (2)(a) must be filed with the department no later than the 10th day of the month in order for the application to be included on that month's commission meeting agenda unless the 10th day of the month is a Saturday, Sunday, or state or federal holiday, in which case all application requirements of Subsection (2)(a) must be filed on the next business day after the 10th day of the month.

(b) An incomplete application will be returned to the applicant.

(c) A completed application filed after the deadline in Subsection (3)(a) will not be considered by the commission that month, but will be included on the agenda of the commission meeting the following month.

(~~3~~4) Subsection (2)(a) does not preclude the commission from considering an application for a conditional license under the terms and conditions of 32B-7-406.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [~~December 24, 2018~~2019]

Notice of Continuation: May 23, 2018

Authorizing, and Implemented or Interpreted Law: 32B-1-102; 32B-7-202; 32B-7-401

**Commerce, Occupational and
Professional Licensing
R156-74
Certified Court Reporters Licensing Act
Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43902

FILED: 07/22/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to align this rule with statutory changes made by H.B. 278, passed in the 2019 General Session, to the Court Reporters Licensing Act, which was substantially revised and renamed the State Certification of Court Reporters Act, effective 05/14/2019.

SUMMARY OF THE RULE OR CHANGE: In Section R156-74-101, this proposed amendment renames the rule as the "State Certification of Court Reporters Act Rule". In Sections R156-74-104 and R156-74-303, the proposed amendments update the rule to accord with the revised statute including requiring the issuance of "certificates" rather than "licenses". The amendments also update citations and references and make various nonsubstantive technical changes. In Sections R156-74-102 and R156-74-502, the proposed amendments delete the entire sections because "unprofessional conduct" is fully defined by statute in Section 58-74-502.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-74-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a) and Subsection 58-74-303(2)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Removes National Verbatim Reporters Association, Council of the Academy of Professional Reporters Standards and Ethics, published by National Verbatim Reporters Association, Council of the Academy of Professional Reporters, April 2005 edition
- ◆ Removes National Court Reporters Association, Council of the Academy of Professional Reporters Standards and Ethics, published by National Court Reporters Association, Council of the Academy of Professional Reporters, July 1997 edition
- ◆ Updates National Verbatim Reporters Association Continuing Education Handbook, published by National Verbatim Reporters Association, 07/01/2015

- ◆ Updates National Court Reporters Association (NCRA), Council of Academy of Professional Reporters (CAPR) Continuing Education Program, published by National Court Reporters Association, Council of the Academy of Professional Reporters, 10/01/2018

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These proposed amendments are not expected to have a fiscal impact on the state. In accordance with H.B. 278 (2019), these amendments only rename this rule, require the issuance of "certificates" rather than "licenses", and update various other provisions to accord with the revised statute and with current citations and references. Approximately 126 court reporters currently hold a license which will expire end of May 2020. Although at the time of their next renewal, their license will be replaced with a certification, the Division of Occupational and Professional Licensing (DOPL) will follow the same renewal procedure and charge the same fee as was required for the license. There will be a minimal cost to the Division of approximately \$75 to print and distribute this rule once these proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** These proposed amendments are not expected to have a fiscal impact to local governments. In accordance with H.B. 278 (2019), these amendments only rename this rule, require the issuance of "certificates" rather than "licenses", and update various other provisions to accord with the revised statute and with current citations and references. No indirect impacts are expected because local governments neither enforce nor are affected by this process.

◆ **SMALL BUSINESSES:** These proposed amendments are not expected to have a fiscal impact on small businesses because in accordance with H.B. 278 (2019), these amendments only rename this rule, require the issuance of "certificates" rather than "licenses", and update various other provisions to accord with the revised statute and with current citations and references. Additionally, small businesses who utilize the services of a court reporter (NAICS 541110 – Law Firms) will not see an increase or a decrease in service costs as a result of these amendments because certification fees will be directly offset by the cost savings from licensing fees and will not result in increased costs to users of the services of those in the court reporting profession. The Division, therefore, estimates that this will result in a fiscal neutrality for the approximately 1,435 small business law firms throughout the state.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed amendments are not expected to have any fiscal benefit or cost impact to other persons utilizing the services of individuals who will hold a state certification rather than a license. The state certification fee is directly offset by the cost savings from the license fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments are not expected to have any fiscal benefit or cost impact to licensees (now state certificate

holders) or to other persons utilizing the services of individuals who will hold a state certification rather than a license. The state certification fee is directly offset by the cost savings from the license fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of these amendments is to align this rule with statutory changes made by H.B. 278 (2019) to the Court Reporters Licensing Act, which was substantially revised and renamed the State Certification of Court Reporters Act, effective 05/14/2019. Small Businesses (less than 50 employees): These proposed amendments are not expected to have a fiscal impact on small business. These amendments only rename this rule, require the issuance of "certificates" rather than "licenses", and update various other provisions to accord with the revised statute and with current citations and references. Additionally, small businesses who utilize the services of a court reporter (NAICS 541110 – Law Firms) will not see an increase or a decrease in service costs as a result of these amendments because certification fees will be directly offset by the cost savings from licensing fees and will not result in increased costs to users of the services of those in the court reporting profession. The Division, therefore, estimates that this will result in a fiscal neutrality for the approximately 1,435 small business law firms throughout the state. Non-Small Businesses (50 or more employees): These proposed amendments are not expected to have a fiscal impact on non-small businesses because these amendments only rename this rule, require the issuance of "certificates" rather than "licenses", and update various other provisions to accord with the revised statute and with current citations and references. Additionally, non-small businesses such as large law firms who utilize the services of a court reporter (NAICS 541110 – Law Firms) will not see an increase or a decrease in service costs as a result of these amendments because certification fees will be directly offset by the cost savings from licensing fees and will not result in increased costs to users of the services of those in the court reporting profession. The Division, therefore, estimates that this will result in a fiscal neutrality for the approximately 13 non-small business law firms throughout the state.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL
LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Robyn Barkdull by phone at 801-530-6727, by FAX at 801-530-6511, or by Internet E-mail at rbarkdull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 08/29/2019 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	60
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

These proposed amendments are not expected to have a fiscal impact on non-small businesses because in accordance with 2019 H.B. 278 these amendments only rename this rule, require the issuance of "certificates" rather than "licenses", and update various other provisions to accord with the revised statute and with current citations and references. Additionally, non-small businesses such as large law firms who utilize the services of a court reporter (NAICS 541110 -- Law Firms) will not see an increase or a decrease in service costs as a result of these amendments because certification fees will be directly offset by the cost savings from licensing fees, and will not result in increased costs to users of the services of those in the court reporting profession. The Division therefore estimates that this will result in a fiscal neutrality for the approximately 13 non-small business law firms throughout the state.

The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing. R156-74. [Certified Court Reporters Licensing] State Certification of Court Reporters Act Rule.

R156-74-101. Title.

This rule shall be known as the "[Certified Court Reporters Licensing] State Certification of Court Reporters Act Rule."

[R156-74-102. Definitions:

(1) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 74, is further defined, in accordance with Subsections 58-1-203(1)(e), in Section R156-74-502.]

R156-74-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-[307]107.

R156-74-303. Renewal Cycle - Procedure.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to [licensees]state certification under Title 58, Chapter 74 is established by rule in Section [58]R156-1-308.

(2) Renewal and reinstatement procedures shall be in accordance with Section R156-1-308a through R156-1-308l.

R156-74-304. Continuing Education.

[~~(1)~~]In accordance with Subsection 58-74-303(2), the [standards for the]continuing education requirements for renewal of a state certification[certified court reporter shorthand reporter license] shall be the standards established by:

(1) the National Court Reporters Association, Council of the Academy of Professional Reporters (CAPR) Continuing Education Program, revised October 1, [1998]2018, which is hereby adopted and incorporated by reference; or[-]

(2) [~~In accordance with Subsection 58-74-303(2), the requirements and standards for the continuing education requirement for renewal of a certified court reporter voice reporter license shall be the standards established by~~]the National Verbatim Reporters Association[- Council of the Academy of Professional Reporters] Continuing Education Program, [effective January 1, 2006]revised July 1, 2015, which is hereby adopted and incorporated by reference.

[R156-74-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) ~~failing, as a certified shorthand reporter to conform to the generally accepted and recognized standards and ethics of the profession including those established by the National Court Reporters Association, Council of the Academy of Professional Reporters, July 1997 edition, which is hereby incorporated by reference; and~~

(2) ~~failing as a certified voice reporter to conform to the generally accepted and recognized standards and ethics of the profession including those established by the National Verbatim Reporters Association, Council of the Academy of Professional Reporters, April 2005 edition, which is hereby incorporated by reference.~~]

KEY: court reporting, [~~licensing, shorthand reporter,~~state certified court reporter

Date of Enactment or Last Substantive Amendment: [~~July 22, 2008~~2019

Notice of Continuation: April 24, 2018

Authorizing, and Implemented or Interpreted Law: 58-74-101; 58-74-303(2); 58-1-106(1)(a); 58-1-202(1)(a)

Education, Administration
R277-927
Teacher and Student Success Act
(TSSA) Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43950

FILED: 08/01/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah State Board of Education (Board) is enacting Rule R277-927 due to the passage of S.B. 149 from the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: Rule R277-927 establishes standards for the Board's distribution of student and teacher success program money to local education agencies (LEAs); sets standards governing an LEA's distribution of student and teacher success program money to each school within the LEA; and establishes certain accountability standards related to the Teacher and Student Success Program (Program).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-2-416 and Section 53G-7-1304 and Section 53G-7-1306 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule is not expected to have any fiscal impact on state government revenues or expenditures. This rule stems from the Program and it is funded through a state appropriation so the rule does not have an independent fiscal impact.

◆ **LOCAL GOVERNMENTS:** This rule is not expected to have any fiscal impact on local governments' revenues or expenditures. This rule stems from the Program and it is funded through a state appropriation so the rule does not have an independent fiscal impact. The money local education agencies will receive remains unchanged.

◆ **SMALL BUSINESSES:** This rule change is not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule applies to the Program which is state funded and thus does not apply to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures. This rule applies to the Program which is state funded and thus does not apply to other individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are zero non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are zero non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impacts on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses. This proposed rule has no fiscal impact on LEAs and will not have a fiscal impact on small businesses either. The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are zero non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are zero non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impacts on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277-927. Education, Administration.

R277-927. Teacher and Student Success Act (TSSA) Program.

R277-927-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-2-416, which requires the Board to calculate and distribute student and teacher success program money to LEAs;

(d) Section 53G-7-1304, which requires the Board to make rules for an LEA governing board to calculate and distribute a school's allocation of program money for each school within the LEA; and

(e) Section 53G-7-1306, which require the Board to determine:

(i) a threshold of points under the statewide school accountability system that designates a school as succeeding in school performance and student academic achievement; and

(ii) performance standards for certain schools.

(2) The purpose of this rule is to:

(a) set standards for the Board's distribution of student and teacher success program money to LEAs;

(b) set standards governing an LEA's distribution of student and teacher success program money to each school within the LEA; and

(c) to establish certain accountability standards related to the student and teacher success program.

R277-927-2. Definitions.

(1) As used in Subsection 53G-7-1304, "capital expenditures" are funds used to acquire, maintain, or upgrade physical assets like property, building, technology, or equipment and may include:

(a) improvements to a building or school grounds;

(b) a school bus;

(c) rent, lease, or bond payments; and

(d) a portable classroom or costs related to moving a portable classroom.

(2) "Program" means the student and teacher success program created in Section 53G-7-1302.

(3) "Satellite school" means the same as that term is defined in R277-550.

(4) "School personnel who work directly with and support students in an academic role" does not include:

(a) school level administrative or operational staff;

(b) building and maintenance staff, including custodial and grounds staff;

(c) transportation staff;

(d) child nutrition services staff;

(e) operational or facility support staff;

(f) financial staff;

(g) information technology staff;

(h) legal staff;

(i) secretarial staff; or

(j) other district level staff paid on an administrative salary schedule.

R277-927-3. Program Requirements and Board Distribution of Program Money.

(1)(a) For the 2019-20 school year, the Superintendent shall distribute an LEA's annual program allocation, in equal payment amounts, to an LEA once the LEA submits the LEA's student success framework through the Board's grant management system.

(b) If an LEA amends the LEA's student success framework, the LEA shall submit the amended student success framework through the Board's grant management system.

(2) Beginning with the 2020-21 school year, if the LEA previously submitted a student success framework, before the LEA receives the LEA's annual program allocation, the LEA shall submit annual assurances in accordance with the requirements of R277-108.

(3) If an LEA fails to submit the LEA's student success framework as described in Subsection (1) or annual assurances described in Subsection (2) to the Superintendent by November 1 of a fiscal year:

(a) the LEA may not receive a program allocation for that fiscal year; and

(b) the undistributed balance will be included with the new year appropriation and distributed in the following fiscal year according to the formula described in Subsection 53F-2-416(3).

(4) For purposes of calculating the formula described in Subsection 53F-2-416(3), "weighted pupil units" means:

(a) for a school district or charter school:

(i) the weighted pupil units for the current year budget request for the minimum school basic program; minus

(ii) the weighted pupil units allocated to LEAs for foreign exchange students; and

(b) for the Utah Schools for the Deaf and Blind, USDB's prior year October 1 headcount multiplied by two.

(5) For a new LEA or new charter satellite campus in the LEA or charter school satellite's second year of operation, the Superintendent shall increase or decrease the new LEA or charter school satellite's first year distribution of funds in the LEA or charter school satellite's second year to reflect the LEA or charter school satellite's actual first year October 1 counts.

(6) For purposes of determining whether a school district in a county of the first, second, or third class has an approved board local levy for the maximum amount allowed for the purposes described in Subsection 53G-7-1304(2)(c)(i)(A), the school district meets the property tax requirements of Subsection 53G-7-1304(2)(a)(i) if in the applicable fiscal year:

(a) the school district's rate imposed for the board local levy is equal to the maximum amount allowed under Section 53F-8-302; or

(b)(i) meets or exceeds an amount equal to the certified board local levy rate; and

(ii) the school district's board local levy rate equaled the maximum amount allowed under Section 53F-8-302 sometime within the prior five fiscal years.

(7) For purposes of determining whether a school district in a county of the first, second, or third class increased the school district's board local levy by at least .0001 per dollar of taxable value as described in Subsection 53G-7-1304(2)(c)(i)(B), a school district that does not meet the property tax requirements of Subsection (6), the school district meets the requirements of Subsection 53G-7-1304(2)(c)(i)(B) if the school district's board local levy rate for the current fiscal year is at least .0001 per dollar of taxable value more than the school district's board local levy rate imposed in the prior fiscal year.

(8) For fiscal year 2020, "state average teacher salary" means a weighted calculation of the statewide teacher salary expenditures reported on the annual financial report by LEA from

fiscal year 2018 divided by the number of full-time equivalent educators or FTEs from the most recent educator cactus submission.

(9) Except as provided in Subsection (10), for fiscal year 2020, "LEA's average teacher salary" means the LEA's teacher salary expenditures reported on the annual financial report from fiscal year 2018 divided by the LEA's number of full-time equivalent educators or FTEs from the most recent educator cactus submission.

(10) For a new LEA in the new LEA's first or second year of operation, the new LEA's average teacher salary is equal to the state average teacher salary.

R277-927-4. LEA Financial Reporting and Prohibited Uses of Program Funds.

(1) An LEA shall report expenditures of program money by location according to the Board approved chart of accounts.

(2) An LEA may not use program money:

(a) for a purpose described in Subsection 53G-7-1304(1);

(b) to support adult education or preschool programs; or

(c) to pay for contracted services commonly performed by the following staff:

(i) school level administration staff;

(ii) building and maintenance staff, including custodial staff;

(iii) transportation staff;

(iv) child nutrition services staff;

(v) operational or facility support staff; or

(vi) district level staff.

(3) As used in Subsection 53G-7-1304(2), "district administration costs" does not include salary driven benefits for school personnel charged at the district level.

(4) An LEA may carry over restricted program funds into the next fiscal year to support a purpose identified by the LEA governing board student success framework. Any funds carried over must be reported according to the Board approved chart of accounts.

R277-927-5. LEA Allocations to Schools.

(1) An LEA with two or more schools shall establish a policy that defines how the LEA will calculate and distribute program allocations based on prior year average daily membership as determined by the Superintendent, to all schools within the LEA, including how the LEA will calculate allocations for new schools within the LEA.

(2) For a new school within an LEA, the LEA shall calculate and distribute school's allocation based on the school's projected October 1 headcount for the applicable school year.

(3) After calculating an LEA's school level allocations, an LEA may make adjustments to individual school ADM values and school level allocations due to changes in current year student enrollment for reasons including:

(a) changes in school boundaries;

(b) changes to feeder school patterns;

(c) changes in grade levels offered; or

(d) significant student growth of 30% or more.

R277-927-6. Accountability Performance Standards.

(1) For purposes of determining the threshold of points that designates a school as succeeding in school performance as

described in Subsection 53G-7-1306(1)(a), a school is succeeding in school performance if, in the most recently published overall school accountability ratings the school is designated as a commendable or exemplary school as described in Section R277-497-2.

(2) For purposes of determining the performance standards for a school described in Section 53G-7-1306(1)(b), a school meets the performance standards if the school meets the criteria described in Section 53E-5-203(2).

KEY: Student and Teacher Success Act (TSSA), program money, allocation

**Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4), 53F-2-416, 53G-7-1304, 53G-7-1306**

Governor, Economic Development **R357-22** Rural Employment Expansion Program

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43939
FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule filing is to clarify the requirements for a business entity to qualify for participation in the rural employment expansion program.

SUMMARY OF THE RULE OR CHANGE: Section R357-22-102 is updated to create new definitions that will be used to administer the program and delete obsolete definitions. Section R357-22-104 is modified to include additional documentation in the form and content of the application. Section R357-22-105 is modified to adjust the documentation required to demonstrate the creation of new full-time employee positions. Section R357-22-107 is updated to codify various requirements for the administration of the program and delete obsolete subsections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63N-4-403(2)(c)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no aggregate anticipated cost or savings to the state budget. These changes merely codify the procedures the Office of Economic Development has historically used.
- ◆ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.
- ◆ **SMALL BUSINESSES:** There is no aggregate anticipated cost or savings to small businesses because these proposed amendments do not create new obligations for small

businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because these proposed amendments do not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because participation in the program is optional.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule filing is to clarify the standards for participation in the program. These rule amendments will have no impact on businesses. The purpose of this rule filing is to clarify the standards for participation in the program.

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

GOVERNOR
ECONOMIC DEVELOPMENT
THIRD FLOOR
60 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dane Ishihara by phone at 801-538-8865, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Val Hale, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0

Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no regulatory impact creating financial cost to small businesses or non-small businesses. These proposed rule changes are to clarify the standards for participation in the Utah Works Program (Program). There are no general regulations being promulgated by this rule because the Program is voluntary and does not require non-participants to do anything. There is no impact to businesses or persons general because this rule only applies to those who chose to participate in this Program in order to receive a grant.

The head of the Governor's Office of Economic Development, Val Hale, has reviewed and approved this fiscal analysis.

R357. Governor, Economic Development.

R357-22. Rural Employment Expansion Program.

R357-22-101. Title.

This rule is known as the "Rural Employment Expansion Program Rule."

R357-22-102. Definitions.

In addition to the terms defined in 63N-4-402, the following terms are defined as follows:

~~_____ (1) "At least 12 consecutive months", as used in Subsection 63N-4-402(3)(b), includes a new full-time employee position that is vacated within the eligible employment period and is filled within 15 business days of the position being vacated.~~

~~_____ (2) "Eligible employment period" means an employee filling a new full-time employee position has worked for at least 12 consecutive months.]~~

_____ (1) "Employee report" means a list of employees in a format approved by the office that includes:

- _____ (a) time-period of report;
- _____ (b) employee;
- _____ (i) names or ID numbers;
- _____ (ii) position titles;
- _____ (iii) hire dates;
- _____ (iv) termination dates, if applicable;
- _____ (v) hours paid;
- _____ (vi) wages paid; and
- _____ (vii) benefits paid, if applicable.

_____ (4) "New full-time employee position" means a position that:

_____ (a) has been newly created in addition to the number of baseline jobs as defined in subsection 63N-1-102(1);

_____ (b) is a newly created full-time employee position where the annual gross wage or annualized wage of the employment position, not including health care or other paid or unpaid benefits, is at least 110% of the average wage of the county in which the employment position exists; and

_____ (c) is filled;

_____ (i) by a full-time employee as defined in subsection 63N-1-102(6) who is not a spouse, child, parent, sibling, grandparent, or grandchild of an owner or officer of the business entity;

_____ (ii) in any county in the state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties; and

_____ [(3)](2) "REDI", Rural Economic Development Incentives, means the same as the Rural Employment Expansion Program.

~~_____ (4) "Taxable year", as used in Subsection 63N-4-402(3), means the previous calendar year unless the business entity demonstrates extenuating circumstances that justifies adopting a different timeframe.]~~

R357-22-103. Authority.

This rule is adopted by the office under the authority of Subsection 63N-4-403(2)(c).

R357-22-104. Form and Content of Application for Rural Employment Expansion Program Participation.

(1) The content of the application for a rural employment expansion grant shall, at minimum, include the business entity's:

- (a) name;
- (b) physical operating address;
- (c) telephone number;
- (d) email address;
- (e) Federal EIN number;
- (f) primary NAICS code;
- (g) vendor number, if the applicant is a registered vendor with the State of Utah;
- (h) requested rural employment expansion grant amount;

and

- (i) forecasted;
- (i) number of new full-time positions;
- (ii) wage of new full-time employee positions; and
- (iii) hire date of new full-time employee positions.

(2) The following documents shall, at minimum, be included in each application for participation in the program:

- (a) copy of current W-9 form; ~~and]~~

(b)(i) two most recent Form 33H - Utah Employer Quarterly Wage List and Contribution Reports; or
 (ii) a copy of an executed professional employee agreement, as defined in Subsection 31A-40-102(15); and
 (c) employee report covering the twelve months prior to application.

R357-22-105. Documentation Required to Demonstrate the Creation of New Full-Time Positions.

(1) The following documents shall, at minimum, be included when a business entity demonstrates the creation of new full-time employee positions after the position has been filled for 12 months:

(a) number of new full-time employee positions created;
 (b) address of work location if different from the address supplied in the business entity's application for REDI Participation;
 (c) employee report for the twelve months prior to grant funds disbursement request; and

(d)(i) two most recent Form 33H - Utah Employer Quarterly Wage List and Contribution Reports; or

(ii) a copy of an executed professional employee agreement, as defined in Subsection 31A-40-102(15).

(2) A business entity may apply for grant funds after the new employee position has been filled for a minimum of six months and the annualized wage is at least 110% of the county's annual wage by submitting, at minimum, the following:

(a) number of new full-time employee positions created;
 (b) address of work if different from the address supplied in the business entity's application for REDI Participation;
 (c) employee report covering the twelve months prior to grant disbursement request; and

(d)(i) two most recent Form 33H - Utah Employer Quarterly Wage List and Contribution Reports; or

(ii) a copy of an executed professional employee agreement, as defined in Subsection 31A-40-102(15).

(e) new full-time employee positions pay stubs at the second, fourth and sixth months.

(3) the office may request additional information in order to verify the creation and wage of new full-time employee positions.

[~~(a) employee pay stubs including pay stubs at 6 month, calendar year end, and last pay period following completion of the eligible employment period showing the:~~

~~(i) name of new employee;~~
~~(ii) year-to-date salary of new employee;~~
~~(iii) date;~~
~~(iv) address;~~
~~(v) benefits (if any);~~
~~(b) address of work location if different from address of pay stub;~~

~~(c) one or more reports that show each employee on at least one Form 33H - Utah Employer Quarterly Wage List and Contribution Report, unemployment insurance quarterly report;~~

~~(d) Form 33H - Utah Employer Quarterly Wage List and Contribution Report for the last quarter of the eligible employment period.]~~

R357-22-106. Documentation Required to Demonstrate the Creation of New Full-Time Positions -- Appeal Process.

(1) If, after a review of the documentation required to demonstrate the creation of a new full-time employee positions is inadequate the office shall:

(a) deny the request for a rural employment expansion grant; or

(b) inform the business entity that the documentation is inadequate and ask the business entity to submit additional documentation.

(2) If the office denies the request for a rural employment expansion grant the business entity may appeal the denial to the office, in writing, within 20 business days of the denial notice date.

(3) The office shall review any appeal within 20 business days and make a final determination of the business entity's request for a rural employment expansion grant.

R357-22-107. Administration of the Rural Employment Expansion Grant.

(1) From the date of entering a written agreement, as described in Subsection 63N-4-404(3), the business entity shall have six months to hire an employee to fill any new full-time employee positions.

(2) The business entity shall provide the documentation required to demonstrate the creation of new full-time employee positions within 90-days of the completion of all eligible employment periods for the new full-time positions.

[~~(3) New full-time employee positions that qualify for the Rural Employment Expansion Grant are not eligible to be counted as eligible positions for the Rural Fast Track and/or the Enterprise Zone programs.]~~

([4]3) The business entity shall verify that newly hired employees are legal U.S. Citizens or meet eligible non-citizen requirements (employer must use the E-Verify and keep a record of citizen documentation on hand).

(4) If the office finds a material change in the baseline number of jobs after established in the contract, the administrator may cause the contract to be amended to reflect the correct number prior to issuance or denial of an incentive.

(5) The written agreement, as described in Subsection 63N-4-404(3), will establish the average county wage terms and requirements.

KEY: rural employment expansion, economic development
Date of Enactment or Last Substantive Amendment: [~~October 11, 2018~~2019
Authorizing, and Implemented or Interpreted Law: 63N-4-403(2)
 (c)

Governor, Economic Development
R357-25
 Rural Coworking and Innovation Center
 Grant Program Rule

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43948

FILED: 08/01/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 296, passed by the Legislature during the 2019 General Session, created the Rural Coworking and Innovation Center Grant Program (Program). The new statutory language permits the Governor's Office of Economic Development (Office) to promulgate rules to administer the Program. The purpose of this rule is to clarify the standards for participation in the Program.

SUMMARY OF THE RULE OR CHANGE: Section R357-25-102 creates definitions that will be used to administer the Program. Section R357-25-103 references the authority granted in the statutory language that permits rulewriting. Section R357-25-104 outlines the content of the application. Section R357-25-105 establishes the application and approval procedure. Section R357-25-106 establishes the funding distribution standards.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63N-12-505

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget. This rule is merely creating the requirements for the Rural Coworking and Innovation Center Grant Program that was created by the passing of H.B. 296 (2019).

◆ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

◆ SMALL BUSINESSES: There is no aggregate anticipated cost or savings to small businesses because this proposed amendment does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the Program is optional.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because participation in the Program is optional.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule implements H.B. 296 (2019) which created the

Rural Coworking and Innovation Center Grant Program. The purpose of this rule is to clarify the standards for participation in the Program. This rule will have no impact on businesses. The purpose of this rule is to clarify the standards for participation in the Program.

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

GOVERNOR
ECONOMIC DEVELOPMENT
THIRD FLOOR
60 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dane Ishihara by phone at 801-538-8865, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Val Hale, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no regulatory impact creating financial cost to non-small businesses. This proposed rule is to clarify the standards for participation in the Program. There are no general regulations being promulgated by this rule because the Program is voluntary and does not require non-participants to do anything. There is no impact to businesses or persons in general because this rule only applies to those who chose to participate in this Program in order to receive a grant.

The head of the Governor's Office of Economic Development, Val Hale, has reviewed and approved this fiscal analysis.

R357. Governor, Economic Development.

R357-25. Rural Coworking and Innovation Center Grant Program.

R357-25-101. Title.

This rule is known as the "Rural Coworking and Innovation Center Grant Program Rule."

R357-25-102. Definitions.

In addition to the definitions in Title 63N, Chapter 4, Section 502 as defined or used in this rule:

(1) "Matching funds" means any combination of funds, land, buildings, or in-kind work.

(2) "Office" means the Governor's Office of Economic Development.

(3) "Project" means:

(a) construction or renovating of a facility to create a Co-working and Innovation Center;

(b) extending and/or improving utilities and broadband service connections to a Coworking and Innovation Center; or

(c) purchasing equipment, furniture, and security systems as part of a Co-working and Innovation Center.

R357-25-103. Authority.

(1) Subsection 63N-4-504(1) requires the office to make rules establishing the eligibility and reporting criteria for an entity to receive a grant.

R357-25-104. Content of Application.

(1) The following content shall, at minimum, be included in each entity's application for a grant:

(a) entity name;

(b) contact information including:

(i) entity's physical address;

(ii) telephone number; and

(iii) email address.

(c) if the entity is a registered vendor with that State of Utah documentation of the vendor number.

(d) copy of a current W-9 form;

(e) executive summary of the proposed project that clearly establishes the primary activity of the project, including:

(i) how the project will serve underprivileged or underserved communities;

(ii) any constraints that have limited access to financial resources;

(iii) amount of grant funding requested;

(iv) list of all entities associated with the proposed project and their anticipated roles;

(v) letters of support from all entities associated with the proposed project;

(vi) matching funds associated with the proposed project;

(vii) timeline of the proposed project; and

(viii) detailed budget of the proposed project, including quotes and bids for proposed project.

(2) In addition to the requirements above private companies that apply for grant funding are required to submit:

(a) federal Tax ID;

(b) NAICS Code and Primary Industry;

(c) number of years in business;

(d) number of full-time employees;

(e) certificate of Existence from the Utah Division of Corporations;

(f) business license from local county or municipality;

(g) most recent Federal and State Tax Returns as proof of company profitability;

(h) most recent balance sheet and profit and loss statements as proof of solvency; and

(i) GRAMA form (Request for confidentiality).

R357-25-105. Application and Approval Procedure.

(1) The office will use a scoring system to enable the advisory committee and the office to analyze the awarding of grants and grant amounts. The scoring system will be made available in the instructions to the application and will be based on the following:

(a) organizational information;

(b) supporting documentation;

(c) entity history and qualifications;

(d) project proposal;

(e) scope of work;

(g) budget;

(g) matching funds;

(h) timeline; and

(i) deliverables and outcomes.

(2) Complete and scored applications will be presented to the advisory committee.

(3) If, after review of an application provided by an entity, the advisory committee determines that the application provides reasonable justification for authorizing a grant and if there are available funds for the grant, the office shall enter into a written agreement with the entity for a term no longer than 18 months.

(4) An entity, without prior written approval from the office, may not commence performance on the contract until the contract agreement is completely executed.

R357-25-106. Project Reimbursement.

(1) Awarded entities will be required to submit, at minimum, the following documentation upon reimbursement request:

(a) a letter of request on entity letterhead specifying the amount requested and certifying that the project is either partially completed (up to 50%) or fully completed and all invoices have been paid. The Letter of Request shall be signed and the accuracy of the information verified by a company officer;

(b) copies of all invoices and evidence of payment (checks, bank statements or loan agreements) for work on the project;

(c) photo evidence that the project is partially completed (up to 50%) or fully completed. Please provide several photos of the Coworking and Innovation Center, the building, expansion, installed and functioning equipment; and

(d) proof of Occupancy as issued by the local governing body's inspections department for final reimbursement.

(2) Partial reimbursement payment may be made through the course of the 18 month term of the contract, not to exceed 50% of expenses incurred during the development of the project. A request-for-funds form and itemization sheet will be required to be signed and submitted to receive the initial 50% of funds.

KEY: rural coworking, economic development, working hubs
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 63N-4-504(1)

Governor, Economic Development
R357-26
Rural Rapid Manufacturing Grant
Program Rule

NOTICE OF PROPOSED RULE
 (New Rule)

DAR FILE NO.: 43949
 FILED: 08/01/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 276, passed by the Legislature during the 2019 General Session, created the Rural Rapid Manufacturing Grant Program (Program). The new statutory language permits the Governor's Office of Economic Development (Office) to promulgate rules to administer the Program. The purpose of this rule is to clarify the standards for participation in the Program.

SUMMARY OF THE RULE OR CHANGE: Section R357-26-102 creates definitions that will be used to administer the Program. Section R357-26-103 references the authority granted in the statutory language that permits rulewriting.

Section R357-26-104 outlines the content of the application. Section R357-26-105 establishes the application and approval procedure. Section R357-26-106 establishes the funding distribution standards.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63N-4-604(1)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget. This rule is merely creating the requirements for the Rural Rapid Manufacturing Grant Program that was created by the passing of H.B. 276 (2019).

◆ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

◆ SMALL BUSINESSES: There is no aggregate anticipated cost or savings to small businesses because this proposed rule does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the Program is optional.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because participation in the Program is optional.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule implements H.B. 276 (2019) which created the Rural Rapid Manufacturing Grant Program. The purpose of this rule filing is to clarify the standards for participation in the Program. This rule will have no impact on businesses. The purpose of this rule is to clarify the standards for participation in the Program.

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

GOVERNOR
 ECONOMIC DEVELOPMENT
 THIRD FLOOR
 60 E SOUTH TEMPLE
 SALT LAKE CITY, UT 84111
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dane Ishihara by phone at 801-538-8865, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Val Hale, Executive Director

require non-participants to do anything. There is no impact to businesses or persons general because this rule only applies to those who chose to participate in this Program in order to receive a grant.

The head of the Governor's Office of Economic Development, Val Hale, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no regulatory impact creating financial cost to non-small businesses. This proposed new rule is to clarify the standards for participation in the Program. There are no general regulations being promulgated by this rule because the Program is voluntary and does not

R357. Governor, Economic Development.
R357-26. Rural Rapid Manufacturing Grant Program.
R357-26-101. Title.

This rule is known as the "Rural Rapid Manufacturing Grant Program Rule."

R357-26-102. Definitions.

In addition to the definitions in Title 63N, Chapter 4, Section 602 as defined or used in this rule:

(2) "Office" means the Governor's Office of Economic Development.

(3) "Project" means:

(a) construction or renovation of a rapid manufacturing clothing production laboratory, engineering and computer graphics laboratory, manufacturing systems laboratory, or textile science laboratory designed to train students and employees;

(b) the building and improvement of equipment to provide opportunities for students and employees to train and participate in rapid manufacturing; or

(c) training and scholarships for students and employees to participate in rapid manufacturing employment opportunities.

R357-26-103. Authority.

(1) Subsection 63N-4-604(1) requires the office to make rules establishing the eligibility and reporting criteria for an entity to receive a grant.

R357-26-104. Content of Application.

The following content shall, at minimum, be included in each entity's application for a grant:

(1) organizational information including:

(a) entity name;

(b) entity address;

(c) entity telephone number;

(d) entity Tax ID;

(e) entity contact(s);

(f) contact(s) email addresses;

(g) contact(s) telephone numbers; and

(h) amount of grant funding request.

(2) Supporting documentation including:

(a) list stakeholders and partners involved in the grant project and the roles they will perform;

(b) letter(s) of support from all entities involved in the project;

(c) letter of support from the community in which the project will take place;

(d) quotes and bids for proposed project;

(e) drafts or renderings of the proposed construction or renovation projects, and/or pictures of existing property to be modified to accommodate a laboratory;

(f) the entity's W9 form, or the applicant's State of Utah vendor number if the applicant is currently a state vendor; and

(g) project plan that includes:

- (i) project proposal;
- (ii) scope of work;
- (iii) itemized budget;
- (iv) timeline;
- (v) deliverables and outcomes; and
- (vi) how the deliverable and outcomes will be gathered and tracked.

(3) In addition to the requirements in this section non-profit entities that apply for grant funding are required to submit:

- (b) IRS designation letter;
- (c) non-profit organization W-9;
- (d) charitable Solicitation Permit;
- (e) certificate of good standing;
- (f) Articles of Incorporation;
- (g) By-laws;
- (h) list of board members;
- (i) GRAMA form (request for confidentiality); and
- (j) letter of support from the Economic Development Director or County/City Official in the designated area.

R357-26-105. Application and Approval Procedure.

(1) The office will use a scoring system to analyze the awarding of grants and grant amounts. The scoring system will be made available in the instructions to the application.

(2) If, after review of an application provided by an entity the office determines that the application provides reasonable justification for authorizing a grant and if there are available funds for the grant, the office shall enter into a written agreement with the entity for a term no longer than 18 months.

(3) An entity, without prior written approval from the office, may not commence performance on the contract until the contract agreement is completely executed.

R357-26-106. Project Reimbursement.

(1) Awarded entities will be required to submit, at minimum, the following documentation upon reimbursement request:

(a) a letter of request on entity letterhead specifying the amount requested and certifying that the project is either partially completed (up to 50%) or fully completed and all invoices have been paid. The Letter of Request shall be signed and the accuracy of the information verified by a company officer;

(b) copies of all invoices and evidence of payment (checks, bank statements or loan agreements) for work on the project;

(c) photo evidence that the project is partially completed (up to 50%) or fully completed. Provide several photos of the project, the building, expansion, installed and functioning equipment; and

(2) Partial reimbursement payment may be made through the course of the 18 month term of the contract, not to exceed 50% of expenses incurred during the development of the project. A request-for-funds form and itemization sheet will be required to be signed and submitted to receive the initial 50% of funds.

KEY: rural manufacturing, economic development

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 63N-4-604(1)

Health, Disease Control and Prevention, Epidemiology **R386-702** Communicable Disease Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43900

FILED: 07/16/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these amendments are to amend the list of reportable diseases and clarify language to improve the interpretation of rule requirements.

SUMMARY OF THE RULE OR CHANGE: The following are modified, or new, reportable conditions, reportable by all entities: organisms demonstrating carbapenemase production in all enterobacteriaceae species. The following condition is added to the list of conditions that are reportable by entities reporting electronically: respiratory syncytial virus (RSV). The following condition is removed from the list of reportable conditions: aseptic meningitis. The following are new, or modified, organisms for which clinical material must be submitted to the Utah Public Health Laboratory: organisms demonstrating carbapenemase production in all enterobacteriaceae species. Within "Reporting Criteria", nonsubstantive edits have been made, and one new clarification is included: entities reporting via electronic case reporting may send all clinical information for an encounter that meets criteria for reporting to public health. Within the "Required Information" section, the following points have been clarified: entities submitting or forwarding a specimen for testing using a laboratory test identified in the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases shall include the patient's address, so that the performing laboratory can report results to the appropriate public health agency. If the patient's address is not known by the submitting or forwarding entity, the submitting or forwarding entity shall provide the performing laboratory with the name and address of the facility where the specimen originated. References have been reviewed and updated.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-30 and Section 26-6-3 and Title 26 Chapter 23b

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** It is anticipated that these proposed changes will require programming and mapping of data fields equating to approximately to 160 staff hours to make modifications in diseases being added and removed.

However, removal of one conditions from the reportable diseases list will result in decreased time required for epidemiologists to enter and analyze data (approximately 11 hours per year), and manage case information. The programming changes will result in a one-time cost to the Department of Health (Department). In addition, anticipated benefits from these proposed changes at the state level include better characterization of disease burden at the state level.

◆ LOCAL GOVERNMENTS: Because these proposed changes require programming time at the state level, and for laboratories only, no costs are anticipated for local health departments. However, savings are anticipated for local health departments related to decreased time needed to investigate and manage cases for conditions being removed (approximately 90 hours per year). In addition, anticipated benefits from these proposed changes at the local level include better characterization of disease burden.

◆ SMALL BUSINESSES: Amending Rule R386-702 will not result in a cost or benefit to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are 54 laboratories in Utah that are required to report conditions to the Department, all of which are non-small businesses. Laboratories will need to make one-time programming changes associated with the proposed changes to the reportable conditions list. It is estimated that approximately two hours of programming time per laboratory (one hour per condition added) will be needed, or approximately \$150 per laboratory.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons are estimated to be \$14,500.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Proposed changes to this rule that will incur direct costs include: 1) removing Asptic Meningitis as a reportable condition, and 2) adding Respiratory Syncytial Virus (for electronic reporters) and Carbapenemase-producing enterobacteriaceae to the list of reportable conditions. Adding the new conditions will primarily require one-time programming changes by laboratories. Reporting entities will be required to include the patient's address. The cost to the labs for programming for such changes is estimated to take 2 hours of time at a cost of \$150 per lab.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
EPIDEMIOLOGY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Cindy Burnett by phone at 801-538-6692, or by Internet E-mail at cburnett@utah.gov or mail at PO BOX 142104, Salt Lake City, UT 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$6,400	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$8,100	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$14,500	\$0	\$0
Fiscal Benefits			
State Government	\$371	\$371	\$371
Local Government	\$3,861	\$3,861	\$3,861
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$248	\$248	\$248
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$4,480	\$4,480	\$4,480
Net Fiscal Benefits:	-\$10,020	\$4,480	\$4,480

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

Note: Proposed changes in the rule that will incur direct costs include: 1) removing Aspetic Meningitis as a reportable condition, and 2) adding Respiratory Syncytial Virus (for electronic reporters) and Carbenemase-producing enterobacteriaceae to the list of reportable conditions. Adding the new conditions will primarily require one-time programming changes by laboratories. There are 54 laboratories in Utah that are required to report conditions to public health, all of which are non-small businesses. Laboratories will need to make one-time programming changes associated with the proposed changes to the reportable conditions list. It is estimated that approximately 2 hours of programming time per laboratory (1 hour per condition added) will be needed, or approximately \$150 per laboratory.

The Director of the Utah Department of Health, Joseph Miner, MD, has reviewed and approved this fiscal analysis.

**R386. Health, Disease Control and Prevention, Epidemiology.
R386-702. Communicable Disease Rule.**

R386-702-1. Purpose Statement.

(1) The Communicable Disease Rule is adopted under authority of Sections 26-1-30, 26-6-3, and 26-23b.

(2) This rule outlines a multidisciplinary approach to communicable and infectious disease control and emphasizes reporting, surveillance, isolation, treatment and epidemiological investigation to identify and control preventable causes of infectious diseases. Reporting requirements and authorizations are specified for communicable and infectious diseases, outbreaks, and unusual occurrence of any disease. Each section has been adopted with the intent of reducing disease morbidity and mortality through the rapid implementation of established practices and procedures.

(3) The successes of medicine and public health dramatically reduced the risk of epidemics and early loss of life due to infectious agents during the twentieth century. However, the emergence of diseases such as Middle Eastern Respiratory Syndrome (MERS), and the rapid spread of diseases such as West Nile virus to the United States from other parts of the world, made possible by advances in transportation, trade, food production, and other factors, highlight the continuing threat to health from infectious diseases. Continual attention to these threats and cooperation among all health care providers, government agencies, and other entities that are partners in protecting the public's health are crucial to maintain and improve the health of the citizens of Utah.

R386-702-2. Definitions.

(1) Terms in this rule defined in Section 26-6-2:

- (a) Carrier
- (b) Communicable disease
- (c) Contact
- (d) Epidemic
- (e) Infection
- (f) Schools

(2) Terms in this rule defined in Section 26-6-6:

- (a) Health care provider

(3) Terms in this rule defined in Section 26-21-2:

- (a) Assisted living facilities
- (b) Nursing care facilities

(4) Terms in this rule defined in Section 26-23b-102:

- (a) Bioterrorism

(5) Terms in this rule defined in Section 26-39-102:

- (a) Childcare programs

(6) Terms in this rule defined in Section 78B-3-403:

- (a) Health care facilities

(7) Terms in this rule defined in Section 62A-15-602:

- (a) Mental health facilities

(8) Terms in this rule defined in Section R386-80-2:

- (a) Local health department

(9) In addition, for purposes of this rule:

(a) "Blood and plasma center" is defined as a blood bank, blood storage facility, plasma center, hospital, any another facility where blood or blood products are collected, or any facility where blood services are provided.

(b) "Care facilities licensed through the Department of Human Services" is described as any facility licensed through the Utah Department of Human Services, and includes adult day care facilities, adult foster care facilities, crisis respite facilities, domestic violence shelters and treatment programs, foster care homes, mental health treatment programs, residential treatment and day treatment facilities for persons with disabilities, substance abuse treatment programs, and youth treatment programs.

(c) "Case" is defined as any person, living or deceased, identified as having a communicable disease, condition, or syndrome that meets criteria for being reportable under this rule, or that is otherwise under public health investigation.

(d) "Clinic" is defined as any facility where a health care provider practices.

(e) "Condition" is defined as an abnormal state of health that may interfere with a person's regular feelings of wellbeing.

(f) "Correctional facility" is defined as an facility that forcibly confines an individual under the authority of the government, including but not limited to prisons, detention centers, jails, juvenile detention centers.

(g) "Department" is defined as the Utah Department of Health.

(h) "Diagnostic facility" is defined as the facility where the case or suspect case was seen and evaluated by a healthcare provider.

(i) "Dispensary" is defined as an office in a school, hospital, industrial plant, or other organization that dispenses medications or medical supplies.

(j) "Electronic case reporting" is defined as the transmission of clinical, diagnostic, laboratory, and treatment related data from reporting entities to the Department in a structured, computer-readable format that reflects comparable content to HL7 CDA(reg trademark) R2 Implementation Guide: Public Health Case Report, Release 2 - US Realm - the Electronic Initial Case Report (eICR). Electronic Initial Case Reporting is a form of electronic reporting.

(k) "Electronic laboratory reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using HL7 ORU-R01 2.3.1 or 2.5.1, LOINC, and SNOMED standard message structure and vocabulary. Electronic laboratory reporting is a form of electronic reporting.

(l) "Electronic reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department in a structured, computer-readable format that reflects comparable content to HL7 messaging.

(m) "Encounter" is defined as an instance of an individual presenting to a health care facility.

(n) "Event" is defined as any communicable disease, condition, laboratory result, syndrome, outbreak, epidemic, or other public health hazard that meets criteria for being reportable under this rule.

(o) "Good Samaritan" is defined as a person who gives reasonable aid to strangers in grave physical distress.

(p) "Invasive disease" is defined as infection occurring in parts of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(q) "Laboratory" is defined as any facility that receives, refers, or analyzes clinical specimens.

(r) "Manual reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using processes that require hand keying for data to be incorporated into Department databases.

(s) "Normally sterile site" is defined as a part of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(t) "Outbreak" is defined as the increased occurrence of any communicable disease, health condition, or syndrome in a community, institution, or region; or two or more cases of a communicable disease, health condition, or syndrome in persons with a common exposure.

(u) "Public health hazard" is defined as the presence of an infectious organism or condition in the environment which endangers the health of a specified population.

(v) "Suspect case" is defined as any person, living or deceased, who a reporting entity, local health department, or the Department believes might be a case, but for whom it has not been established that the criteria necessary to become a case have been met.

(w) "Syndrome" is defined as a set of signs or symptoms that often occur together.

R386-702-3. Reportable Events.

(1) The Department declares the following events to be of concern to public health and reporting of all instances is required or authorized by Sections 26-6-6 and 26-23b.

(2) Events Reportable by All Entities.

(a) Acute flaccid myelitis;

(b) Adverse event resulting from smallpox vaccination (*Vaccinia virus*, *Orthopox virus*);

(c) Anaplasmosis (*Anaplasma phagocytophilum*);

(d) Anthrax (*Bacillus anthracis*) or anthrax-like illness caused by *Bacillus cereus* strains that express anthrax toxin genes;

(e) Antibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) Resistant to a carbapenem in; ~~or with demonstrated carbapenemase, in:~~

(A) *Acinetobacter* species,

(B) *Enterobacter* species,

(C) *Escherichia coli*, or

(D) *Klebsiella* species,

(ii) Resistant to vancomycin in:

(A) *Staphylococcus aureus* (VRSA)_s;[_s]

(iii) Demonstrated carbapenemase production in:

(A) *Acinetobacter* species,

(B) *Enterobacter* species,

(C) *Escherichia coli*,

(D) *Klebsiella* species, or

(E) Any other *Enterobacteriaceae* species.

(f) Arbovirus infection, including but not limited to:

(i) Chikungunya virus infection,

(ii) West Nile virus infection, and

(iii) Zika virus infection, including congenital;

(g) Babesiosis (*Babesia* spp.);

(h) Botulism (*Clostridium botulinum*);

(i) Brucellosis (*Brucella* spp.);

(j) Campylobacteriosis (*Campylobacter* spp.);

(k) *Candida auris* or *Candida haemulonii* from any body

site;

(l) Chagas disease (*Trypanosoma cruzi*);

(m) Chancroid (*Haemophilus ducreyi*);

(n) Chickenpox (*Varicella zoster virus*, VZV, Human herpesvirus 3, HHV-3);

(o) Chlamydia (*Chlamydia trachomatis*);

(p) Coccidioidomycosis (*Coccidioides* spp.), also known as valley fever;

(q) Colorado tick fever (Colorado tick fever virus, Coltivirus spp.), also known as American mountain tick fever;

(r) Cryptosporidiosis (*Cryptosporidium* spp.);

(s) Cyclosporiasis (*Cyclospora* spp., including *Cyclospora cayetanensis*);

(t) Dengue fever (Dengue virus);

(u) Diphtheria (*Corynebacterium diphtheriae*);

(v) Ehrlichiosis (*Ehrlichia* spp.);

(w) Encephalitis (bacterial, fungal, parasitic, protozoan, and viral);

(x) Shiga toxin-producing *Escherichia coli* (STEC) infection;

(y) Giardiasis (*Giardia lamblia*), also known as beaver fever;

(z) Gonorrhea (*Neisseria gonorrhoeae*), including sexually transmitted and ophthalmia neonatorum;

(aa) *Haemophilus influenzae*, invasive disease;

(bb) Hantavirus infection (*Sin Nombre virus*);

(cc) Hemolytic uremic syndrome, postdiarrheal;

(dd) Hepatitis, viral, including but not limited to:

(i) Hepatitis A,

(ii) Hepatitis B (acute, chronic, and perinatal),

(iii) Hepatitis C (acute, chronic, and perinatal),

(iv) Hepatitis D, and

(v) Hepatitis E;

(ee) Human immunodeficiency virus (HIV) infection, including acquired immune deficiency syndrome (AIDS) diagnosis;

(ff) Influenza virus infection:

(i) Associated with a hospitalization,

(ii) Associated with a death in a person under 18 years of age, or

(iii) Suspected or confirmed to be caused by a non-seasonal influenza strain;

(gg) Legionellosis (*Legionella* spp.), also known as Legionnaires' disease;

(hh) Leptospirosis (*Leptospira* spp.);

(ii) Listeriosis (*Listeria* spp., including *Listeria monocytogenes*);

(jj) Lyme disease (*Borrelia burgdorferi*, *Borrelia mayonii*);

(kk) Malaria (*Plasmodium* spp.);

(ll) Measles (Measles virus), also known as rubeola;

(mm) Meningitis (~~[aseptic,]~~ bacterial, fungal, parasitic, protozoan, and viral);

(nn) Meningococcal disease (*Neisseria meningitidis*), invasive;

(oo) Middle East Respiratory Syndrome (MERS);

- (pp) Mumps (Mumps virus);
 - (qq) Mycobacterial infections, including:
 - (i) Tuberculosis (*Mycobacterium tuberculosis* complex),
 - (ii) Leprosy (*Mycobacterium leprae*), also known as Hansen's Disease,
 - (iii) All other mycobacterial infections (*Mycobacterium* spp.);
 - (rr) Pertussis (*Bordetella pertussis*);
 - (ss) Plague (*Yersinia pestis*);
 - (tt) Poliomyelitis (Poliovirus), paralytic and nonparalytic;
 - (uu) Psittacosis (*Chlamydia psittaci*), also known as ornithosis;
 - (vv) Q fever (*Coxiella burnetii*);
 - (ww) Rabies (Rabies virus), human and animal;
 - (xx) Relapsing fever (*Borrelia* spp.), tick-borne and louse-borne;
 - (yy) Rubella (Rubella virus), including congenital syndrome;
 - (zz) Salmonellosis (*Salmonella* spp.);
 - (aaa) Severe acute respiratory syndrome, also known as SARS (SARS coronavirus or SARS-CoV);
 - (bbb) Shigellosis (*Shigella* spp.);
 - (ccc) Smallpox (*Variola major* and *Variola minor*);
 - (ddd) Spotted fever rickettsioses (*Rickettsia* spp.), including Rocky Mountain spotted fever (*Rickettsia rickettsii*);
 - (eee) Streptococcal disease, invasive, due to:
 - (i) *Streptococcus pneumoniae*,
 - (ii) Group A *Streptococcus* (*Streptococcus pyogenes*), and
 - (iii) Group B *Streptococcus* (*Streptococcus agalactiae*);
 - (fff) Syphilis (*Treponema pallidum*), including:
 - (i) all stages,
 - (ii) congenital, and
 - (iii) syphilitic stillbirths;
 - (ggg) Tetanus (*Clostridium tetani*);
 - (hhh) Toxic shock syndrome, staphylococcal (*Staphylococcus aureus*) or streptococcal (*Streptococcus pyogenes*);
 - (iii) Transmissible spongiform encephalopathies (prion diseases), including Creutzfeldt-Jakob disease;
 - (jjj) Trichinellosis (*Trichinella* spp.);
 - (kkk) Tularemia (*Francisella tularensis*);
 - (lll) Typhoid (*Salmonella typhi*), cases and carriers;
 - (mmm) Vibriosis (*Vibrio* spp.), including Cholera (*Vibrio cholerae*);
 - (nnn) Viral hemorrhagic fevers, including but not limited to:
 - (i) Ebola fever (*Ebolavirus* spp.),
 - (ii) Lassa fever (Lassa virus), and
 - (iii) Marburg fever (Marburg virus);
 - (ooo) Yellow fever (Yellow fever virus).
- (3) Perinatally Transmissible Conditions Reportable by All Entities.
- (a) Pregnancy is a reportable event for the following communicable diseases, and reporting is required even if the communicable disease was reported to public health prior to the pregnancy:
 - (i) Hepatitis B infection;
 - (ii) Hepatitis C infection;
 - (iii) HIV infection;
 - (iv) Listeriosis;
 - (v) Rubella;

- (vi) Syphilis infection; and
 - (vii) Zika virus infection.
- (4) Antimicrobial[~~biotic~~] Susceptibility Tests Reportable by All Entities.
- (a) Full panel antimicrobial[~~biotic~~] susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on the following organisms:
 - (i) *Candida auris*/*Candida haemulonii* from any body site;
 - (ii) *Mycobacterium tuberculosis*;
 - (iii) *Neisseria gonorrhoeae*;
 - (iv) *Salmonella* species;
 - (v) *Shigella* species; and
 - (vi) *Streptococcus pneumoniae*.
 - (vii) Organisms resistant to a carbapenem [~~or with demonstrated carbapenemase,~~] in:
 - (A) *Acinetobacter* species,
 - (B) *Enterobacter* species,
 - (C) *Escherichia coli*,
 - (D) *Klebsiella* species;
 - (viii) Organisms resistant to vancomycin in:
 - (A) *Staphylococcus aureus* (VRSA)[?];
 - (b) All individual carbapenemase test results (positive, negative, equivocal, indeterminate), including the method used, are reportable when performed on the following organisms:
 - (i) Resistant to a carbapenem, or with demonstrated carbapenemase, in:
 - (A) *Acinetobacter* species,
 - (B) *Enterobacter* species,
 - (C) *Escherichia coli*, and
 - (D) *Klebsiella* species.
 - (b) Antiviral susceptibility test results; including nucleotide sequencing, genotyping, or phenotypic analysis; are reportable when performed on the following organisms:
 - (i) Human immunodeficiency virus (HIV).
- (5) Unusual Events Reportable by All Entities.
- (a) Unusual events include one or more cases or suspect cases of a communicable disease, condition, or syndrome considered:
 - (i) Rare, unusual, or new to Utah;
 - (ii) Previously controlled or eradicated;
 - (iii) Caused by an unidentified or newly identified organism;
 - (iv) Exposure or infection that may indicate a bioterrorism event with potential transmission to the public; or
 - (v) Any other infection not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.
 - (6) Outbreaks, Epidemics, or Unusual Occurrences of Events Reportable by All Entities.
 - (a) Entities shall report two or more cases or suspect cases, with or without an identified organism, including but not limited to:
 - (i) Gastrointestinal illnesses;
 - (ii) Respiratory illnesses;
 - (iii) Meningitis or encephalitis;
 - (iv) Infections caused by antimicrobial resistant organisms;
 - (v) Illnesses with suspected foodborne or waterborne transmission;
 - (vi) Illnesses with suspected ongoing transmission in any facility;
 - (vii) Infections that may indicate a bioterrorism event; or

(viii) Any other infections not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.

(b) Entities shall report increases or shifts in pharmaceutical sales that may indicate changes in disease trends; or

(7) Laboratory Results Reportable by Electronic Reporters.

(a) In addition to laboratory results set forth in Subsections R386-702-3(2) through R386-702-3(6), entities reporting electronically shall include the following laboratory results or laboratory results that provide presumptive evidence of the following communicable diseases:

(i) Influenza virus;

(ii) Norovirus infection;

(iii) *Pseudomonas aeruginosa*, resistant to a carbapenem, or with demonstrated carbapenemase production;

(iv) *Staphylococcus aureus* from a normally sterile site with methicillin testing performed, reported as either methicillin-susceptible *Staphylococcus aureus* (MSSA) or methicillin-resistant *Staphylococcus aureus* (MRSA); and

(v) Streptococcal disease, invasive due to all species.

(b) Entities reporting electronically shall include all laboratory results (positive, negative, equivocal, indeterminate) associated with the following tests or conditions:

(i) CD4+ T-Lymphocyte tests, regardless of known HIV status;

(ii) Chlamydia;

(iii) *Clostridium difficile*;

(iv) Cytomegalovirus (CMV), congenital (infants less than or equal to 12 months of age);

(v) Gonorrhea;

(vi) Hepatitis A;

(vii) Hepatitis B, including viral loads;

(viii) Hepatitis C, including viral loads;

(ix) HIV, including viral loads and confirmatory tests;

(x) Liver function tests, including ALT, AST, and bilirubin associated with a viral hepatitis case;

(xi) Lyme disease;

(xii) Respiratory syncytial virus (RSV);

(xiii) Syphilis;

(xiv) Tuberculosis; and

(xv) Zika virus.

(c) Entities reporting electronically shall report full panel antibiotic susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on the following organisms:

(i) *Pseudomonas aeruginosa*, resistant to a carbapenem, or with demonstrated carbapenemase.

(d) The Department may, by authority granted through Section 26-23b, identify additional reporting criteria when deemed necessary for the management of outbreaks or identification of exposures.

(e) Non-positive laboratory results reported for the events identified in Subsection R386-702-3(7)(b) will be used for the following purposes as authorized in Utah Health Code Subsections 26-1-30(2)(c), 26-1-30(2)(d), and 26-1-30(2)(f):

(i) To determine when a previously reported case becomes non-infectious;

(ii) To identify newly acquired infections through identification of a seroconversion window; or

(iii) To provide information critical for assignment of a case [definition] status.

(f) Information associated with a non-positive laboratory result will be kept by the Department for a period of 18 months.

(i) At the end of the 18 month period, if the result has not been appended to an existing case, personal identifiers will be stripped and expunged from the result.

(ii) The de-identified result will be added to a de-identified, aggregate dataset.

(iii) The dataset will be kept for use by public health to analyze trends associated with testing patterns and case distribution, and identify and establish prevention and intervention efforts for at-risk populations.

(8) Authorized Reporting of Syndromes and Conditions.

(a) Reporting of encounters for the following syndromes and conditions is authorized by Chapter 26-23b, unless made mandatory by the declaration of a public health emergency:

(i) Respiratory illness, including but not limited to:

(A) Upper or lower respiratory tract infections,

(B) Difficulty breathing, or

(C) Adult respiratory distress syndrome;

(ii) Gastrointestinal illness, including but not limited to:

(A) Vomiting,

(B) Diarrhea, or

(C) Abdominal pain;

(iii) Influenza-like constitutional symptoms or signs;

(iv) Neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

(v) Rash illness;

(vi) Hemorrhagic illness;

(vii) Botulism-like syndrome;

(viii) Lymphadenitis;

(ix) Sepsis or unexplained shock;

(x) Febrile illness (illness with fever, chills or rigors);

(xi) Nontraumatic coma or sudden death; and

(xii) Other criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin.

(b) Reporting of encounters for syndromes and conditions not specified in Subsection R386-702-3(8)(a) is also authorized by Chapter 26-23b, unless made mandatory by the declaration of a public health emergency.

(c) Information included in the reporting of the events identified in Subsection R386-702-3(8)(a) and R386-702-3(8)(b) will be used for the following purposes:

(i) To support early identification and ruling out of public health threats, disasters, outbreaks, suspected incidents, and acts of bioterrorism;

(ii) To assist in characterizing population groups at greatest risk for disease or injury;

(iii) To support assessment of the severity and magnitude of possible threats; or

(iv) To satisfy syndromic surveillance objectives of the Federal Centers for Medicaid and Medicare Meaningful Use incentive program.

(9) Reporting Exceptions

(a) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section 26-6-3.5 shall seek written approval of reporting exemption from the

Department institutional review board prior to the study commencement.

(b) The university or hospital shall submit the following to the HIV Epidemiologist within 30 days of Department institutional review board approval:

(i) A summary of the research protocol, including funding sources and justification for requiring anonymity; and

(ii) Written approval from the Department institutional review board.

(c) The university or hospital shall submit a report that includes all of the indicators specified in Subsection 26-6-3.5(4)(a) to the HIV Epidemiologist annually during an ongoing research study.

(d) The university or hospital shall submit a final report that includes all of the indicators specified in Subsection 26-6-3.5(4)(a) to the HIV Epidemiologist within 30 days of the conclusion of the research study.

(e) Documents can be submitted to the HIV Epidemiologist by fax at (801) 538-9923 or by mail to 288 North 1460 West Salt Lake City, Utah 84116.

R386-702-4. Entities Required to Report.

(1) Section 26-6-6 lists those entities required to report cases or suspect cases of the reportable events set forth in Section R386-702-3. This includes:

(a) Health care providers, as defined in Section 78B-3-403;

(b) Health care facilities, as defined in Section 78B-3-403;

(c) Health care facilities operated by the federal government;

(d) Mental health facilities, as defined in Section 62A-15-602;

(e) Care facilities licensed through the Department of Human Services;

(f) Nursing care facilities and assisted living facilities, as defined in Section 26-21-2;

(g) Dispensaries;

(h) Clinics;

(i) Laboratories;

(j) Schools, as defined in Section 26-6-2;

(k) Childcare programs, as defined in Section 26-39-102;

and

(1) Any individual with a knowledge of others who have a communicable disease.

(2) In addition, the following entities are required to report cases or suspect cases of the reportable events set forth in Section R386-702-3:

(a) Blood and plasma donation centers; and

(b) Correctional facilities

(3) When more than one entity is involved in the processing of a clinical specimen (receiving, forwarding, or analyzing); or the diagnosis, treatment, or care of a case or suspect case; all entities involved are required to report; even when diagnosis or testing is done outside of Utah.

(4) Health care entities may designate a single person or group of persons to report the events identified in Section R386-702-3 to public health on behalf of their health care providers or medical laboratories, as long as reporting complies with all requirements in this rule.

R386-702-5. Mandatory Submission of Clinical Material.

(1) Laboratories shall submit clinical material from all cases identified with organisms listed in Subsection R386-702-5(3) to the Utah Department of Health, Utah Public Health Laboratory (UPHL) within three working days of identification.

(a) Clinical material is defined as:

(i) A clinical isolate containing the organism for which submission of material is required; or

(ii) If an isolate is not available, material containing the organism for which submission of material is required, in the following order of preference:

(A) a patient specimen,

(B) nucleic acid, or

(C) other laboratory material.

(2) Laboratories submitting clinical material from cases identified with organisms designated by UPHL as potential bioterrorism agents shall first notify UPHL via telephone immediately.

(a) UPHL can be contacted during business hours at (801) 965-2400, or after hours at (801) 560-6586, of all bioterrorism agents that are being submitted.

(3) Organisms mandated for standard clinical submission include:

(a) Antibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) Resistant to a carbapenem[~~], or with demonstrated carbapenemase,~~]in:

(A) Acinetobacter species,

(B) Enterobacter species,

(C) Escherichia coli, or

(D) Klebsiella species,

(E) Pseudomonas aeruginosa,

(ii) Resistant to vancomycin in:

(A) Staphylococcus aureus (VRSA),

(iii) Demonstrated carbapenemase production in:

(A) Acinetobacter species,

(B) Enterobacter species,

(C) Escherichia coli,

(D) Klebsiella species,

(E) Any other Enterobacteriaceae species, or

(F) Pseudomonas aeruginosa.[:]

(b) Campylobacter species;

(c) Candida auris or Candida haemulonii from any body

site;

(d) Corynebacterium diphtheriae;

(e) Shiga toxin-producing Escherichia coli (STEC), including enrichment and/or MacConkey broths that tested positive by any method for Shiga toxin;

(f) Haemophilus influenzae, from normally sterile sites;

(g) Influenza A virus, unsubtypeable;

(h) Influenza virus (hospitalized cases only);

(i) Legionella species;

(j) Listeria monocytogenes;

(k) Measles (rubeola) virus;

(l) Mycobacterium tuberculosis complex;

(m) Neisseria meningitidis, from normally sterile sites;

(n) Salmonella species;

(o) *Shigella* species;
 (p) *Vibrio* species;
 (q) West Nile virus;
 (r) *Yersinia* species;
 (s) Zika virus; and
 (t) Any organism implicated in an outbreak when instructed by authorized local or state health department personnel.

(4) Organisms mandated for bioterrorism clinical submission include:

- (a) *Bacillus anthracis*;
- (b) *Brucella* species;
- (c) *Clostridium botulinum*;
- (d) *Francisella tularensis*; and
- (e) *Yersinia pestis*.

(5) Submission of clinical material does not replace the requirement for laboratories to report the event to public health as defined in Sections R386-702-6 and R386-702-7.

(6) For additional information on this process, contact UPHL at (801) 965-2400.

R386-702-6. Reporting Criteria.

(1) Manual Reporting

(a) Reporting Timeframes

(i) Entities shall report immediately reportable events by telephone as soon as possible, but no later than 24 hours after identification. Events designated as immediately reportable by the Department include cases and suspect cases of:

- (A) Anthrax or anthrax-like illness;
- (B) Botulism, excluding infant botulism;
- (C) Cholera;
- (D) Diphtheria;
- (E) *Haemophilus influenzae*, invasive disease;
- (F) Hepatitis A;
- (G) Influenza infection suspected or confirmed to be caused by a non-seasonal influenza strain;
- (H) Measles;
- (I) Meningococcal disease, invasive;
- (J) Middle East Respiratory Syndrome (MERS);
- (K) Plague;
- (L) Poliovirus, paralytic and nonparalytic;
- (M) Rabies, human and animal;
- (N) Rubella, excluding congenital syndrome;
- (O) Severe acute respiratory syndrome (SARS);
- (P) Smallpox;
- (Q) *Staphylococcus aureus* from any clinical specimen that is resistant ~~or intermediate resistant~~ to vancomycin;

(R) Transmissible spongiform encephalopathies (prion diseases), including Creutzfeldt-Jakob disease;

- (S) Tuberculosis;
- (T) Tularemia;
- (U) Typhoid, cases and carriers;
- (V) Viral hemorrhagic fevers;
- (W) Yellow fever; or
- (X) Any event described in Subsections R386-702-3(5) or R386-702-3(6).

(ii) Entities shall report all events in Subsections R386-702-3(2) through R386-702-3(6) not required to be reported immediately within three working days from the time of identification.

(b) Methods for Reporting

(i) Entities reporting manually shall send reports to either a local health department or the Department by phone, secured fax, secured email, or mail.

(ii) Contact information for the Department is as follows:

(A) Phone: (801) 538-6191 during business hours, or 888-EPI-UTAH (888-374-8824) after hours;

(B) Secured fax: (801) 538-9923;

(C) Secured email: reporting@utah.gov (contact the Department at (801) 538-6191 for information on this option); and

(D) Mail: 288 North 1460 West Salt Lake City, Utah 84116.

(iii) A confidential morbidity report form is available at: <http://health.utah.gov/epi/reporting/>.

(iv) The Department incorporates by reference version 2.1[0] of the Utah Reporting Specifications for Communicable Diseases, which identifies individual laboratory tests that shall be reported to the Department by manual reporting entities.

(2) Electronic Reporting

(a) Reporting Timeframes

(i) All entities that report electronically [~~must~~]shall report laboratory results within 24 hours of finalization.

(A) Entities can choose to report in real-time (as each report is released) or batch reports.

(B) Entities reporting electronically [~~must~~]shall report preliminary positive results for the immediately reportable events specified in Subsection R386-702-6(1)(a)(i).

(b) Methods for Reporting

(i) All laboratories that identify cases or suspect cases shall report to the Department through electronic laboratory reporting, in a manner approved by the Department. Reportable events shall be identified by automated computer algorithms.

(A) Laboratories may substitute electronic reporting if electronic laboratory reporting is not available, with permission from the Department, and in a manner approved by the Department.

(B) Hospitals reporting electronically shall use HL7 2.5.1 message structure, and standard LOINC and SNOMED terminology in accordance with Meaningful Use regulations.

(C) Laboratories reporting electronically shall use HL7 2.3.1 or 2.5.1 message structure, and appropriate LOINC codes designating the test performed.

(D) Entities reporting electronically shall submit all local vocabulary codes with translations to the Division of Disease Control and Prevention Informatics Program, if applicable.

(E) The Department incorporates by reference version 1.2[+] of the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases, which identifies individual laboratory tests that shall be reported to the Department by electronic reporting entities.

(F) For additional information on this process, refer to <https://health.utah.gov/phaccess/public/elr/> or contact the Division of Disease Control and Prevention Informatics Program by phone (801-538-6191) or email ([edx\[#\]@utah.gov](mailto:edx[#]@utah.gov)).

(ii) Electronic case reporting is an authorized method of reporting to the Department. For additional information on this process, contact the Division of Disease Control and Prevention Informatics Program by phone (801-538-6191) or email ([edx\[#\]@utah.gov](mailto:edx[#]@utah.gov)).

(A) Entities reporting via electronic case reporting may send all clinical information for an encounter that meets criteria for reporting to public health.

(3) Syndromic Reporting

(a) Reporting Timeframes

(i) Entities reporting syndromes or conditions identified in Subsection R386-702-3(8) shall report as soon as practicable using a schedule approved by the Department.

(b) Methods for Reporting

(i) For information on reporting syndromic data, refer to <https://health.utah.gov/phaccess/public/SS/> or contact the Division of Disease Control and Prevention Informatics Program by phone (801-538-6191) or email ([edx\[redacted\]@utah.gov](mailto:edx[redacted]@utah.gov)).

R386-702-7. Required Information.

(1) Entities shall include as much of the following information as is known when reporting events specified in Subsections R386-702-3(2) through R386-702-3(6) to public health:

(a) Patient information:

(i) Full name;

(ii) Date of birth;

(iii) Address, including street address, city, state, and zip code;

(iv) Telephone number;

(v) Gender;

(vi) Race and ethnicity;

(vii) Date of onset;

(viii) Hospitalization status and date of admission; and

(ix) Pregnancy status and estimated due date.

(b) Diagnostic information:

(i) Name of the diagnostic facility;

(ii) Address, including street address, city, state, and zip code; of the diagnostic facility;

(iii) Telephone number of the diagnostic facility;

(iv) Full name of the ordering or diagnosing health care provider;

(v) Address, including street address, city, state, and zip code; of the ordering or diagnosing health care provider; and

(vi) Telephone number of the ordering or diagnosing health care provider.

(c) Reporter information:

(i) Full name of the person reporting;

(ii) Name of the facility reporting; and

(iii) Telephone number of the person or facility reporting.

(d) Laboratory testing information:

(i) Name of the laboratory performing the test;

(ii) The laboratory's name for, or description of, the test;

(iii) Specimen source;

(iv) Specimen collection date;

(v) Testing results;

(vi) Test reference range; and

(vii) Test status (e.g. preliminary, final, amended and/or corrected).

(2) Entities shall submit reports that are clearly legible and do not contain any internal codes or abbreviations to the Department.

(3) Entities submitting or forwarding a specimen for testing using ~~[ordering-]~~ a laboratory test identified in the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases shall

~~[provide the performing laboratory with]~~include the patient's address, so that the performing laboratory can report results to the appropriate public health agency.

(a) If the patient's address is not known by the ~~[ordering-]~~ submitting or forwarding entity, the submitting or forwarding ~~[ordering-]~~entity shall provide the performing laboratory with the name and address of the ~~[diagnostic]~~ facility where the specimen originated.

(4) Entities shall reference <http://health.utah.gov/epi/> reporting, or contact~~[ing]~~ the Department at (801) 538-6191, for additional reporting specifications, including technical documents, reporting forms, and protocols.

(5) Full reporting of all relevant patient information is authorized when reporting events listed in Subsection R386-702-3(8) to public health.

(a) Entities shall include in reports at least the following information, if known:

(i) Name of the facility;

(ii) A patient identifier;

(iii) Date of visit;

(iv) Time of visit;

(v) Patient's age;

(vi) Patient's gender;

(vii) Zip code of patient's residence;

(viii) Chief complaint(s), reason for visit, and/or diagnosis;

and

(ix) Whether the patient was admitted to the hospital.

R386-702-8. Confidentiality of Reports.

(1) All reports required by this rule are confidential and are not open to public inspection. All information collected pursuant to this rule shall not be released or made public, except as provided by Section 26-6-27. Penalties for violation of confidentiality are prescribed in Section 26-6-29.

(2) Nothing in this rule precludes the discussion of case information with an attending clinician or public health workers.

(3) Good Samaritans

(a) The Department or local health department shall disclose communicable disease-related information regarding the person who was assisted to the medical provider of a Good Samaritan when that medical provider submits a request to the Department or local health department. The request must include:

(i) Information regarding the occurrence of the accident, fire, or other life-threatening emergency;

(ii) A description of the exposure risk to the Good Samaritan; and

(iii) Contact information for the Good Samaritan and their medical provider.

(b) The Department or local health department will ensure that the disclosed information:

(i) Includes enough detail to allow for appropriate education and follow-up to the Good Samaritan; and

(ii) Ensures confidentiality is maintained for the person who was aided.

(c) No identifying information will be shared with the Good Samaritan or their medical provider regarding the person who was assisted. The Good Samaritan shall receive written information warning them that information regarding the person who was assisted is protected by state law.

R386-702-9. Non-Compliance with Reporting Regulations.

(1) Any person who violates any provision of Section R386-702 may be assessed a penalty as provided in Section 26-23-6.

(a) Willful non-compliance may result in the Department working with other agencies to incur penalties which may include loss of accreditation or licensure.

(2) Records maintained by reporting entities are subject to review by Department personnel to assure the completeness and accuracy of reporting.

(3) If public health conducts a surveillance project, such as assessing the completeness of case finding or assessing another measure of data quality, the Department may, at its discretion, waive any penalties for participating entities if cases are found that were not originally reported for whatever reason.

R386-702-10. Information Necessary for Public Health Investigation and Surveillance.

(1) Reporting entities shall provide the Department or local health department with any records or other materials requested by public health that are necessary to conduct a thorough investigation.

(a) This includes, but is not limited to, medical records, additional laboratory testing results, treatment and vaccination history, clinical material, or contact information for cases, suspect cases, or persons potentially exposed.

(b) The Department or local health department shall be granted on-site access to a facility, when such access is critical to a public health investigation.

R386-702-11. General Measures for the Control of Communicable Diseases.

(1) The local health department shall maintain all reportable disease records as needed to enforce Chapter 6 of the Health Code and this rule, or as requested by the Utah Department of Health.

(2) General Control Measures for Reportable Diseases.

(a) The local health department shall, when an unusual or rare disease occurs in any part of the state or when any disease becomes so prevalent as to endanger the state as a whole, contact the Bureau of Epidemiology, Utah Department of Health for assistance, and shall cooperate with the representatives of the Utah Department of Health.

(b) The local health department shall investigate and control the causes of epidemic, infectious, communicable, and other disease affecting the public health. The local health department shall also provide for the detection, reporting, prevention, and control of communicable, infectious, and acute diseases that are dangerous or important or that may affect the public health. The local health department may require physical examination and measures to be performed as necessary to protect the health of others.

(c) If, in the opinion of the local health officer it is necessary or advisable to protect the public's health that any person shall be kept from contact with the public, the local health officer shall establish, maintain and enforce involuntary treatment, isolation and quarantine as provided by Section 26-6-4. Control measures shall be specific to the known or suspected disease agent. Guidance is available from the Bureau of Epidemiology, Utah Department of Health or official reference listed in R386-702-18.

(3) Prevention of the Spread of Disease From a Case.

The local health department shall take action and measures as may be necessary within the provisions of Section 26-6-4; Title 26,

Chapter 6b; and this rule, to prevent the spread of any communicable disease, infectious agent, or any other condition which poses a public health hazard. Action shall be initiated upon discovery of a case or upon receipt of notification or report of any disease.

(4) Prevention of the Spread of Disease or Other Public Health Hazard.

A case, suspected case, carrier, contact, other person, or entity (e.g. facility, hotel, organization) shall, upon request of a public health authority, promptly cooperate during:

(a) An investigation of the circumstances or cause of a case, suspected case, outbreak, or suspected outbreak.

(b) The carrying out of measures for prevention, suppression, and control of a public health hazard, including, but not limited to, procedures of restriction, isolation, and quarantine.

(5) Public Food Handlers.

A person known to be infected with a communicable disease that can be transmitted by food or drink products, or who is suspected of being infected with such a disease, may not engage in the commercial handling of food or drink products, or be employed on any premises handling those types of products, unless those products are packaged off-site and remain in a closed container until purchased for consumption, until the person is determined by the local health department to be free of communicable disease, or incapable of transmitting the infection.

(6) Communicable Diseases in Places Where Food or Drink Products are Handled or Processed.

If a case, carrier, or suspected case of a disease that can be conveyed by food or drink products is found at any place where food or drink products are handled or offered for sale, or if a disease is found or suspected to have been transmitted by these food or drink products, the local health department may immediately prohibit the sale, or removal of drink and all other food products from the premises. Sale or distribution of food or drink products from the premises may be resumed when measures have been taken to eliminate the threat to health from the product and its processing as prescribed by R392-100.

(7) Request for State Assistance.

If a local health department finds it is not able to completely comply with this rule, the local health officer or his representative shall request the assistance of the Utah Department of Health. In such circumstances, the local health department shall provide all required information to the Bureau of Epidemiology. If the local health officer fails to comply with the provisions of this rule, the Utah Department of Health shall take action necessary to enforce this rule.

(8) Approved Laboratories.

Laboratory analyses that are necessary to identify the causative agents of reportable diseases or to determine adequacy of treatment of patients with a disease shall be ordered by the physician or other health care provider to be performed in or referred to a laboratory holding a valid certificate under the Clinical Laboratory Improvement Amendments of 1988.

R386-702-12. Special Measures for Control of Rabies.

(1) Rationale of Treatment.

A physician must evaluate individually each exposure to possible rabies infection. The physician shall also consult with local or state public health officials if questions arise about the need for rabies prophylaxis.

(2) Management of Biting Animals.

(a) A healthy dog, cat, or ferret that bites a person shall be confined and observed at least daily for ten days from the date of bite, regardless of vaccination status, as specified by local animal control ordinances. It is recommended that rabies vaccine not be administered during the observation period. Such animals shall be evaluated by a veterinarian at the first sign of illness during confinement. A veterinarian or animal control officer shall immediately report any illness in the animal to the local health department. If signs suggestive of rabies develop, a veterinarian or animal control officer shall direct that the animal be euthanized, its head removed, and the head shipped under refrigeration, not frozen, for examination of the brain by a laboratory approved by the Utah Department of Health.

(b) If the dog, cat, or ferret shows no signs of rabies or illness during the ten day period, the veterinarian or animal control officer shall direct that the unvaccinated animal be vaccinated against rabies at the owner's expense before release to the owner. If a veterinarian is not available, the animal may be released, but the owner shall have the animal vaccinated within 72 hours of release. If the dog, cat, or ferret was appropriately vaccinated against rabies before the incident, the animal may be released from confinement after the 10-day observation period with no further restrictions.

(c) Any stray or unwanted dog, cat, or ferret that bites a person may be euthanized immediately by a veterinarian or animal control officer, if permitted by local ordinance, and the head submitted, as described in R386-702-12(2)(a), for rabies examination. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(d) Wild animals include raccoons, skunks, coyotes, foxes, bats, the offspring of wild animals crossbred to domestic dogs and cats, and any carnivorous animal other than a domestic dog, cat, or ferret.

(e) Signs of rabies in wild animals cannot be interpreted reliably. If a wild animal bites or scratches a person, the person or attending medical personnel shall notify an animal control or law enforcement officer. A veterinarian, animal control officer or representative of the Division of Wildlife Resources shall kill the animal at once, without unnecessary damage to the head, and submit the brain, as described in R386-702-12(2)(a), for examination for evidence of rabies. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(f) Rabbits, opossums, squirrels, chipmunks, rats, and mice are rarely infected and their bites rarely, if ever, call for rabies prophylaxis or testing. Unusual exposures to any animal should be reported to the local health department or the Bureau of Epidemiology, Utah Department of Health.

(g) When rare, valuable, captive wild animals maintained in zoological parks approved by the United States Department of Agriculture or research institutions, as defined by Section 26-26-1, bite or scratch a human, the Bureau of Epidemiology, Utah Department of Health shall be notified. The provisions of subsection R386-702-12(2)(e) may be waived by the Bureau of Epidemiology, Utah Department of Health if zoological park operators or research institution managers can demonstrate that the following rabies control measures are established:

(i) Employees who work with the animal have received preexposure rabies immunization.

(ii) The person bitten by the animal voluntarily agrees to accept postexposure rabies immunization provided by the zoological park or research facility.

(iii) The director of the zoological park or research facility shall direct that the biting animal be held in complete quarantine for a minimum of four months for dogs and cats, and six months for ferrets. Quarantine requires that the animal be prohibited from direct contact with other animals or humans.

(h) Any animal bitten or scratched by a wild, carnivorous animal or a bat that is not available for testing shall be regarded as having been exposed to rabies. The animal shall be placed in a strict quarantine for four months for dogs and cats, or six months for ferrets.

(i) For maximum protection of the public health, unvaccinated dogs, cats, and ferrets bitten or scratched by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer. If the owner is unwilling to have the animal euthanized, the local health officer shall order that the animal be held in strict isolation in a municipal or county animal shelter or a veterinary medical facility approved by the local health department, at the owner's expense, for at least four months for dogs and cats, and six months for ferrets. The animal shall be vaccinated one month before being released. If any illness suggestive of rabies develops in the animal, the veterinarian or animal control officer shall immediately report the illness to the local health department and the veterinarian or animal control officer shall direct that the animal be euthanized and the head shall be handled as described in subsection R386-702-12(2)(a).

(j) Dogs, cats, and ferrets that are currently vaccinated and are bitten by rabid animals, shall be revaccinated immediately by a veterinarian and confined and observed by the animal's owner for 45 days. If any illness suggestive of rabies develops in the animal, the owner shall report immediately to the local health department and the animal shall be euthanized by a veterinarian or animal control officer and the head shall be handled as described in subsection R386-702-12(2)(a).

(k) Livestock exposed to a rabid animal and currently vaccinated with a vaccine approved by the United States Department of Agriculture for that species shall be revaccinated immediately by a veterinarian and observed by the owner for 45 days. Unvaccinated livestock shall be slaughtered immediately. If the owner is unwilling to have the animal slaughtered, the animal shall be kept under close observation by the owner for six months.

(l) Unvaccinated animals other than dogs, cats, ferrets, and livestock bitten by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer.

(3) Testing Fees at Utah Public Health Laboratory (UPHL).

(a) Animals being submitted to UPHL for rabies testing must follow criteria defined in The Compendium of Animal Rabies Prevention and Control to be eligible for testing without a fee. Testing of animals that fit this criteria will be eligible for a waived fee for testing. Testing of animals that do not meet this criteria will incur a testing fee as set forth by UPHL.

(b) The following situations will not incur a rabies testing fee if testing is ordered for them through UPHL:

(i) Any bat in an instance where a person or animal has had an exposure, or reasonable probability of exposure, including, but not limited to: known bat bites, exposure to bat saliva, a bat found in a

room with a sleeping person or unattended child, or a bat found near a child or mentally impaired or intoxicated person.

(ii) Dogs, cats, or ferrets, regardless of rabies vaccination status, if signs suggestive of rabies are documented in them.

(iii) Wild mammals and hybrids that expose persons, pets, or livestock (e.g., skunks, foxes, coyotes, and raccoons) may be tested.

(iv) Livestock may be tested if signs suggestive of rabies are documented.

(v) UDOH Bureau of Epidemiology staff are available to discuss additional situations that may warrant testing at (801) 538-6191.

(c) The following situations will incur a \$95 testing fee if testing is ordered for them through UPHL:

(i) Any stray with unknown or undocumented vaccination history that exposes a person, if signs suggestive of rabies are not documented, or if the animal has not been confined and observed for at least 10 days.

(ii) Dogs, cats, and ferrets: currently vaccinated animals that expose a person, if signs suggestive of rabies are not documented, or animals have not been confined and observed for at least 10 days.

(iii) Regardless of rabies vaccination status, a healthy dog, cat, or ferret that has not exposed a person.

(iv) Small rodents (e.g., rats, mice, squirrels, chipmunks, voles, or moles) and lagomorphs (rabbits and hares).

(v) Incomplete paperwork accompanying the sample will also result in a fee for testing; a thorough description of the situation must be included with each sample submission.

(vi) UDOH Bureau of Epidemiology staff are available to discuss additional situations that may not warrant testing at (801) 538-6191.

(d) If the submitting party feels they are charged inappropriately for rabies testing, they may send a letter describing the situation and requesting a waiver for fees to the: Utah Department of Health, Bureau of Epidemiology, P.O. Box 142104, Salt Lake City, UT 84114, attention: Zoonotic Diseases Epidemiologist. Information may be submitted electronically via email to: epi@utah.gov, with a note in the subject line "Attention: Zoonotic Diseases Epidemiologist".

(i) The submitting party has 30 days from receipt of the testing fee invoice to file an appeal. The letter must include copies of the original paperwork that was submitted, and a copy of the invoice received, for a waiver to be considered.

(ii) UDOH and UPHL have 30 days to review information after receipt of an appeal request to make an official decision and notify the submitter.

(iii) UDOH Bureau of Epidemiology staff are available to discuss questions about testing fees and the appeal process at (801) 538-6191.

(4) Measures for Standardized Rabies Control Practices.

(a) Humans requiring either pre- or post-exposure rabies prophylaxis shall be treated in accordance with the recommendations of the U.S. Public Health Service Immunization Practices Advisory Committee, as adopted and incorporated by reference in R386-702-18(2). A copy of the recommendations shall be made available to licensed medical personnel, upon request to the Bureau of Epidemiology, Utah Department of Health.

(b) A physician or other health care provider that administers rabies vaccine shall immediately report all serious systemic neuroparalytic or anaphylactic reactions to rabies vaccine through the Vaccine Adverse Event Reporting System (VAERS).

(c) The Compendium of Animal Rabies Prevention and Control, as adopted and incorporated by reference in R386-702-18(5), is the reference document for animal vaccine use.

(d) A county, city, town, or other political subdivision that requires licensure of animals shall also require rabies vaccination as a prerequisite to obtaining a license.

(e) Animal rabies vaccinations are valid only if performed by or under the direction of a licensed veterinarian in accordance with the Compendium of Animal Rabies Prevention and Control.

(f) All agencies and veterinarians administering vaccine shall document each vaccination on the National Association of State Public Health Veterinarians (NASPHV) form number 51, Rabies Vaccination Certificate, which can be obtained from vaccine manufacturers. The agency or veterinarian shall provide a copy of the report to the animal's owner. Computer-generated forms containing the same information are also acceptable.

(g) Animal rabies vaccines may be sold or otherwise provided only to licensed veterinarians or veterinary biologic supply firms. Animal rabies vaccine may be purchased by the Utah Department of Health and the Utah Department of Agriculture.

(5) Measures to Prevent or Control Rabies Outbreaks.

(a) The most important single factor in preventing human rabies is the maintenance of high levels of immunity in the pet dog, cat, and ferret populations through vaccination.

(i) All dogs, cats, and ferrets in Utah should be immunized against rabies by a licensed veterinarian; and

(ii) Local governments should establish effective programs to ensure vaccination of all dogs, cats, and ferrets and to remove strays and unwanted animals.

(b) If the Utah Department of Health determines that a rabies outbreak is present in an area of the state, the Utah Department of Health may require that:

(i) all dogs, cats, and ferrets in that area and adjacent areas be vaccinated or revaccinated against rabies as appropriate for each animal's age;

(ii) any such animal be kept under the control of its owner at all times until the Utah Department of Health declares the outbreak to be resolved;

(iii) an owner who does not have an animal vaccinated or revaccinated surrender the animal for confinement and possible destruction; and

(iv) such animals found at-large be confined and possibly destroyed.

R386-702-13. Special Measures for Control of Typhoid.

(1) Because typhoid control measures depend largely on sanitary precautions and other health measures designed to protect the public, the local health department shall investigate each case of typhoid and strictly manage the infected individual according to the following outline:

(2) Cases: Standard precautions are required during hospitalization. Use contact precautions for diapered or incontinent patients for the duration of illness. Hospital care is desirable during acute illness. Release of the patient from supervision by the local health department shall be based on three or more negative cultures of feces (and of urine in patients with schistosomiasis) taken at least 24 hours apart. Cultures must have been taken at least 48 hours after antibiotic therapy has ended and not earlier than one month after onset of illness as specified in R386-702-13(6). If any of these cultures is

positive, repeat cultures at intervals of one month during the 12-month period following onset until at least three consecutive negative cultures are obtained as specified in R386-702-13(6). The patient shall be restricted from food handling, child care, and from providing patient care during the period of supervision by the local health department.

(3) **Contacts:** Administration of typhoid vaccine is recommended for all household members of known typhoid carriers. Household and close contacts of a carrier shall be restricted from food handling, child care, and patient care until two consecutive negative stool specimens, taken at least 24 hours apart, are submitted, or when approval is granted by the local health officer according to local jurisdiction.

(4) **Carriers:** If a laboratory or physician identifies a carrier of typhoid, the attending physician shall immediately report the details of the case by telephone to the local health department or the Bureau of Epidemiology, Utah Department of Health using the process described in R386-702-6. Each infected individual shall submit to the supervision of the local health department. Carriers are prohibited from food handling, child care, and patient care until released in accordance with R386-702-13(4)(a) or R386-702-13(4)(b). All reports and orders of supervision shall be kept confidential and may be released only as allowed by Subsection 26-6-27(2)(c).

(a) **Convalescent Carriers:** Any person who harbors typhoid bacilli for three but less than 12 months after onset is defined as a convalescent carrier. Release from occupational and food handling restrictions may be granted at any time from three to 12 months after onset, as specified in R386-702-13(6).

(b) **Chronic Carriers:** Any person who continues to excrete typhoid bacilli for more than 12 months after onset of typhoid is a chronic carrier. Any person who gives no history of having had typhoid or who had the disease more than one year previously, and whose feces or urine are found to contain typhoid bacilli is also a chronic carrier.

(c) **Other Carriers:** If typhoid bacilli are isolated from surgically removed tissues, organs, including the gallbladder or kidney, or from draining lesions such as osteomyelitis, the attending physician shall report the case to the local health department or the Bureau of Epidemiology, Utah Department of Health. If the person continues to excrete typhoid bacilli for more than 12 months, he is a chronic carrier and may be released after satisfying the criteria for chronic carriers in R386-702-13(6).

(5) **Carrier Restrictions and Supervision:** The local health department shall report all typhoid carriers to the Bureau of Epidemiology, and shall:

- (a) Require the necessary laboratory tests for release;
- (b) Issue written instructions to the carrier;
- (c) Supervise the carrier.

(6) **Requirements for Release of Convalescent and Chronic Carriers:** The local health officer or his representative may release a convalescent or chronic carrier from occupational and food handling restrictions only if at least one of the following conditions is satisfied:

(a) For carriers without schistosomiasis, three consecutive negative cultures obtained from fecal specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(b) for carriers with schistosomiasis, three consecutive negative cultures obtained from both fecal and urine specimens authenticated by the attending physician, hospital personnel, laboratory

personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(c) the local health officer or his representative determine that additional treatment such as cholecystectomy or nephrectomy has terminated the carrier state; or

(d) the local health officer or his representative determines the carrier no longer presents a risk to public health according to the evaluation of other factors.

R386-702-14. Special Measures for the Control of Ophthalmia Neonatorum.

Every physician or midwife practicing obstetrics or midwifery shall, within three hours of the birth of a child, instill or cause to be instilled in each eye of such newborn one percent silver nitrate solution contained in wax ampules, or tetracycline ophthalmic preparations or erythromycin ophthalmic preparations, as these are the only antibiotics of currently proven efficacy in preventing development of ophthalmia neonatorum. The value of irrigation of the eyes with normal saline or distilled water is unknown and not recommended.

R386-702-15. Special Measures for the Control of HIV/AIDS.

(1) **Partner identification and notification:**

(a) If an individual is tested and found to have an HIV infection, the Department and/or local health department shall provide partner services, linkage-to-care activities, and promote retention to HIV care.

(2) **Definitions:**

(a) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual.

(b) "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period prior to the diagnosis of HIV infection.

(c) "Linkage to care" is defined by a reported CD4+ T-Lymphocyte test and/or HIV viral load determination within three months of HIV positive diagnosis.

(d) "Retention to care" is defined by a reported CD4+ T-Lymphocyte test or HIV viral load determination once within a 12-month period.

(3) **Partner services include:**

(a) Confidential partner notification within 30 days of receiving a positive HIV result or when relevant additional information is found to aid in an investigation or case management;

(b) Prevention counseling;

(c) Testing for HIV;

(d) Providing recommendations for testing for other sexually transmitted diseases;

(e) Providing recommendations for hepatitis screening and vaccination;

(f) Treatment or linkage to medical care on an ongoing basis, as needed; and

(g) Linkage or referral to other prevention services and support.

(4) **Re-engagement to care includes:**

(a) Linkage to medical care, on an ongoing basis, as needed;

(b) Linkage or referral to other prevention services and support;

(c) Confidential partner notification, as needed;

- (d) Prevention counseling;
- (e) Providing recommendations for testing for other sexually transmitted diseases;
- (f) Providing recommendations for hepatitis screening and vaccination;
- (g) Medication adherence counseling; and
- (h) Risk reduction counseling.

R386-702-16. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.

(1) A licensed healthcare provider who provides prenatal care shall routinely test each pregnant woman for hepatitis B surface antigen (HBsAg) at an early prenatal care visit. The provisions of this section do not apply if the pregnant woman, after being informed of the possible consequences, objects to the test on the basis of religious or personal beliefs.

(2) The licensed healthcare provider who provides prenatal care shall repeat the HBsAg test during late pregnancy for those women who tested negative for HBsAg during early pregnancy, but who are at high risk based on:

- (a) evidence of clinical hepatitis during pregnancy;
- (b) injection drug use;
- (c) occurrence during pregnancy or a history of a sexually transmitted disease;
- (d) occurrence of hepatitis B in a household or close family contact; or
- (e) the judgment of the healthcare provider.

(3) In addition to other reporting required by this rule, each positive HBsAg result detected in a pregnant woman shall be reported to the local health department or the Department, as specified in Section 26-6-6. That report shall indicate that the woman was pregnant at time of testing if that information is available to the reporting entity.

(4) A licensed healthcare provider who provides prenatal care shall document a woman's HBsAg test results, or the basis of the objection to the test, in the medical record for that patient.

(5) Every hospital and birthing facility shall develop a policy to assure that:

- (a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status, the result from a test for HBsAg performed on that woman during that pregnancy is available for review and documented in the hospital record;
- (b) when a pregnant woman is admitted for delivery, if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg as soon as possible, but before discharge from the hospital or birthing facility;
- (c) if a pregnant woman who has not had prenatal care during that pregnancy is admitted for monitoring of pregnancy status only, and if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg status before discharge from the hospital or birthing facility;
- (d) positive HBsAg results identified by testing performed or documented during the hospital stay are reported as specified in this rule;
- (e) infants born to HBsAg positive mothers receive hepatitis B immune globulin (HBIG) and hepatitis B vaccine, administered at separate injection sites, within 12 hours of birth;

(f) infants born to mothers whose HBsAg status is unknown receive hepatitis B vaccine within 12 hours of birth, and if the infant is born preterm with birth weight less than 2,000 grams, that infant also receives HBIG within 12 hours; and

(g) if at the time of birth the mother's HBsAg status is unknown and the HBsAg test result is later determined to be positive, that infant receives HBIG as soon as possible but within 7 days of birth.

(h) hepatitis B immune globulin (HBIG) administration and birth dose hepatitis B vaccine status of infants born to mothers who are HBsAg-positive are reported within 24 hours of delivery to the local health department and Utah Department of Health Immunization Program at (801) 538-9450.

(6) Local health departments shall perform the following activities or assure that they are performed:

(a) All females between the ages of 12 and 50 years at the time an HBsAg positive test result is reported will be screened for pregnancy status within one week of receipt of that lab result.

(b) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in the most current version of "The Red Book" as cited in R386-702-13 (4).

(c) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 12 months of age (testing is done at least one month after the final dose of hepatitis B vaccine series is administered, and no earlier than 9 months of age) to monitor the success of therapy and identify cases of perinatal hepatitis B infection.

(i) Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in (c) receive three additional vaccine doses and are retested as specified in the most current version of "The Red Book" as cited in R386-702-18 (4).

(d) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

(e) Household members and sex partners of HBsAg positive mothers are evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, are offered or advised to obtain vaccination against hepatitis B.

(i) All identified acute hepatitis B cases shall be investigated by the local health department, and identified household and sexual contacts shall be advised to obtain vaccination against hepatitis B.

(7) The provisions of subsections (5) and (6) do not apply if the pregnant woman or the child's guardian, after being informed of the possible consequences, objects to any of the required procedures on the basis of religious or moral beliefs. The hospital or birthing facility shall document the basis of the objection.

(8) Prevention of transmission by individuals with chronic hepatitis B infection.

(a) The Department defines a chronic hepatitis B case as a person that is HBsAg positive, total antibody against hepatitis B core antigen (anti-HBc) positive (if performed) and IgM anti-HBc negative.

(b) An individual with chronic hepatitis B infection shall be advised regarding how to reduce the risk that the individual will transmit hepatitis B to others.

(c) Household members and sex partners of individuals with chronic hepatitis B infection shall be evaluated to determine susceptibility to hepatitis B infection, and if determined to be susceptible, shall be offered or advised to obtain vaccination against Hepatitis B.

R386-702-17. Public Health Emergency.

(1) Declaration of Emergency: With the Governor's and Executive Director's or in the absence of the Executive Director, his designee's, concurrence, the Department or a local health department may declare a public health emergency by issuing an order mandating reporting emergency illnesses or health conditions specified in sections R386-702-3 for a reasonable time.

(2) For purposes of an order issued under this section and for the duration of the public health emergency, the following definitions apply.

(a) "emergency center" means:

(i) a health care facility licensed under the provisions of Chapter 26-21 that operates an emergency department; or

(ii) a clinic that provides emergency or urgent health care to an average of 20 or more persons daily.

(b) "encounter" means an instance of an individual presenting at the emergency center who satisfies the criteria in section R386-702-3(2); and

(c) "diagnostic information" means an emergency center's records of individuals who present for emergency or urgent treatment, including the reason for the visit, chief complaint, results of diagnostic tests, presenting diagnosis, and final diagnosis, including diagnostic codes.

(3) Reporting Encounters: The Department shall designate the fewest number of emergency centers as is practicable to obtain the necessary data to respond to the emergency.

(a) Designated emergency centers shall report using the process described in R386-702-6.

(b) An emergency center designated by the Department shall report the encounters to the Department by:

(i) allowing Department representatives or agents, including local health department representatives, to review its diagnostic information to identify encounters during the previous day; or

(ii) reviewing its diagnostic information on encounters during the previous day and reporting all encounters by 9:00 a.m. the following day, or

(iii) identifying encounters and submitting that information electronically to the Department, using a computerized analysis method, and reporting mechanism and schedule approved by the Department; or

(iv) by other arrangement approved by the Department.

(4) For purposes of epidemiological and statistical analysis, the emergency center shall report on encounters during the public health emergency that do not meet the definition for a reportable emergency illness or health condition. The report shall be made using the process described in R386-702-6 and shall include the following information for each such encounter:

(a) facility name;

(b) date of visit;

(c) time of visit;

(d) patient's age;

(e) patient's sex;

(f) patient's zip code for patient's residence.

(5) If either the Department or a local health department collects identifying health information on an individual who is the subject of a report made mandatory under this section, it shall destroy that identifying information upon the earlier of its determination that the information is no longer necessary to carry out an investigation under this section or 180 days after the information was collected.

However, the Department and local health departments shall retain identifiable information gathered under other sections of this rule or other legal authority.

(6) Reporting on encounters during the public health emergency does not relieve a reporting entity of its responsibility to report under other sections of this rule or other legal authority.

R386-702-18. Official References.

All treatment and management of individuals and animals who have or are suspected of having a communicable or infectious disease that must be reported pursuant to this rule shall comply with the following documents, which are adopted and incorporated by reference:

(1) American Public Health Association. "Control of Communicable Diseases Manual". 20th ed., Heymann, David L., editor, 2015.

(2) Centers for Disease Control and Prevention. "Human Rabies Prevention---United States, 2008: Recommendations of the Advisory Committee on Immunization Practices." Morbidity and Mortality Weekly Report. 57 (RR03) (2008):1-26, 28.

(3) National Association of State Public Health Veterinarians Committee. "Compendium of Animal Rabies Prevention and Control, 2016." Naspvh.org. National Association of State Public Health Veterinarians, 18 October 2016. Web. <http://naspvh.org/Documents/NASPHVRabiesCompendium.pdf>

(4) American Academy of Pediatrics. "Red Book: [2015-] 2018-2021 Report of the Committee on Infectious Diseases" 30th Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2018[5].

(5) National Association of State Public Health Veterinarians Animal Contact Compendium Committee 2017[3]. "Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, 2017[3]." Journal of the American Veterinary Medicine Association 243 (2017[3]): 1269[70]-2[88]92.

KEY: communicable diseases, quarantines, rabies, rules and procedures

Date of Enactment or Last Substantive Amendment: [~~January 2, 2018~~2019]

Notice of Continuation: April 15, 2016

Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-6-3; 26-23b

Human Services, Services For People With Disabilities

R539-2

Service Coordination

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43915

FILED: 07/23/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Services for People with Disabilities updated the needs assessment tool used to derive the waitlist score. A recent lawsuit settlement required implementation of the new tool on 07/01/2019.

SUMMARY OF THE RULE OR CHANGE: The changes to the tool include a new dynamic scoring methodology that aggregates three scales instead of individual criteria, revisions to Subsection R539-2-4(3) describing the new scoring method, and removing the old scoring criteria.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-102 and Section 62A-5-103

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** It is not anticipated that implementing the new dynamic scoring methodology would create a cost or savings for the state budget.
- ◆ **LOCAL GOVERNMENTS:** Local governments will see no fiscal impact through these scoring method changes.
- ◆ **SMALL BUSINESSES:** It is not anticipated that revising the scoring methodology would create fiscal savings or cost to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is not anticipated that the changes to the Section R539-2-4 would cause a fiscal impact to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for those associated with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that these amendments will not result in a fiscal impact.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Amy Huppi by phone at 801-538-4154, or by Internet E-mail at amyhuppi@utah.gov
 ◆ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Angella Pinna, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

The scoring change in Section R539-2-4 will not result in a fiscal impact for non-small businesses. The Division for Services for People with Disabilities updated the need assessment tool used to derive the waitlist score. This change is in response to a recent lawsuit settlement that required implementation of the new tool on 07/01/2019.

R539. Human Services, Services for People with Disabilities.

R539-2. Service Coordination.

R539-2-1. Purpose.

(1) The purpose of this rule is to provide standards for the Division service system, including planning, developing and managing an array of services for Persons with disabilities and their families throughout the state as required by Subsection 62A-5-103(2)(a).

R539-2-2. Authority.

(1) This rule establishes standards as required by Subsection 62A-5-103(2)(b).

R539-2-3. Definitions.

(1) Terms used in this rule are defined in Section 62A-5-101 and R539-1-3.

(2) In addition:

(a) "Quality Assurance" means the Family, Provider, and Division management's role to assure accountability in areas of fiscal operations, health, safety, and contract compliance.

(b) "Quality Improvement" means the Provider's role to evaluate and improve the internal delivery of services.

(c) "Quality Enhancement" means the Division and the Team members' role in supporting a Person to experience personal life satisfaction in accordance with the Person's preferences.

R539-2-4. Waiting List.

(1) Pursuant to Subsection 62A-5-102(3), the Division shall determine a Person's eligibility for service, followed by a determination of that Person's priority relative to others who are also eligible. The Division shall use a standardized Needs Assessment to score and prioritize the Person's level of need. Persons with the highest scores shall receive support first. The Support Coordinator shall assess with the Person the array of services that may be needed. If funding is not immediately available, the Person shall be placed on a waiting list for support. Persons who have been determined eligible for the Division's Medicaid Waivers can choose to wait for Division Support services or seek services available through Medicaid in an approved facility.

(2) If the Person requires, and could use, support services on the day of intake, the Person has an immediate need; otherwise, the Person has a future need.

(3) A Needs Assessment Form shall be completed for all Persons with an immediate need for support services. The Needs Assessment calculates ~~the~~ an aggregate score ~~of~~ for each Person by using the following ~~criteria~~ three scales:

~~(a) severity scale:~~

~~(i) personal care supports,~~

~~(ii) daily living supports,~~

~~(iii) personal safety supports,~~

~~(iv) behavioral supports, and~~

~~(v) prescribed medical treatments;~~

~~(b) caregiver and home environment scale; and~~

~~(c) time on waitlist scale.~~

~~(a) severity of the disabling condition;~~

~~(b) needs of the Person and/or family;~~

~~(c) urgency of need~~

~~(d) appropriate alternatives available; and~~

~~(e) other factors determined by the Division to reflect accurately on the Person's need;~~

~~(i) household composition and size;~~

~~(ii) parental/caregiver ability;~~

~~(iii) finances and insurances;~~

~~(iv) unmet medical needs;~~

~~(v) problem behaviors;~~

~~(vi) protective service issues;~~

~~(vii) resources/supports needed;~~

~~(viii) time on immediate or future need waiting list.]~~

(4) The Division determines the Person's score, rank orders the scores, and enters the Person's name and score on the statewide waiting list.

(5) A Person's ranking may change if the Person's needs change or as Needs Assessments are completed for new Applicants.

(6) No age limitations apply to a Person placed on the waiting list for community living support or family support.

(7) To preserve the Medicaid Waiver and state-wide service infrastructure, exceptions may be made to the person's ranking on the waiting list when authorized by the Division Director and the Department of Health.

R539-2-5. Person-Centered Process.

(1) The Division supports Person-Centered Planning, which includes assessing, planning, implementing, and evaluating. This process shall have an individualized focus and incorporate the principles of Person-Centered Planning, self-determination, informed choice, and equity. Input from the Person and the Person's Team should guide and direct this process.

(a) The Person's Team shall work with the Person to identify goals.

(i) The Person receiving supports determines the membership of the Team, which shall include the Support Coordinator.

(ii) The Team meets at least annually within the month in which the previous meeting occurred, or more often as the Person or other members of the Team determine necessary.

(b) The Person, Provider, and Family shall assess, plan, implement, and evaluate goals and supports for which they are responsible, as agreed upon and listed on Division Form 1-16 in the planning meeting.

(c) The Team shall decide the level of detail required to describe the actions involved in the assessing, planning, implementing, and evaluating needs for the supports based on the experience and expertise of the staff providing the Person's supports. The use of the philosophical Person-Centered Planning approach shall be demonstrated and documented in the Person's file.

(d) Any interested party who believes that Person-Centered Planning is not being implemented as outlined or receives a request from the Person, should contact the Support Coordinator immediately to resolve the issue informally, and, if necessary, through the administrative hearing process outlined in R539-3-8 Notice of Agency Action and Administrative Hearings.

R539-2-6. Entry Into and Movement Within Service System.

(1) The Division shall assure that an appropriate choice of supports and Providers exist for Persons entering or moving within the support system in accordance with Subsections 62A-5-103(1) and 62A-5-103(2). The Division shall coordinate, approve, and oversee all out-of-home placements.

(2) Entry into Division-funded supports:

(a) Once a Person's application for waiver services is processed by the Division, the Person is referred to the local financial eligibility office.

(b) Prior to the provision of community living supports, a Person may be required to complete a medical examination and, if under the age of 18, provide a current immunization record.

(c) Admission to Division programs from a nursing facility will be coordinated by the Division with the Person, the nursing facility social worker, the Support Coordinator, and the prospective Provider.

(d) The Division shall provide Persons with a choice of Providers by:

(i) sending Providers notice and invitation to submit offers to provide services via use of Division Form 1-6; and

(ii) assisting the Person to make an informed choice of Provider.

(e) Interested Providers may schedule and coordinate a service entry meeting that involves the Person, the Representative, Support Coordinator, and invited guests, (e.g., Developmental Center staff, school representative, and Division staff). The meeting should be held at the prospective site of placement whenever possible.

(f) The Provider shall submit an acceptance or denial letter within ten business days of the service entry meeting to the Support Coordinator and the Person. An acceptance letter shall include a written description of the following:

(i) services to be provided;

(ii) location of the service;

(iii) name and address of the primary care physician, or other medical specialists, including, for example, neurologist or dentist, if applicable;

(iv) a training and in-service schedule for the staff to meet with the Person;

(v) proposed date services will begin; and

(vi) agreed upon rate and level of support.

(g) The physical move of the Person shall be the responsibility of the Provider who is accepting the Person.

(h) The Division shall send the Person's information to the Provider five business days prior to the move.

(3) Any Team Member may initiate a request to change Provider or Developmental Center residence by asking the Support Coordinator to arrange a meeting.

(4) If a Person requests a change of Provider, the Support Coordinator shall arrange a discharge meeting that provides a ten-business-day written notice to the Person, present Provider, and Support Coordinator.

(a) The present Provider may request the opportunity to make changes in the existing relationship to address the concerns that initiated the discharge meeting.

(b) The Director shall make the final decision concerning the discharge if the parties cannot come to agreement.

(5) A Provider initiated request for discharge of a Person shall require 90 calendar days prior notification to the Person and the Division.

(6) Emergency Services Management Committee (ESMC):

(a) An Emergency Services Management Committee chairperson shall be appointed by the Division Director. Membership shall include:

(i) Division Specialists;

(ii) a representative from the Division who is skilled in crisis intervention and knowledgeable of local resources;

(iii) a representative from the Developmental Center; and

(iv) others as appointed by the Division Director.

(b) The Emergency Services Management Committee shall ensure that Persons are placed in the least restrictive most appropriate living situation as per Sections 62A-5-302 through 62A-5-312 and Subsection 62A-5-402(2)(a). Exceptions to the statute requiring children under age 11 to live only in family-like environments, as per Section 62A-5-403, require Emergency Services Management Committee review and recommendation to the Division Director for final written approval.

R539-2-7. Quality Management Procedures.

(1) The Division will oversee the three distinct functional roles of quality management, which are Quality Assurance, Quality Improvement, and Quality Enhancement.

(a) Necessary quality assurances are specified by contract with the Division. The Division may work with other offices and bureaus of the Department of Human Services and the Department of Health to assure quality.

(b) Providers are responsible to develop and implement an internal quality management system, which shall:

(i) Evaluate the Provider's programs; and

(ii) Establish a system of self-correcting feedback.

(c) The implementation of the Person's Action Plan shall be designed to enhance the Person's life. The Person and Person's Team shall:

(i) Identify and document the Person's preferences;

(ii) Plan how to support the Person's life satisfaction; and

(iii) Implement the plan with supports from the Division, such as:

(A) Technical Assistance, which involves training, mentoring, consultation, and referral through Division staff.

(B) Quality Enhancement Resource Brokerage, which involves identification and compilation of community resources, including other consumers and families, and referral to and prior approval of payment for these supports.

(C) Consumer empowerment, which involves rights education, leadership training.

(D) Team and System Process Enhancement, which involves facilitation and negotiation training, community education, and consumer satisfaction surveys.

(2) The Division shall evaluate the Person's satisfaction and statistical statewide system indicators of life enhancement.

(3) Division staff shall promote enhancement of the Person's life; support improvement efforts undertaken by Providers, Persons, and families; and assure accountability.

R539-2-8. Request for New Support Coordinator.

(1) A Person may request a new Support Coordinator by submitting a written request to the Region Office Supervisor.

KEY: services, people with disabilities

Date of Enactment or Last Substantive Amendment: [~~February 13, 2013~~2019]

Notice of Continuation: August 7, 2014

Authorizing, and Implemented or Interpreted Law: 62A-5-102; 62A-5-103

**Judicial Performance Evaluation
Commission, Administration
R597-1
General Provisions**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 43917
FILED: 07/26/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to address the general provisions for the Judicial Performance Evaluation Commission's administrative rules as authorized by Section 78A-12-101 et seq.

SUMMARY OF THE RULE OR CHANGE: The definitions were corrected and/or updated.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 78A-12-101 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local governments.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small business, business, or local governments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this rule may have on businesses.

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

JUDICIAL PERFORMANCE EVALUATION
COMMISSION
ADMINISTRATION
ROOM B-330 SENATE BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jennifer Yim by phone at 801-538-1652, or by Internet E-mail at jjim@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: David Roth, Chair

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no anticipated regulatory or fiscal impact that the changes to this rule will have on non-small businesses.

R597. Judicial Performance Evaluation Commission, Administration.

R597-1. General Provisions.

[R597-1-1. Purpose and Intent.

- ~~(1) The commission adopts these rules to describe how it intends to conduct judicial performance evaluations.~~
- ~~(2) The purpose of this rule is to ensure that:~~
 - ~~(a) voters have information about the judges standing for retention election;~~
 - ~~(b) judges have notice of the standards against which they will be evaluated; and~~
 - ~~(c) the commission has the time necessary to fully develop the program mandated by Utah Code Ann. 78A-12-101 et seq.~~

R597-1-2. Definitions.

- ~~(1) Closed case.~~

_____ (a) For purposes of administering a survey to a litigant, a case is "closed":

_____ (i) in a district or justice court, on the date on which the court enters an order from which an appeal of right may be taken;

_____ (ii) in a juvenile court, on the date on which the court enters a disposition;

_____ (iii) in an appellate court, on the date on which the remittitur is issued.

_____ (b) For purposes of administering a survey to a juror, a case is "closed" when the verdict is rendered or the jury is dismissed.

_____ (2) Evaluation cycle. "Evaluation cycle" means a time period during which a judge is evaluated. Judges not on the supreme court are subject to two evaluations cycles over a six-year judicial term. Justices of the supreme court are subject to three evaluation cycles over a ten-year judicial term.

_____ (3) Survey. "Survey" means the aggregate of questionnaires, each targeting a separate classification of survey respondents, which together are used to assess judicial performance.

_____ (4) Surveyor. "Surveyor" means the organization or individual awarded a contract through procedures established by the state procurement code to survey respondents regarding judicial performance.

_____ (5) Rebuttable presumption.

_____ (a) A presumption to recommend a judge for retention arises when the judge meets all minimum performance standards.

_____ (b) A presumption not to recommend a judge for retention arises when the judge fails to meet one or more minimum performance standards.

_____ (c) A commissioner may overcome the presumption for or against a retention recommendation on any judge if the commissioner concludes that substantial countervailing evidence outweighs the presumption.]

R597-1-1. Authorization and Purpose.

_____ (1) As authorized by Section 78A-12-101 et seq., this rule establishes procedures for:

_____ (a) implementing judicial performance evaluations;

_____ (b) informing voters about judges standing for retention election; and

_____ (c) notifying judges of the standards by which they will be evaluated.

R597-1-2. Definitions.

_____ (1) "Controlling cycle" means the single retention election year which, when assigned to a judge, establishes the time frames for performance evaluation.

_____ (2) "Courtroom observation report" means the individual narrative report a courtroom observer authors after observing the judge.

_____ (3) "Courtroom observer" means a volunteer, recruited by commission staff through public outreach and advertising, who has the duties described in R597-3-3(6).

_____ (4) "Court staff" means employees of the judiciary, as identified in R597-3-2(9)(c), who have regular contact with the judge as the judge performs judicial duties. Court staff also includes those who are not employed by the judiciary but who have ongoing administrative duties in the courtroom.

_____ (5) For purposes of administering a survey to a juror, a case is "closed" when the verdict is rendered or the jury is dismissed.

_____ (6) "Disqualification," as used in R597-2-2, means the involuntary disqualification of a commissioner by other commissioners, in accordance with R597-2-2(6) and R597-2-2(7).

_____ (7) "Evaluation cycle" means a time period during which a judge is evaluated. Judges not on the supreme court are subject to two evaluation cycles over a six-year judicial term. Justices of the supreme court are subject to three evaluation cycles over a ten-year judicial term.

_____ (8) "Juvenile court professional" means an individual, as identified in R597-3-2(9)(d), whose professional duties place that individual in juvenile court on a regular and continuing basis.

_____ (9) "Observation instrument" means the form approved for use by courtroom observers to evaluate the judicial behavior observed in court.

_____ (10) "Procedural fairness" means the type of treatment judges should afford people in their courts and includes the principles and behavioral standards identified in R597-3-3(12).

_____ (11) "Recusal," as used in R597-2-2, means a voluntary self-disqualification by a commissioner.

_____ (12) "Survey" means the aggregate of questionnaires, each targeting a separate classification of survey respondents, which together are used to assess judicial performance.

_____ (13) "Survey respondent" means an individual, as identified in R597-3-2(9), eligible to author a survey response.

_____ (14) "Surveyor" means the organization or individual awarded a contract through procedures established by the state procurement code to survey respondents regarding judicial performance.

KEY: performance evaluations, judicial performance evaluations, judiciary, judges

Date of Enactment or Last Substantive Amendment: [May 14, 2013]2019

Notice of Continuation: February 5, 2019

Authorizing, and Implemented or Interpreted Law: 78A-12

Judicial Performance Evaluation Commission, Administration **R597-2** Administration of the Commission

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 43918

FILED: 07/26/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to address the administration and operating procedures of the Judicial Performance Evaluation Commission.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule were made to further clarify the administration and

operating procedures of the Judicial Performance Evaluation Commission.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 78A-12-201 through 78A-12-206

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated costs or savings to the state budget.
- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local governments.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small business, business, or local governments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this rule may have on businesses.

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

JUDICIAL PERFORMANCE EVALUATION COMMISSION
 ADMINISTRATION
 ROOM B-330 SENATE BUILDING
 420 N STATE ST
 SALT LAKE CITY, UT 84114
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jennifer Yim by phone at 801-538-1652, or by Internet E-mail at jyim@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: David Roth, Chair

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
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Total Fiscal Costs:	\$0	\$0	\$0
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*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no anticipated regulatory or fiscal impact that the changes to this rule will have on non-small businesses.

R597. Judicial Performance Evaluation Commission, Administration.

R597-2. Administration of the Commission.

[R597-2-1. Internal Operating Procedures:

(1) ~~The commission may adopt procedures governing internal operations relating to judicial performance evaluation and meeting protocol, consistent with state statute and these rules.~~

(2) Proposed amendments to internal operating procedures shall be submitted in writing to all members of the commission in advance of the next regular meeting, at which time a majority of the commission is required for the adoption of the amendment. ~~Amendments become effective immediately upon ratification.~~

R597-2-2. Disclosure, Recusal, and Disqualification:

(1) ~~Disclosure.~~

(a) ~~Commissioners shall make disclosures at the monthly commission meeting prior to the first scheduled meeting at which the retention evaluation reports for a given class of judges will be discussed or, in any event, no later than the beginning of the meeting at which a particular judge's evaluation is considered.~~

~~(b) Each commissioner shall disclose to the commission any professional or personal relationship or conflict of interest with a judge that may affect an unbiased evaluation of the judge.~~

~~(c) Relationships that may affect an unbiased evaluation of the judge include any contact or association that might influence a commissioner's ability to fairly and reasonably evaluate the performance of any judge or to assess that judge without bias or prejudice, including but not limited to:~~

~~(i) family relationships to a state, municipal, or county judge within the third degree (grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses);~~

~~(ii) any business relationship between the commissioner and the judge;~~

~~(iii) any personal litigation directly or indirectly involving the judge and the commissioner, the commissioner's family or the commissioner's business;~~

~~(d) A commissioner exhibits bias or prejudice when the commissioner is predisposed to decide a cause or an issue in a way that does not leave the commissioner's mind open to exercising the commissioner's duties impartially in a particular case.~~

~~(e) Disclosures made with respect to a judge subject to evaluation constitute a protected record pursuant to Subsection 78A-12-203(5)(e).~~

~~(2) Recusal:~~

~~(a) As used in this rule, recusal is a voluntary act of self-disqualification by a commissioner.~~

~~(b) Recusal encompasses exclusion both from participating in the commission's evaluation of judge and from voting on whether to recommend the judge for retention.~~

~~(c) After making a disclosure, a commissioner may voluntarily recuse if the commissioner believes the relationship with the judge will affect an unbiased evaluation of the judge.~~

~~(3) Disqualification:~~

~~(a) A commissioner may move to vote on the disqualification of another commissioner if:~~

~~(i) the other commissioner makes a disclosure and does not voluntarily recuse, and that commissioner's impartiality might reasonably be questioned; or~~

~~(ii) the other commissioner does not make a disclosure, but known circumstances suggest that the commissioner's impartiality might reasonably be questioned.~~

~~(b) A commissioner may not be disqualified from voting on whether to recommend that the voters retain a judge solely because the member appears before the judge as an attorney, a fact witness, or an expert, pursuant to Subsection 78A-12-203(5)(e)(i).~~

~~(c) A motion to disqualify must be seconded in order to proceed.~~

~~(d) During the discussion concerning possible disqualification, any commissioner may raise any facts concerning another commissioner's ability to fairly and reasonably evaluate the performance of any judge without bias or prejudice.~~

~~(e) A two-thirds vote of those present is required to disqualify any commissioner.~~

~~(f) Disqualification encompasses exclusion both from participating in the commission's evaluation of a judge and from voting on whether to recommend the judge for retention.~~

~~R597-2-3. Reporting Improper Attempts to Influence.~~

~~A commissioner shall report to the executive committee any form of communication that attempts to influence the evaluation process by improper means, including but not limited to undue pressure, duress, or coercion.~~

~~R597-2-4. Confidentiality.~~

~~(1) The commission enacts this rule to avoid the risk of inconsistent statements by commissioners and to maintain the credibility of the commission and the integrity of its work product.~~

~~(2) Only the commission's designated spokesperson may publicly discuss the evaluation of any particular judge or justice.~~

~~(3) No commissioner may publicly advocate for or against the retention of any particular judge or justice.~~

~~(4) Notwithstanding other provisions of this subsection, commissioners may publicly discuss the evaluation process, including but not limited to discussion of respondent groups, survey instruments, and the operation of the commission.~~

~~R597-2-5. Data Publicity.~~

~~In response to requests for the commission's data set, the commission shall choose appropriate methods to protect respondent confidentiality. The commission may:~~

~~(1) Elect to collapse data elements;~~

~~(2) Elect to withhold data elements from release, and~~

~~(3) Take other reasonable measures as necessary.]~~

~~R597-2-1. Internal Operating Procedures.~~

~~(1) The commission may adopt procedures governing internal operations relating to judicial performance evaluation and meeting protocol, consistent with state statute and these rules.~~

~~(2) Proposed amendments to internal operating procedures shall be submitted in writing to all members of the commission in advance of the next regular meeting, at which time a majority of the commission is required for the adoption of the amendment. Amendments become effective immediately upon ratification.~~

~~R597-2-2. Disclosure, Recusal, and Disqualification.~~

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~~(a) make disclosures at the monthly commission meeting prior to the first scheduled meeting at which the retention evaluation reports for a given class of judges will be discussed or, in any event, no later than the beginning of the meeting at which a particular judge's evaluation is considered; and~~

~~(b) disclose to the commission any professional or personal relationship or conflict of interest with a judge that may affect an unbiased evaluation of the judge.~~

~~(2) Relationships that may affect an unbiased evaluation of the judge include any contact or association that might influence a commissioner's ability to fairly and reasonably evaluate the performance of any judge or to assess that judge without bias or prejudice, including but not limited to:~~

~~(a) family relationships to a state, municipal, or county judge within the third degree (grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses);~~

(b) any business relationship between the commissioner and the judge;

(c) any personal litigation directly or indirectly involving the judge and the commissioner, the commissioner's family or the commissioner's business.

(3) A commissioner exhibits bias or prejudice when the commissioner is predisposed to decide a cause or an issue in a way that does not leave the commissioner's mind open to exercising the commissioner's duties impartially in a particular case.

(4) After making a disclosure, a commissioner may voluntarily recuse him or herself if the commissioner believes the relationship with the judge will impact an unbiased evaluation of the judge.

(5) Recusal will preclude a commissioner from participating in the commission's evaluation of the judge and from voting on whether to recommend the judge for retention.

(6) A commissioner may move to vote on the disqualification of another commissioner if:

(a) the other commissioner makes a disclosure and does not voluntarily recuse, and that commissioner's impartiality might reasonably be questioned; or

(b) the other commissioner does not make a disclosure, but known circumstances suggest that the commissioner's impartiality might reasonably be questioned.

(7) To disqualify a commissioner:

(a) a motion to disqualify must be seconded; and

(b) ratified by a two-thirds vote of those present.

(8) During the discussion concerning possible disqualification, any commissioner may raise any facts concerning another commissioner's ability to fairly and reasonably evaluate the performance of any judge without bias or prejudice.

(9) Disqualification encompasses exclusion both from participating in the commission's evaluation of a judge and from voting on whether to recommend the judge for retention.

R597-2-3. Reporting Improper Attempts to Influence.

A commissioner shall report to the executive committee any form of communication that attempts to influence the evaluation process by improper means, including but not limited to undue pressure, duress, or coercion.

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KEY: internal operating procedures, reporting improper attempts to influence, conflicts of interest, confidentiality

Date of Enactment or Last Substantive Amendment: [~~November 28, 2017~~]2019

Notice of Continuation: April 13, 2015

Authorizing, and Implemented or Interpreted Law: 78A-12-201 through 78A-12-206

Judicial Performance Evaluation Commission, Administration **R597-3** Judicial Performance Evaluations

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 43919

FILED: 07/26/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to address the processes and procedures for the judicial performance evaluations.

SUMMARY OF THE RULE OR CHANGE: The changes in this rule were vastly clerical and organizational changes. The rule itself still addresses most of the same process and procedures.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 78A Chapter 12

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local governments.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small business, business, or local governments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this rule may have on businesses.

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

JUDICIAL PERFORMANCE EVALUATION COMMISSION ADMINISTRATION ROOM B-330 SENATE BUILDING 420 N STATE ST SALT LAKE CITY, UT 84114 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: ♦ Jennifer Yim by phone at 801-538-1652, or by Internet E-mail at jyim@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: David Roth, Chair

Appendix 1: Regulatory Impact Summary Table*

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Appendix 2: Regulatory Impact to Non-Small Businesses

There are no anticipated regulatory or fiscal impact that the changes to this rule will have on non-small businesses.

R597. Judicial Performance Evaluation Commission, Administration.

R597-3. Judicial Performance Evaluations.

[R597-3-1. Evaluation Cycles.

- ~~(1) For judges not serving on the supreme court:

 - ~~(a) The mid-term evaluation cycle. Except as provided in subsection (3) the mid-term evaluation cycle begins upon the appointment of the judge or on the first Monday in January following the retention election of the judge and ends on September 30th of the third year preceding the year of the judge's next retention election.~~
 - ~~(b) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends on September 30th of the year preceding the year of the judge's next retention election.~~~~
- ~~(2) For justices serving on the supreme court:

 - ~~(a) The initial evaluation cycle. The initial evaluation cycle begins upon the appointment of the justice or on the first Monday in January following the retention election of the justice and ends on September 30th of the seventh year preceding the year of the justice's next retention election.~~
 - ~~(b) The mid-term evaluation cycle. The mid-term evaluation cycle begins the day after the initial evaluation cycle is finished and ends on September 30th of the third year preceding the year of the justice's next retention election.~~
 - ~~(c) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends on September 30th of the year preceding the year of the justice's next retention election.~~~~
- ~~(3) Timing of evaluations within cycles. In order to allow judges time to incorporate feedback from midterm evaluations into their practices, no evaluations shall be conducted during the first six months of the retention cycle.~~

R597-3-2. Survey.

- ~~(1) General provisions:

 - ~~(a) All surveys shall be conducted according to the evaluation cycles described in R597-3-1, supra.~~
 - ~~(b) The commission may provide a partial midterm evaluation to any judge whose appointment date precludes the collection of complete midterm evaluation data.~~
 - ~~(c) The commission shall post on its website the survey questionnaires upon which the judge shall be evaluated at the beginning of the survey cycle.~~
 - ~~(d) The commission may select retention survey questions from among the midterm survey questions.~~
 - ~~(e) Periodically, reviews may be conducted to ensure compliance with administrative rules governing the survey process.~~
 - ~~(f) The commission may consider narrative survey comments that cannot be reduced to a numerical score.~~~~

~~_____ (g) Surveys shall be distributed by the third-party contractor engaged by the commission to conduct the survey. The contractor shall determine the maximum number of survey requests sent to a respondent, but in no event shall any respondent receive more than nine survey requests.~~

~~_____ (2) Respondent Classifications~~

~~_____ (a) Attorneys~~

~~_____ (i) Identification of survey respondents:~~

~~_____ (A) Within 10 business days of the end of the evaluation cycle, the clerk for the judge or the Administrative Office of the Courts shall identify as potential respondents all attorneys who have appeared before the judge who is being evaluated at a minimum of one hearing or trial during the evaluation cycle.~~

~~_____ (B) Attorneys who have been confirmed as judges during the evaluation cycle shall be excluded from the attorney pool.~~

~~_____ (C) Within 10 business days of the end of the evaluation cycle, the Office of the Professional Conduct shall identify all judges who have referred an attorney for allegations of misconduct.~~

~~_____ (D) An attorney who has been referred by a judge to the Office of Professional Conduct shall be excluded from the attorney pool of the referring judge.~~

~~_____ (ii) Number of survey respondents:~~

~~_____ (A) For each judge who is the subject of a survey, the surveyor shall identify the number of attorneys most likely to produce a response level yielding reliability at a 95% confidence level with a margin of error of +/- 5%.~~

~~_____ (B) In the event that the attorney appearance list from the Administrative Office of the Courts contains an insufficient number of attorneys with one trial appearance or at least three total appearances before the evaluated judge to achieve the required confidence level, then the surveyor shall supplement the survey pool with other attorneys who have appeared before the judge during the evaluation cycle.~~

~~_____ (iii) Sampling. The surveyor shall design the survey to comply with generally accepted principles of surveying. All attorneys with one trial appearance or at least three total appearances before the evaluated judge shall be surveyed.~~

~~_____ (b) Jurors~~

~~_____ (i) Identification and number of survey respondents. All jurors who participate in deliberation shall be eligible to receive an online juror survey.~~

~~_____ (ii) Distribution of surveys. Prior to the jury being dismissed, the bailiff or clerk in charge of the jury shall collect email addresses from all jurors. If email addresses are not available, street addresses shall be collected. The bailiff or clerk shall transmit all such addresses to the surveyor within 24 hours of collection. The surveyor shall administer the survey online and deliver survey results electronically to each judge. Paper surveys may be sent to those jurors who do not have access to email.~~

~~_____ (e) Court Staff~~

~~_____ (i) Definition of court staff who have worked with the judge. Court staff who have worked with the judge refers to employees of the judiciary who have regular contact with the judge as the judge performs judicial duties and also includes those who are not employed by the judiciary but who have ongoing administrative duties in the courtroom.~~

~~_____ (ii) Identification of survey respondents. Court staff who have worked with the judge include, but are not limited to:~~

~~_____ (A) judicial assistants;~~

~~_____ (B) case managers;~~

~~_____ (C) clerks of court;~~

~~_____ (D) trial court executives;~~

~~_____ (E) interpreters;~~

~~_____ (F) bailiffs;~~

~~_____ (G) law clerks;~~

~~_____ (H) central staff attorneys;~~

~~_____ (I) juvenile probation and intake officers;~~

~~_____ (J) other courthouse staff, as appropriate;~~

~~_____ (K) Administrative Office of the Courts staff.~~

~~_____ (d) Juvenile Court Professionals~~

~~_____ (i) Definition of juvenile court professional. A juvenile court professional is someone whose professional duties place that individual in court on a regular and continuing basis to provide substantive input to the court.~~

~~_____ (ii) Identification of survey respondents. Juvenile court professionals shall include, where applicable:~~

~~_____ (A) Division of Child and Family Services ("DCFS") child protection services workers;~~

~~_____ (B) Division of Child and Family Services ("DCFS") case workers;~~

~~_____ (C) Juvenile Justice Services ("JJS") Observation and Assessment Staff;~~

~~_____ (D) Juvenile Justice Services ("JJS") case managers;~~

~~_____ (E) Juvenile Justice Services ("JJS") secure care staff;~~

~~_____ (F) Others who provide substantive professional services on a regular basis to the juvenile court.~~

~~_____ (iii) Beginning with juvenile court judges standing for retention in 2014, juvenile court professionals shall be included as an additional survey respondent group for both the midterm and retention evaluation cycles.~~

~~_____ (3) Anonymity and Confidentiality~~

~~_____ (a) Definitions~~

~~_____ (i) Anonymous.~~

~~_____ (A) "Anonymous" means that the identity of the individual who authors any survey response, including comments, will be protected from disclosure.~~

~~_____ (B) The independent contractor conducting the surveys shall provide to the commission all written comments from the surveys, redacted to remove any information that identifies the person commenting. The contractor shall also redact any information that discloses the identity of any crime victims referenced in a written comment.~~

~~_____ (C) The submission of a survey form containing an anonymous narrative comment does not preclude any survey respondent from submitting a public comment in writing pursuant to the Judicial Performance Evaluation Commission Act.~~

~~_____ (ii) Confidentiality: Confidentiality means information obtained from a survey respondent that the respondent may reasonably expect will not be disclosed other than as indicated in the survey instrument.~~

~~_____ (iii) The raw form of survey results consists of quantitative survey data that contributes to the minimum score on the judicial performance survey.~~

~~_____ (iv) The summary form of survey results consists of quantitative survey data in aggregated form.~~

~~**R597-3-3. Courtroom Observation.**~~

~~_____ (1) General Provisions:~~

~~(a) Courtroom observations shall be conducted according to the evaluation cycles described in R597-3-1(1) and (2), supra.~~

~~(b) The commission shall provide notice to each judge at the beginning of the survey cycle of the courtroom observation process and of the instrument to be used by the observers.~~

~~(c) Only the content analysis of the individual courtroom observation reports shall be included in the retention report for each judge.~~

~~(2) Courtroom Observers:~~

~~(a) Selection of Observers~~

~~(i) Courtroom observers shall be volunteers, recruited by the commission through public outreach and advertising.~~

~~(ii) Courtroom observers shall be selected by the commission staff, based on written applications and an interview process.~~

~~(iii) Courtroom observers, though volunteers, may be eligible to receive compensation in exchange for successful completion of a specified amount of additional courtroom observation work.~~

~~(b) Selection Criteria. Observers with a broad and varied range of life experiences shall be sought. The following persons shall be excluded from eligibility as courtroom observers:~~

~~(i) persons with a professional involvement with the state court system, the justice courts, or the judge;~~

~~(ii) persons with a fiduciary relationship with the judge;~~

~~(iii) persons within the third degree of relationship with a state or justice court judge (grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses);~~

~~(iv) persons lacking computer access or basic computer literacy skills;~~

~~(v) persons currently involved in litigation in state or justice courts;~~

~~(vi) persons whose background or experience suggests they may have a bias that would prevent them from objectively serving in the program.~~

~~(c) Terms and Conditions of Service~~

~~(i) Courtroom observers shall serve at the will of the commission staff.~~

~~(ii) Courtroom observers shall not disclose the content of their courtroom evaluations in any form or to any person except as designated by the commission.~~

~~(d) Training of Observers~~

~~(i) Courtroom observers must satisfactorily complete a training program developed by the commission before engaging in courtroom observation.~~

~~(ii) Elements of the training program shall include:~~

~~(A) Orientation and overview of the commission process and the courtroom observation program;~~

~~(B) Classroom training addressing each level of court;~~

~~(C) In-court group observations, with subsequent classroom discussions, for each level of court;~~

~~(D) Training on proper use of observation instrument;~~

~~(E) Training on confidentiality and non-disclosure issues;~~

~~(F) Such other periodic trainings as are necessary for effective observations.~~

~~(3) Courtroom Observation Program:~~

~~(a) Courtroom Requirements~~

~~(i) During each midterm and retention evaluation cycle, a minimum of four different observers shall observe each judge subject to that evaluation cycle.~~

~~(ii) Each observer shall observe each judge in person while the judge is in the courtroom and for a minimum of two hours while court is in session. The observations may be completed in one sitting or over several courtroom visits.~~

~~(iii) If a judge sits in more than one geographic location at the judge's appointed level or a justice court judge serves in more than one jurisdiction, the judge may be observed in any location or combination of locations in which the judge holds court.~~

~~(iv) When the observer completes the observation of a judge, the observer shall complete the observation instrument, which will be electronically transferred to the commission or the third party contractor for processing.~~

~~(b) Travel and Reimbursement~~

~~(i) All travel must be preapproved by the executive director.~~

~~(ii) All per diem and lodging will be reimbursed, when appropriate, in accordance with Utah state travel rules and regulations.~~

~~(iii) Travel reimbursement forms shall be submitted on a monthly basis or whenever the observer has accumulated a minimum of 200 miles of travel.~~

~~(iv) Travel may be reimbursed only after the observer has satisfactorily completed and successfully submitted the courtroom observation report for which the reimbursement is sought.~~

~~(v) Overnight lodging~~

~~(A) Overnight lodging is reimbursable when the courtroom is located over 100 miles from home base and court is scheduled to begin before 9:30 a.m., with any exceptions preapproved by commission staff.~~

~~(B) Multiple overnight lodging is reimbursable where the commission staff determines it is cost-effective to observe several courtrooms in a single trip.~~

~~(vi) Each courtroom observer must provide a social security number or tax identification number to the commission in order to process state reimbursement.~~

~~(4) Principles and Standards used to evaluate the behavior observed:~~

~~(a) Procedural fairness, which focuses on the treatment judges accord people in their courts, shall be used to evaluate the judicial behavior observed in the courtroom observation program.~~

~~(b) To assess a judge's conduct in court with respect to procedural fairness, observers shall respond in narrative form to the following principles and behavioral standards:~~

~~(i) Neutrality, including but not limited to:~~

~~(A) displaying fairness and impartiality toward all court participants;~~

~~(B) acting as a fair and principled decision maker who applies rules consistently across court participants and cases;~~

~~(C) explaining transparently and openly how rules are applied and how decisions are reached.~~

~~(D) listening carefully and impartially;~~

~~(ii) Respect, including but not limited to:~~

~~(A) demonstrating courtesy toward attorneys, court staff, and others in the court;~~

~~(B) treating all people with dignity;~~

~~(C) helping interested parties understand decisions and what the parties must do as a result;~~

~~(D) maintaining decorum in the courtroom.~~

~~(E) demonstrating adequate preparation to hear scheduled cases;~~

~~(F) acting in the interests of the parties, not out of demonstrated personal prejudices;~~

~~(G) managing the caseload efficiently and demonstrating awareness of the effect of delay on court participants;~~

~~(H) demonstrating interest in the needs, problems, and concerns of court participants;~~

~~(iii) Voice, including but not limited to:~~

~~(A) giving parties the opportunity, where appropriate, to give voice to their perspectives or situations and demonstrating that they have been heard;~~

~~(B) behaving in a manner that demonstrates full consideration of the case as presented through witnesses, arguments, pleadings, and other documents;~~

~~(C) attending, where appropriate, to the participants' comprehension of the proceedings;~~

~~(e) Courtroom observers may also be asked questions to help the commission assess the overall performance of the judge with respect to procedural fairness.~~

R597-3-4. Minimum Performance Standards.

~~(1) In addition to the minimum performance standards specified by statute or administrative rule, the judge shall:~~

~~(a) Demonstrate by the totality of the circumstances that the judge's conduct in court promotes procedural fairness for court participants. To determine if the judge meets the minimum performance standard of procedural fairness:~~

~~(i) commissioners shall consider only data collected as part of the judge's performance evaluation, pursuant to 78A-12-203(2);~~

~~(ii) the standard shall be commensurate with the standard set forth for scored minimum performance standards on the judicial performance survey, as in 78A-12-205(1)(b)(i);~~

~~(iii) commissioners shall vote, with a majority of the quorum constituting the decision of the commission;~~

~~(iv) the outcome of the vote shall establish the rebuttable presumption as it applies to procedural fairness, in accordance with 78A-12-203(4)(b);~~

~~(b) Meet all performance standards established by the Judicial Council, including but not limited to:~~

~~(i) annual judicial education hourly requirement;~~

~~(ii) case under advisement standard; and~~

~~(iii) physical and mental competence to hold office.~~

~~(2) No later than October 1st of the year preceding each general election year, the Judicial Council shall certify to the commission whether each judge standing for retention election in the next general election has satisfied its performance standards.~~

R597-3-5. Public Comments.

~~(1) Persons desiring to comment about a particular judge with whom they have had experience may do so at any time, either by submitting such comments on the commission website or by mailing them to the executive director.~~

~~(2) In order for the commission to consider comments in making its retention recommendation on a particular judge, comments about that judge must be received no later than March 1st of the year in which the judge's name appears on the ballot.~~

~~(3) Comments received after March 1st of the year in which the judge's name appears on the ballot will be included as part of the judge's mid-term evaluation report in the subsequent evaluation cycle.~~

~~(4) Comments received about a judge after the mid-term evaluation cycle ends will be included in the judge's next retention evaluation report.~~

~~(5) Persons submitting comments may choose whether to include their name and contact information with their submission.~~

~~(6) All public comments are subject to GRAMA, pursuant to 78A-12-206(1).~~

R597-3-6. Judicial Retirements and Resignations.

~~(1) For purposes of judicial performance evaluation, the commission shall evaluate each judge until the judge:~~

~~(a) provides written notice of resignation or retirement to the Governor;~~

~~(b) is removed from office;~~

~~(c) otherwise vacates the judicial office; or~~

~~(d) fails to properly file for retention.~~

~~(2) For judges who provide written notice of resignation or retirement after a retention evaluation has been conducted but before it is distributed, the retention evaluation shall be sent to the Judicial Council.~~

R597-3-7. Publication of Retention Reports.

~~No later than three months after the filing deadline for a retention election, the commission shall post on its website the retention reports of all judges who have filed for that election.~~

R597-3-8. Judicial Written Statements.

~~If, pursuant to Utah Code Ann. Subsection 78A-12-206(3), a judge is eligible to provide a written statement to be included in the judge's evaluation report, the statement shall be due to commission staff, in writing, no later than one week after the deadline for the judge to file a declaration of the judge's candidacy in the retention election.~~

R597-3-9. Judicial Discipline.

~~(1) For the purposes of judicial performance evaluation and pursuant to Utah Code Ann. Section 78A-12-205, the commission shall consider any public sanction of a judge issued by the Supreme Court during the judge's current term, including:~~

~~(a) During the judge's midterm and retention evaluation cycles and~~

~~(b) After the end of the judge's retention evaluation cycle until the commission votes whether to recommend the judge for retention.]~~

R597-3-1. Evaluation Cycles.

~~(1) Subject to R597-3-1(3), the evaluation cycles for judges not serving on the supreme court include:~~

~~(a) the midterm evaluation cycle, beginning upon the appointment of the judge or on the first Monday in January following the retention election of the judge and ending on September 30 of the third year preceding the year of the judge's next retention election; and~~

~~(b) the retention evaluation cycle, beginning the day after the midterm evaluation cycle is finished and ending on September 30 of the year preceding the year of the judge's next retention election.~~

~~(2) Subject to R597-3-1(3), the evaluation cycles for justices serving on the supreme court include:~~

~~(a) the initial evaluation cycle, beginning upon the appointment of the justice or on the first Monday in January~~

following the retention election of the justice and ending on September 30 of the seventh year preceding the year of the justice's next retention election;

(b) the midterm evaluation cycle, beginning the day after the initial evaluation cycle is finished and ending on September 30 of the third year preceding the year of the justice's next retention election; and

(c) the retention evaluation cycle, beginning the day after the midterm evaluation cycle is finished and ending on September 30 of the year preceding the year of the justice's next retention election.

(3) The commission will not conduct evaluations during the first six months of the retention evaluation cycle, in order to allow judges time to incorporate feedback from midterm evaluations into their practices.

R597-3-2. Survey.

(1) For the purpose of judicial performance evaluations, the commission shall:

(a) conduct surveys as described in R597-3-1; and

(b) post on its website the survey questionnaires upon which the judge shall be evaluated at the beginning of the survey cycle.

(2) For the purpose of judicial performance evaluations, the commission may:

(a) conduct periodic reviews to ensure compliance with administrative rules governing the survey process; and

(b) consider narrative survey comments that cannot be reduced to a numerical score.

(3) Within 10 business days of the end of the evaluation cycle, the clerk for the judge or the Administrative Office of the Courts shall identify attorneys who have appeared before the judge during the evaluation cycle a minimum of one hearing or trial.

(4) Identified attorneys may be included in the attorney survey pool for the evaluated judge, except if the attorney has been:

(a) confirmed as a judge during the evaluation cycle; or

(b) referred by the judge to the Office of Professional Conduct for allegations of misconduct.

(5) Within 10 business days of the end of the evaluation cycle, the Office of Professional Conduct shall identify all judges who have referred an attorney for allegations of misconduct.

(6) A third-party contractor engaged as a surveyor by the commission shall:

(a) design the survey to comply with generally-accepted principles of surveying;

(b) determine the maximum number of survey requests to send to a survey respondent, except that no survey respondent shall receive more than nine survey requests;

(c) identify the number of attorneys most likely to produce a response level yielding reliability at a 95% confidence level with a margin of error of +/- 5% for each judge who is the subject of a survey;

(d) survey all attorneys with one trial appearance before the evaluated judge, in accordance with R597-3-2(6)(b);

(e) consider all attorneys with at least five total appearances before the evaluated judge as eligible to be surveyed;

(f) supplement the survey pool with other attorneys who have appeared before the judge during the evaluation cycle in the event that the attorney appearance list from the Administrative

Office of the Courts contains an insufficient number of attorneys with one trial appearance or at least five total appearances before the evaluated judge to achieve the required confidence level.

(g) distribute the surveys to the appropriate survey respondent;

(h) redact all written comments from survey responses to remove any information that identifies the person commenting and deliver the redacted comments to the commission; and

(i) redact all written comments from survey responses to remove any information that discloses the identity of any crime victims and deliver the redacted comments to the commission.

(7) The surveyor may distribute surveys in paper form to those survey respondents who do not have access to email.

(8) Prior to the jury being dismissed, the bailiff or clerk in charge of a jury shall:

(a) collect email addresses from all jurors;

(b) collect street addresses from all jurors who don't have an email address; and

(c) transmit all such addresses to the surveyor within 24 hours of collection.

(9) Survey respondents eligible to receive a survey include:

(a) attorneys, as described in R597-3-2(3) and R597-3-2(4);

(b) jurors who participate in jury deliberation, where applicable;

(c) court staff who have worked with the judge, but are not limited to:

(i) judicial assistants;

(ii) case managers;

(iii) clerks of court;

(iv) trial court executives;

(v) interpreters;

(vi) bailiffs;

(vii) law clerks;

(viii) central staff attorneys;

(ix) juvenile probation and intake officers;

(x) other courthouse staff, as appropriate;

(xi) Administrative Office of the Courts staff; and

(xii) treatment providers for specialty courts;

(d) juvenile court professionals, where applicable:

(i) Division of Child and Family Services ("DCFS") child protection services workers;

(ii) Division of Child and Family Services ("DCFS") case workers;

(iii) Juvenile Justice Services ("JJS") Observation and Assessment Staff;

(iv) Juvenile Justice Services ("JJS") case managers;

(v) Juvenile Justice Services ("JJS") secure care staff; and

(vi) others who provide substantive professional services on a regular basis to the juvenile court.

(10) Any survey respondent may submit a public comment in writing pursuant to section 78A-12-203(2)(e), regardless of the submission of a survey response containing an anonymous narrative comment.

(11) The raw form of survey results consists of quantitative survey data that contributes to the minimum score on the judicial performance survey.

(12) The summary form of survey results consists of quantitative survey data in aggregated form.

R597-3-3. Courtroom Observation.

(1) Courtroom observations shall be conducted according to the evaluation cycles described in R597-3-1(1) and R597-3-1(2).

(2) Courtroom observers shall be volunteers, recruited by the commission through public outreach and advertising.

(3) For the purpose of courtroom observation, commission staff shall:

(a) notify each judge at the beginning of each survey cycle of the courtroom observation process and of the observation instrument to be used by the courtroom observers; and

(b) select courtroom observers based on written applications and an interview process.

(4) Only the summary of the individual courtroom observation reports shall be included in the retention report published for each judge.

(5) Individuals with a broad and varied range of life experiences shall be sought to volunteer as courtroom observers, except that the following individuals may be excluded from eligibility:

(a) individuals who currently have, or have previously had, professional or personal involvement with the court system or the judge;

(b) individuals with a fiduciary relationship with the judge;

(c) individuals within a third degree of relationship with a state or justice court judge (grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses);

(d) individuals lacking computer access or basic computer literacy skills;

(e) individuals currently involved in litigation in state or justice courts; or

(f) individuals whose background or experience suggests they may have a bias that would prevent them from objectively serving in the courtroom observation program.

(6) Courtroom observers shall:

(a) serve at the will of the commission staff;

(b) refrain from disclosing the content of their courtroom evaluations in any form or to any person except as designated by the commission;

(c) satisfactorily complete a courtroom observation training program developed by the commission before engaging in courtroom observation;

(d) conduct in-person courtroom observations for each judge they are assigned to observe, for a minimum of two hours while court is in session; and

(e) upon completion of the observation of a judge, complete the observation instrument, which will be electronically transferred to commission staff.

(7) Courtroom observations may be completed in one sitting or over several courtroom visits.

(8) The commission shall develop a courtroom observation training program that shall include:

(a) orientation and overview of commission processes and the courtroom observation program;

(b) classroom training addressing each level of court;

(c) in-court group observations, with subsequent classroom discussions, for each level of court;

(d) training on proper use of the observation instrument;

(e) training on confidentiality and non-disclosure issues; and

(f) such other periodic trainings as are necessary for effective observations.

(9) During each midterm and retention evaluation cycle, a minimum of four different courtroom observers shall observe each judge subject to that evaluation cycle.

(10) Courtroom observers may observe a judge sitting in more than one geographic location or a justice court judge serving in more than one jurisdiction, in any location or combination of locations in which the judge holds court.

(11) Courtroom observers, though volunteers, may be eligible to receive compensation in exchange for successful completion of a specified amount of additional courtroom observation work.

(12) Courtroom observers shall evaluate the judicial behavior observed in court as it relates to procedural fairness by responding in narrative form to principles and behavioral standards which shall include:

(a) neutrality, including but not limited to the judge:

(i) displaying fairness and impartiality toward all court participants;

(ii) acting as a fair and principled decision maker who applies rules consistently across court participants and cases;

(iii) explaining transparently and openly how rules are applied and how decisions are reached; and

(iv) listening carefully and impartially;

(b) respect, including but not limited to the judge:

(i) demonstrating courtesy toward attorneys, court staff, and others in the court;

(ii) treating all people with dignity;

(iii) helping interested parties understand decisions and what the parties must do as a result;

(iv) maintaining decorum in the courtroom;

(v) demonstrating adequate preparation to hear scheduled cases;

(vi) acting in the interests of the parties, not out of demonstrated personal prejudices;

(vii) managing caseload efficiently and demonstrating awareness of the effect of delay on court participants; and

(viii) demonstrating interest in the needs, problems, and concerns of court participants;

(c) voice, including but not limited to the judge:

(i) giving parties the opportunity, where appropriate, to give voice to their perspectives or situations and demonstrating that they have been heard;

(ii) behaving in a manner that demonstrates full consideration of the case as presented through witnesses, arguments, pleadings, and other documents; and

(iii) attending, where appropriate, to the participants' comprehension of the proceedings;

(d) any other questions necessary to help the commission assess the overall performance of the judge with respect to procedural fairness.

R597-3-4. Minimum Performance Standards.

(1) In addition to the minimum performance standards specified by statute, the judge shall:

(a) demonstrate by the totality of the circumstances that the judge's conduct in court promotes procedural fairness for court participants;

(b) meet all performance standards established by the Judicial Council, including but not limited to:

(i) annual judicial education hourly requirements;

(ii) case-under-advisement standards; and

(iii) physical and mental competence to hold office.

(2) No later than October 1 of the year preceding each general election year, the Judicial Council shall certify to the commission whether each judge standing for retention election in the next general election has satisfied its performance standards.

(3) To determine if the judge meets the minimum performance standard of procedural fairness, the commission shall:

(a) consider only data collected as part of the judge's performance evaluation, pursuant to section 78A-12-203(2);

(b) apply a standard commensurate with the standard for scored minimum performance standards on the judicial performance survey, as in section 78A-12-205(1)(b)(i); and

(c) determine by a majority of the quorum vote whether the judge meets the minimum performance standard of procedural fairness, the outcome of which shall establish the rebuttable presumption as it applies to procedural fairness, in accordance with section 78A-12-203(4)(b).

(4) A rebuttable presumption to recommend a judge for retention arises when the judge meets all minimum performance standards.

(5) A rebuttable presumption not to recommend a judge for retention arises when the judge fails to meet one or more minimum performance standards.

(6) A commissioner may vote to overcome the presumption for or against a retention recommendation on any judge if the commissioner concludes that substantial countervailing evidence outweighs the presumption.

R597-3-5. Public Comments.

(1) Persons desiring to comment about a particular judge with whom they have had experience may do so at any time, either by submitting such comments on the commission website or by submitting them to commission staff.

(2) In order for the commission to consider comments in making its retention recommendation on a particular judge, comments about that judge must be received no later than March 1 of the year in which the judge's name appears on the ballot.

(3) Comments received after March 1 of the year in which the judge's name appears on the ballot will be included as part of the judge's midterm report in the subsequent evaluation cycle.

(4) Comments received about a judge after the midterm evaluation cycle ends will be included in the judge's next retention report.

(5) Persons submitting comments may choose whether to include their name and contact information with their submission.

(6) All public comments are subject to GRAMA, pursuant to section 78A-12-206(1).

R597-3-6. Judicial Retirements and Resignations.

(1) For purposes of judicial performance evaluation, the commission shall evaluate each judge until the judge:

(a) provides written notice of resignation or retirement to the Governor;

(b) is removed from office;

(c) becomes subject to mandatory judicial retirement due to age;

(d) otherwise vacates the judicial office; or

(e) fails to properly file for retention.

(2) The retention evaluation for a judge who provides written notice of resignation or retirement following completion of the retention evaluation but before distribution of the retention evaluation, shall be sent to the Judicial Council.

R597-3-7. Publication of Retention Reports.

No later than sixty days prior to Election Day, the commission shall post on its website the retention reports of all judges who have filed for that election.

R597-3-8. Judicial Written Statements.

If, pursuant to section 78A-12-206(3), a judge is eligible to provide a written statement to be included in the judge's retention report, the statement shall be due to commission staff, in writing, no later than one week after the deadline for the judge to file a declaration of the judge's candidacy in the retention election.

R597-3-9. Judicial Discipline.

(1) For the purposes of judicial performance evaluation and pursuant to section 78A-12-205, the commission shall consider any public sanction of a judge issued by the Supreme Court during the judge's current term, including any public sanctions:

(a) issued during the judge's midterm and retention evaluation cycles; and

(b) issued after the end of the judge's retention evaluation cycle until the commission votes whether to recommend the judge for retention.

KEY: judicial performance evaluations, judges, evaluation cycles, surveys

Date of Enactment or Last Substantive Amendment: [~~November 7, 2018~~2019]

Notice of Continuation: February 5, 2019

Authorizing, and Implemented or Interpreted Law: 78A-12

Judicial Performance Evaluation
Commission, Administration
R597-4
Justice Courts

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 43920
FILED: 07/26/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to this rule are mostly clerical and organizational in nature. The purpose of this rule remains the same, which is to address Justice Courts in the evaluation process.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule are mostly clerical and organizational in nature.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 78A-12-201 through 78A-12-206

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local governments.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings that are expected to affect persons other than small business, business, or local governments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this rule may have on businesses.

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

JUDICIAL PERFORMANCE EVALUATION
COMMISSION
ADMINISTRATION
ROOM B-330 SENATE BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jennifer Yim by phone at 801-538-1652, or by Internet E-mail at jyim@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: David Roth, Chair

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no anticipated regulatory or fiscal impact that the changes to this rule will have on non-small businesses.

R597. Judicial Performance Evaluation Commission, Administration.

R597-4. Justice Courts.

[R597-4-1. Classification of Justice Court Judges.

~~(a) As used in this section, a qualified attorney is an attorney with at least one trial appearance or three total appearances before the evaluated judge during the evaluation cycle.~~

~~(b) Classification Determination. Each judge's classification shall be made by the commission following the judge's retention election, except that newly appointed judges shall be classified upon appointment.~~

- ~~(e) Basis of classification:~~
- ~~(1) Classification shall be based on weighted caseload data and attorney appearance data provided by the Administrative Office of the Courts for the 12 months preceding the judge's most recent election or appointment.~~
- ~~(2) Notwithstanding section R597-4-1 (b) and (e)(1), for judges standing for retention in 2018, classification shall be based on weighted caseload data and attorney appearance data provided by the Administrative Office of the Courts for the calendar year 2013.~~
- ~~(3) If the data specified in subsection R597-4-1(e)(1) is unavailable or inapplicable, classification shall be based on the best data available from the Administrative Office of the Courts.~~
- ~~(d) Once classified, the judge retains the classification for the judge's term of office.~~
- ~~(e) Judicial classification categories. Justice court judges shall be classified into one of three categories for purposes of judicial evaluation, based on the timeframes specified in section R597-4-1(e).~~
- ~~(1) Full Evaluation Judges must have a total of 50 or more qualified attorneys in the combined jurisdictions in which they serve.~~
- ~~(2) Mid-level Evaluation Judges must have fewer than 50 qualified attorneys in the combined jurisdictions in which they serve and a weighted caseload, as defined by the Administrative Office of the Courts, of .2 or more in at least one jurisdiction.~~
- ~~(3) Basic Evaluation Judges must not qualify for full evaluation and must have a weighted caseload of less than .2 in every jurisdiction in which they serve.~~

R597-4-2. Justice Court Judges Serving in Multiple Courts.

- ~~(a) For judges serving in multiple courts:~~
- ~~(1) Once a judge is classified, the judge may be evaluated in any court in which the judge serves, regardless of retention year.~~
- ~~(2) Evaluation data gathered from different courts served by a single judge shall be aggregated into a single midterm evaluation and a single retention report.~~
- ~~(b) For judges serving in multiple courts who stand for retention election in multiple years:~~
- ~~(1) Each judge shall be assigned to a single controlling evaluation cycle.~~
- ~~(2) The retention evaluation report compiled pursuant to the controlling evaluation cycle shall be used for all other subsequent retention elections for which that judge stands within the controlling cycle.]~~

R597-4-1. Classification of Justice Court Judges.

- (1) Each judge's classification shall be made by the commission following the judge's retention election, except that newly-appointed judges shall be classified upon appointment.
- (2) Classification shall be based on:
- (a) the dates of required retention elections for the court or courts in which the judge serves and;
- (b) the weighted caseload data and attorney appearance data provided by the Administrative Office of the Courts for the 12 months preceding the judge's most recent election or appointment.
- (3) If the data specified in subsection R597-4-1(2)(b) is unavailable or inapplicable, classification shall be based on the best data available from the Administrative Office of the Courts.
- (4) Justice court judges shall be classified into a single controlling cycle for the purposes of evaluation timing.

(5) Justice court judges shall be classified into one of three categories for purposes of judicial evaluation, based on the timeframes specified in sections R597-4-1(2)(b) and R597-4-1(3):

(a) full evaluation judges must have a total of 50 or more attorneys with at least one trial appearance or three total appearances in the combined jurisdictions in which they serve;

(b) mid-level evaluation judges must have fewer than 50 attorneys with at least one trial appearance or three total appearances in the combined jurisdictions in which they serve and a weighted caseload, as defined by the Administrative Office of the Courts, of .2 or more in at least one jurisdiction; and

(c) basic evaluation judges must not qualify for full evaluation and must have a weighted caseload of less than .2 in every jurisdiction in which they serve.

(6) Once classified, the judge retains the classification for the duration of the judge's controlling cycle term of office.

(7) Once classified, the judge may be evaluated in any court in which the judge serves, regardless of retention year.

(8) Evaluation data gathered from different courts served by a single judge shall be aggregated into a single midterm report and a single retention report.

(9) For judges who stand for retention election in multiple years, the retention report compiled pursuant to the controlling cycle shall be used for all other subsequent retention elections for which that judge stands within the controlling cycle.

KEY: justice court evaluations, justice court multiple jurisdictions, justice court classifications, justice court multiple election years

Date of Enactment or Last Substantive Amendment: ~~June 12, 2014~~2019

Notice of Continuation: March 22, 2019

Authorizing, and Implemented or Interpreted Law: 78A-12-201 through 78A-12-206

Regents (Board of), Administration
R765-800
 Free Expression on Campus

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43930

FILED: 07/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule addresses the Utah System of Higher Education's obligation under the Student Civil Liberties Protection Act, Section 53B-27-302, which requires public institutions of higher education to file an administrative rule for campus policies that impact a student's civil liberties.

SUMMARY OF THE RULE OR CHANGE: In accordance with Section 53B-27-3, Campus Civil Liberties Protection Act,

the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions. The rule incorporates by reference the institution's specific policies that impact student expression on campus.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds PPM 7-10, Posting and Distribution of Written Materials, published by Weber State University, 10/03/2017
- ◆ Adds ppm 6-22, Student Code, published by Weber State University, 09/13/2018
- ◆ Adds Snow College Free Speech Policy, published by Snow College, 12/08/2017
- ◆ Adds Student Code of Conduct, published by Utah State University, 04/10/2009
- ◆ Adds 162 Sexual Misconduct, published by Utah Valley University, 06/18/2019
- ◆ Adds 161 Freedom of Speech, published by Utah Valley University, 06/22/2017
- ◆ Adds Policy 1-007 University Speech Policy, published by University of Utah, 06/12/2008
- ◆ Adds PPM 5-37, Campus Facilities Use, published by Weber State University, 12/04/2012
- ◆ Adds Student Rights and Responsibilities, published by Snow College, 05/31/2019
- ◆ Adds 165 Discrimination, Harassment, and Affirmative Action, published by Utah Valley University, 06/18/2019
- ◆ Adds Policy 552, Student Rights and Responsibilities, published by Dixie State University, 04/28/2017
- ◆ Adds Policy 5.1, Free Speech and Advocacy on Campus, published by Southern Utah University, 05/03/2018
- ◆ Adds Policy 110, Free Speech, published by Dixie State University, 03/05/2018

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no associated fiscal impact with this rule.
- ◆ **LOCAL GOVERNMENTS:** There is no associated fiscal impact with this rule.
- ◆ **SMALL BUSINESSES:** There is no associated fiscal impact with this rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Although this rule impacts individual students ability to express ideas on campuses, including demonstrations, the rule will not impact those students financially.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In general, this rule and the referenced policies allow for students to freely engage in free expression, with no associated costs. Any restrictions address only the time,

place or manner of expression, and will not require any costs to comply with those restrictions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not have any direct or indirect fiscal impact on businesses.

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Geoff Landward by phone at 801-321-7136, or by Internet E-mail at glandward@ushe.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Dave Woolstenhulme, Commissioner of Higher Education

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures. The Student Civil Liberties Protection Act requires institutions of higher education to engage in rulemaking when their policies directly impact a student's civil liberties. The result is limited to certain student policies also being filed as administrative rules. Non-small businesses are neither impacted nor directly benefit from the student policies being enacted also as administrative rules.

The Commissioner of Higher Education, Dave Woolstenhulme, has reviewed and approved this fiscal analysis.

R765. Regents (Board of), Administration.

R765-800. Free Expression on Campus.

R765-800-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act, the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

R780-800-2. References.

(1) United States Constitution, Amendment 1, Freedom of Expression and Religion.

(2) Utah Constitution, Article 1, Section 15, Freedom of Speech and of the Press.

(3) Title 53B, Chapter 27, Part 2, Campus Free Expression Act.

(4) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act.

R780-800-3. Definitions.

(1) Free Expression means all forms of verbal, written, or symbolic communication, including peaceful assembly, protests, speaking verbally, holding signs, circulating petitions, and distributing written materials.

(a) Free expression does not include speech or conduct that is not recognized as protected by the First Amendment to the U.S. Constitution and Article 1, Section 15 of the Utah Constitution, including speech or conduct that is a true threat, fraudulent, harassment, obscene, defamatory, or otherwise unlawful.

R780-800-4. General Rights of Free Expression on Campus.

(1) Institutions uphold and promote free expression on campus. Except as limited by regulations consistent with the law and this rule, (a) all faculty, students, and staff have the right to express views and ideas, and are free to criticize, contest, and condemn views expressed on campus and (b) neither the faculty, staff, nor students may obstruct, disrupt, suppress or otherwise interfere with the freedom of others to express views and ideas.

(3) Institutions' outdoor areas are a public forums.

(4) Subject to R765-800-5, institutions may not prohibit:

(a) a member of the institution's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the institution's campus; or

(b) a person from freely engaging in noncommercial expressive activity in an outdoor area of the institution's campus if the person's conduct is lawful.

R765-800-5. Time, Place and Manner Restrictions.

(1) Institutions may reasonably regulate the time, place, and manner of free expression to ensure that it does not disrupt the institution's ordinary activities. This restriction includes established procedures for engaging in organized speech activities, such as protest marches or invited speakers.

(2) These exceptions to the principle of freedom of expression must be viewpoint neutral, generally content neutral, narrowly tailored, and leave ample opportunity for alternative

means for expression. Institutions will not use these exceptions in a manner that is inconsistent with the institutions' commitment to free and open discussion of ideas.

R780-800-6. Incorporations of Institution Policies.

Institutions have adopted the following policies that are incorporated by reference within this rule:

(1) Utah State University.

(a) Student Code Article III (April 10, 2009).

(2) Weber State University.

(a) PPM 6-22, Student Code (September 13, 2018).

(b) PPM 5-37, Campus Facilities Use (December 4, 2012).

(c) PPM 7-10, Posting and Distribution of Written Materials (October 3, 2017).

(3) University of Utah.

(a) Policy 1-007, University Speech Policy (June 12, 2008).

(4) Utah Valley University.

(a) 161 Freedom of Speech (June 22, 2017).

(b) 162 Sexual Misconduct (June 18, 2019).

(c) 165 Discrimination, Harassment, and Affirmative Action (June 18, 2019).

(5) Snow College.

(a) Student Rights and Responsibilities (May 31, 2019).

(b) Snow College Free Speech Policy (December 8, 2017).

(6) Southern Utah University.

(a) Policy 5.1, Free Speech and Advocacy on Campus (May 3, 2018).

(7) Dixie State University.

(a) Policy 110, Free Speech (March 5, 2018).

(b) Policy 552, Student Rights and Responsibilities (April 28, 2017).

KEY: civil liberties, free speech

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

Regents (Board of), Administration

R765-801

Student Due Process

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43933

FILED: 07/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule addresses the Utah System of Higher Education's obligation under the Student Civil Liberties Protection Act, Section 53B-27-302, which requires public institutions of higher education to file an administrative rule for campus policies that impact a student's civil liberties.

SUMMARY OF THE RULE OR CHANGE: In accordance with Section 53B-27-3, Campus Civil Liberties Protection Act, this rule establishes general rights to due process on campus as established by law. This rule incorporates by reference the institution's specific policies that impact student due process on campus for non-academic violations of conduct codes that would result in expulsion or suspension of ten days or more.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds Utah State University Student Code, published by Utah State University, 04/10/2009
- ◆ Adds 154, Title IX, Harassment and Nondiscrimination, published by Dixie State University, 09/01/2016
- ◆ Adds Policy 6-400, Code of Student Rights and Responsibilities, Sections III(C), VI (C), published by University of Utah, 07/09/2009
- ◆ Adds Rule 1-012A, Discrimination Complaint Process Rule, published by University of Utah, 02/14/2017
- ◆ Adds Policy 11.2, Student Code of Conduct, published by Southern Utah University, 04/29/2016
- ◆ Adds Student Rights and Responsibilities, published by Snow College, 05/31/2019
- ◆ Adds Policy 305, Discrimination Complaints, published by Utah State University, 05/05/2016
- ◆ Adds 165 Discrimination, Harassment, and Affirmative Action, published by Utah Valley University, 06/18/2019
- ◆ Adds PPM 6-22, Student Code, published by Weber State University, 09/13/2018
- ◆ Adds Procedure 1-012, Discrimination Hearing Procedure, published by University of Utah, 02/14/2017
- ◆ Adds Rule 1-012B(III)(E-K), Sexual Misconduct Complaint Process Rule, published by University of Utah, 02/14/2017
- ◆ Adds 541 Student Code of Conduct, published by Utah Valley University, 11/29/2018
- ◆ Adds 502 Determination of Utah Resident Status for Tuition Purposes, published by Utah Valley University, 12/04/2014
- ◆ Adds 552, Student Rights and Responsibilities, published by Dixie State University, 04/28/2017
- ◆ Adds 162 Sexual Misconduct, published by Utah Valley University, 06/18/2019

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule incorporates existing campus policies that require institutions to provide students with due process. While there is an associated cost with providing due process, the institutions already comply with their policies and the elements of this rule. Consequently, this rule does not require additional cost to comply.
- ◆ **LOCAL GOVERNMENTS:** There is no fiscal impact on local governments.

- ◆ **SMALL BUSINESSES:** There is no fiscal impact on small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Students benefit from being provided due process, and while due process allows students to retain counsel at a potential cost, it is not required. Therefore, there is no associated fiscal impact to students.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Students benefit from being provided due process, and while due process allows students to retain counsel at a potential cost, it is not required. Therefore, there is no associated fiscal impact to students. As previously stated, institutions are required under the Constitution and their own policies (incorporated by reference in this rule) to provide due process. This rule does not create additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule provides students with due process rights. It does not have a direct or indirect fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 REGENTS (BOARD OF)
 ADMINISTRATION
 BOARD OF REGENTS BUILDING, THE GATEWAY
 60 SOUTH 400 WEST
 SALT LAKE CITY, UT 84101-1284
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Geoff Landward by phone at 801-321-7136, or by Internet E-mail at glandward@ushe.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/24/2019

AUTHORIZED BY: Dave Woolstenhulme, Commissioner of Higher Education

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures. The Student Civil Liberties Protection Act requires institutions of higher education to engage in rulemaking when their policies directly impact a student's civil liberties. The result is limited to certain student policies also being filed as administrative rules. Non-small businesses are neither impacted nor directly benefit from the student policies being enacted also as administrative rules.

The Commissioner of Higher Education, Dave Woolstenhulme, has reviewed and approved this fiscal analysis.

R765. Regents (Board of), Administration.

R765-801. Student Due Process.

R765-801-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that institutions must provide to a student prior to being expelled or suspended for 10 days or more for non-academic code of conduct violations.

R765-801-2. References.

- (1) United States Constitution, Amendment 14, Due Process.
- (2) Utah Constitution, Article 1, Section 7, Due Process of Law.
- (3) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act.

R765-801-3. General Rights of Due Process.

(1) In matters of non-academic conduct that may result in either expulsion or a minimum 10-day suspension, institutions will provide students the following minimum due process:

(a) Notice: Prior to being interviewed about allegations of misconduct, the institution shall provide students with notice of the allegations against them and of their right to have an advisor throughout the process who may, but need not be, an attorney.

(i) During an inquiry, investigation, or other informal process, an advisor may only advise the student and may not actively participate in the investigation or informal process.

(b) Explanation of the evidence: Prior to a formal hearing, unless prohibited by reasonable circumstances, each party shall provide to the hearing committee chair (or hearing officer) copies of the documents they intend to submit as evidence and a list of witnesses they intend to call during the formal hearing. This information will be shared with both parties. In all circumstances, including informal processes, institutions will provide students an explanation of the evidence against them.

(c) Opportunity to respond: Institutions will provide students an opportunity for a full hearing at which they can respond to the allegations and evidence against them. With the agreement of all parties, institutions may also provide an informal hearing or opportunity to respond or an agreed upon informal resolution.

(i) At formal adjudicatory hearings, students may have an advisor advocate for them. The student's advisor may be an attorney. The student's advisor may actively participate in the hearing in accordance with the institution's policies regarding active participation.

R765-801-4. Standard of Proof.

Students are presumed not to have engaged in a Code of Conduct violation until an institution has established a violation by a preponderance of the evidence.

R765-801-5. Incorporations of Institutions' Policies.

Institutions have adopted the following policies that are incorporated by reference within this rule:

- (1) Utah State University.
- (a) Policy 305, Discrimination Complaints (May 6, 2016).
- (b) Student Code Article VIII (April 10, 2009).
- (2) Weber State University.
- (a) PPM 6-22, Student Code (September 13, 2018).
- (3) University of Utah.
- (a) Policy 6-400, Code of Student Rights and Responsibilities, Sections III(C), VI (C) (July 9, 2009).
- (b) Rule 1-012A, Discrimination Complaint Process Rule (February 14, 2017).
- (c) Rule 1-012B(III)(E-K), Sexual Misconduct Complaint Process Rule (February 14, 2017).
- (d) Procedure 1-012, Discrimination Hearing Procedure (February 14, 2017).
- (4) Utah Valley University.
- (a) 162 Sexual Misconduct (June 18, 2019).
- (b) 165 Discrimination, Harassment, and Affirmative Action (June 18, 2019).
- (c) 502 Determination of Utah Resident Status for Tuition Purposes (December 4, 2014).
- (d) 541 Student Code of Conduct (November 29, 2018).
- (5) Snow College.
- (a) Student Rights and Responsibilities (May 31, 2019).
- (6) Southern Utah University.
- (a) Policy 11.2, Student Code of Conduct (April 29, 2016).
- (7) Dixie State University.
- (a) 154, Title IX, Harassment and Nondiscrimination (September 1, 2016).
- (b) 552, Student Rights and Responsibilities (April 28, 2017).

KEY: civil liberties, due process

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

Regents (Board of), Administration
R765-802
Weapons on Campus

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE NO.: 43935
 FILED: 07/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule addresses the Utah System of Higher Education's obligation under the Student Civil Liberties Protection Act, Section 53B-27-302, which requires public institutions of higher education to file an administrative rule for campus policies that impact a student's civil liberties.

SUMMARY OF THE RULE OR CHANGE: In accordance with Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act, this rule incorporates internal policies, state laws, and constitutional rights already in place at public institutions of higher education. All institutions are already complying with the principles established in this rule about weapons on campus.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

- MATERIALS INCORPORATED BY REFERENCE:**
- ◆ Adds PPM 5-35a, Firearms on Campus, published by Weber State University, 08/10/2010
 - ◆ Adds Policy 1-003, Firearms on Campus, published by University of Utah, 09/24/2007
 - ◆ Adds 541 Student Code of Conduct, published by Utah Valley University, 11/29/2018

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** This rule will have no fiscal impact on the state budget. This rule incorporates internal policies, state laws, and constitutional rights already in place at public institutions of higher education. All institutions are already complying with the principles established in this rule.
 - ◆ **LOCAL GOVERNMENTS:** There is no fiscal impact on local governments.
 - ◆ **SMALL BUSINESSES:** There is no fiscal impact on small businesses.
 - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Although this rule and incorporated policies restrict in some cases the right to bring weapons on campus, which could indirectly impact a student fiscally, those restrictions already exist in state law.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As stated, institutions must already comply with this rule, its referenced state laws, and incorporated policies. There is no new or additional cost to compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
 This rule will not fiscally impact businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 REGENTS (BOARD OF)
 ADMINISTRATION
 BOARD OF REGENTS BUILDING, THE GATEWAY
 60 SOUTH 400 WEST
 SALT LAKE CITY, UT 84101-1284
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Geoff Landward by phone at 801-321-7136, or by Internet E-mail at glandward@ushe.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/24/2019

AUTHORIZED BY: Dave Woolstenhulme, Commissioner of Higher Education

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

This proposed rule is not expected to fiscally impact non-small businesses' revenues or expenditures. The Student Civil Liberties Protection Act requires institutions of higher education to engage in rulemaking when their policies directly impact a student's civil liberties. The result is limited to certain student policies also being filed as administrative rules. Non-small businesses are neither impacted nor directly benefit from the student policies being enacted also as administrative rules.

The Commissioner of Higher Education, Dave Woolstenhulme, has reviewed and approved this fiscal analysis.

R765. Regents (Board of), Administration.

R765-802. Weapons on Campus.

R765-802-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act, this rule establishes general rights and restrictions on possessing weapons on campus.

R765-802-2. References.

(1) Title 76, Chapter 10, Part 500 Uniform Law (Right to bear arms in Utah).

(2) Title 76, Chapter 10, Part 501 Definitions.

(3) Title 76, Chapter 10, Part 505.5 Possession of a dangerous weapon, firearm, or sawed off shotgun on or about school premises - Penalties.

(4) Title 76, Chapter 3, Part 203.2 Definitions - Use of dangerous weapon in offenses committed on or about school premises - Enhanced penalties. Exceptions.

(5) Title 53, Chapter 5, Section 704 Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal Procedure.

(6) Title 53, Chapter 5, Section Temporary permit to carry concealed firearm - Denial, suspension, or revocation - Appeal.

(7) Title 76, Chapter 10, Possession of firearm at residence or on real property authorized.

(8) Title 76, Chapter 10, Persons exempt from weapons laws.

(9) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act.

R765-802-3. Possession of Weapons on Campus.

(1) Institutions comply with and enforce the state laws referenced in section 2 governing firearms on campus.

R765-802-4. Incorporations of Institution Policies.

Institutions have adopted the following policies that are incorporated by reference within this rule:

(1) Weber State University.

(a) PPM 5-35a, Firearms on Campus, August 10, 2010.

(2) University of Utah.

(a) Policy I-003, Firearms on Campus September 24, 2007.

(3) Utah Valley University.

(a) 541 Student Code of Conduct November 29, 2018.

KEY: civil liberties, due process, weapons

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

Regents (Board of), Administration
R765-803
 Institutional Policy Review

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43947

FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Student Civil Liberties Protection Act, Section 53B-27-303, requires the Board of Regents (Board) to establish a procedure whereby a student enrolled in a public institution of higher education may petition the Board to review a policy that directly affects the student's enumerated civil liberties, which the student believes the institution adopted without first establishing an administrative rule governing the enumerated civil liberty.

SUMMARY OF THE RULE OR CHANGE: Students enrolled at a public institution of higher education who believe the institution has adopted a policy that directly impacts one of their enumerated civil liberties but which is not governed by an existing administrative rule may petition the Board for a review. This rule directs students to submit the petition to the Commissioner's Office who will review the petition on behalf of the Board. This rule explains the procedure and timelines associated with the review.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-303

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This review process will be handled using existing staff resources and will require no additional cost. There are no anticipated savings from this rule.

◆ **LOCAL GOVERNMENTS:** This rule does not fiscally impact local governments.

◆ **SMALL BUSINESSES:** This rule does not fiscally impact small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Students may seek a Board review at no cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Neither the Board nor the institutions will incur compliance costs under this rule. If the Board determines an institution must file a rule as a result of the review, the institution would be acting in accordance with state law as opposed to this rule. This rule merely sets the procedure to comply with state law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not fiscally impact businesses, directly or indirectly.

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

REGENTS (BOARD OF)

ADMINISTRATION

BOARD OF REGENTS BUILDING, THE GATEWAY

60 SOUTH 400 WEST
 SALT LAKE CITY, UT 84101-1284
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Geoff Landward by phone at 801-321-7136, or by Internet
 E-mail at glandward@ushe.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
 THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
 LATER THAN AT 5:00 PM ON 09/17/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/25/2019

AUTHORIZED BY: Dave Woolstenhulme, Commissioner of
 Higher Education

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

This proposed rule is not expected to fiscally impact non-small businesses' revenues or expenditures. The Student Civil Liberties Protection Act requires the Board of Regents to establish a complaint process for students who believe an institution of higher education's policies impact their civil rights. This process is available only to enrolled students and will not impact businesses.

The Commissioner of Higher Education, Dave Woolstenhulme, has reviewed and approved this fiscal analysis.

R765. Regents (Board of), Administration.

R765-803. Institutional Policy Review.

R765-803-1. Purpose.

(1) This rule establishes a procedure whereby a student enrolled in a public institution of higher education may petition the Board of Regents to review a policy that directly affects the student's enumerated civil liberties, which the student believes the institution adopted without first establishing an administrative rule governing the enumerated civil liberty.

R765-803-2. References.

(1) Title 53B, Chapter 27, Part 3

R765-803-3. Review Process.

(1) Students enrolled at a public institution of higher education who believe the institution has adopted a policy that directly impacts one of their enumerated civil liberties but which is not governed by an existing administrative rule may petition the Board of Regents for a review.

(2) To file a petition for review, a student will send a written request that identifies the policy for which a review is requested to review@ushe.edu. Within 30 days of receiving the complaint, the Commissioner of Higher Education's office, on behalf of the Board of Regents, will:

(a) Review the petition to determine if it is made in good faith;

(i) Bad faith petitions shall be dismissed.

(b) Determine if the institution has established an administrative rule that adopts or governs the policy; and

(c) If the institution lacks a governing administrative rule, direct the institution to initiate rulemaking within 60 days of the decision.

KEY: civil liberties, Board of Regents review

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

System of Technical Colleges (Utah),
 Bridgerland Technical College
R947-1

Student Grievance

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43926

FILED: 07/29/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being established in response to H.B. 116, Student Civil Liberties Protection Act, which was passed during the 2018 General Session.

SUMMARY OF THE RULE OR CHANGE: This new rule is being implemented in accordance with Section 53B-27-302 which requires Bridgerland Technical College to initiate rulemaking proceedings to make a rule directly affecting a student's civil liberty.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule has no anticipated cost or savings to the state budget because this rule is only applicable to students.
- ◆ **LOCAL GOVERNMENTS:** This rule has no anticipated cost or savings to local governments because this rule is only applicable to students.
- ◆ **SMALL BUSINESSES:** This new rule has no anticipated cost or savings to small businesses because this rule is only applicable to students.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This new rule has no anticipated cost or savings to other persons because this rule is only applicable to students.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule will not result in a direct fiscal impact to businesses because this rule is only applicable to students.

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

SYSTEM OF TECHNICAL COLLEGES (UTAH)
 BRIDGERLAND TECHNICAL COLLEGE
 1301 N 600 W
 LOGAN, UT 84321
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Emily Hobbs by phone at 435-750-3167, or by Internet E-mail at ehobbs@btech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: K. Chad Campbell, President

Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

President K. Chad Campbell has reviewed and approved this fiscal analysis.

R947. System of Technical Colleges (Utah), Bridgerland Technical College.

R947-1. Student Grievance and Due Process.

R947-1-1. Purpose.

(1) In the course of technical training at Bridgerland Technical College (BTECH), the student will have the opportunity for contesting any evaluation made by Administration, faculty, or staff of the College in an appeal/grievance hearing, if so desired. In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being expelled or suspended for 10 days or more for non-academic code of conduct violations.

R947-1-2. References.

- (1) United States Constitution, Amendment 14, Due Process.
- (2) Utah Constitution, Article 1, Section 7, Due Process of Law.
- (3) Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act.
- (4) BTECH Policy 608 Student Grievance, approval date July 29, 2019.

R947-1-3. Definitions.

- (1) An appeal/grievance is a claim or charge of injustice or discrimination based upon an event or condition that affects the welfare or conditions of an individual student or group of students.
- (2) The grievance must be filed in writing within 90 days of the occurrence of the circumstance upon which it is based.
- (3) It must specifically identify the policy, procedure, or statute violated, misinterpreted, or inequitably applied.
- (4) It must furnish sufficient background concerning the alleged violation, misinterpretations, or inequitable applications to identify persons, actions, and/or omissions that led to the allegation.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0

R947-1-4. Standard of Proof.

Students are presumed not to have engaged in a Code of Conduct violation until the college has established a violation by a preponderance of the evidence.

R947-1-5. Procedures.

In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this policy establishes general elements of due process that must be provided to a student prior to being expelled or suspended for 10 days or more for non-academic Student Rights and Responsibilities violations. Students are presumed not to have engaged in a Student Rights and Responsibilities violation until the college has established a violation by a preponderance of the evidence.

(1) Informal: Should a student believe there is a cause for grievance, he or she should discuss the grievance with the person(s) involved (instructor, student, Student Services staff, etc.) in an effort to resolve the grievance mutually and informally. For online/hybrid courses, the same procedure applies, except the informal discussion can be through an e-mail or over the phone. Students may also contact the Student Services Office at BTECH (435) 753-6780 to discuss any grievance issue following the General Rights of Due Process below.

(2) Formal: If attempts to resolve the grievance informally are unsuccessful, the student should fill out the "Complaint Submission" Form and file the grievance within 90 days of the occurrence with the Vice President for Student Services. The grievance should be sent to the following address: Vice President for Student Services, Bridgerland Technical College, 1301 North 600 West, Logan, Utah 84321. The Vice President for Student Services will appoint a Hearing Committee to hear the grievance following the General Rights of Due Process below. The committee will notify the grievant of their decision in writing.

R947-1-5.1. General Rights of Due Process.

(1) In matters of non-academic conduct that may result in either expulsion or a minimum 10-day suspension, the college will provide students the following minimum due process:

(a) Notice: Prior to being interviewed about allegations of misconduct, the college shall provide students with notice of the allegations against them and of their right to have an advisor throughout the process who may, but need not be, an attorney.

(i) During an inquiry, investigation, or other informal process, an advisor may only advise the student and may not actively participate in the investigation or informal process.

(b) Explanation of the evidence: Prior to a formal hearing, unless prohibited by reasonable circumstances, each party shall provide to the hearing committee chair (or hearing officer) copies of the documents they intend to submit as evidence and a list of witnesses they intend to call during the formal hearing. This information will be shared with both parties. In all circumstances, including informal processes, the college will provide students an explanation of the evidence against them.

(c) Opportunity to respond: The college will provide students an opportunity for a full hearing at which they can respond to the allegations and evidence against them. With the agreement of all parties, the college may also provide an informal hearing or opportunity to respond or an agreed upon informal resolution.

(i) At formal adjudicatory hearings, students may have an advisor advocate for them. The student's advisor may be an attorney. The student's advisor may actively participate in the hearing in accordance with the college's policies regarding active participation.

KEY: civil liberty, technical college, technical education, due process

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

System of Technical Colleges (Utah),
Davis Technical College
R949-1
Student Due Process

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43936

FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process. All students are guaranteed the right to due process. In matters of non-academic conduct that may result either expulsion or a minimum 30-day suspension, Davis Technical College will provide the student with due process.

SUMMARY OF THE RULE OR CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being expelled or suspended for a minimum of 30 days for non-academic code of conduct violations.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds Policy – Davis Technical College Student Code of Conduct and Discipline Policy, published by Davis Technical College, 07/30/2019
- ◆ Adds Policy – Davis Technical College Student Grievance Policy, published by Davis Technical College, 07/30/2019

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will be no impact because this is currently taking place on campus.
- ◆ **LOCAL GOVERNMENTS:** There will be no impact because this is currently taking place on campus.

♦ **SMALL BUSINESSES:** There will be no impact because this is currently taking place on campus.
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no impact because this is currently taking place on campus.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no impact because this is currently taking place on campus.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact because this is currently taking place on campus.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 SYSTEM OF TECHNICAL COLLEGES (UTAH)
 DAVIS TECHNICAL COLLEGE
 550 E 300 S
 KAYSVILLE, UT 84037
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Julie Blake by phone at 801-593-2522, or by Internet E-mail at julie.blake@davistech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Julie Blake, Vice President, Quality and Development

Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 There is no anticipated impact or benefit to non-small businesses.

President Darin Brush has reviewed and approved this fiscal analysis.

R949. System of Technical Colleges (Utah), Davis Technical College.

R949-1. Student Due Process.

R949-1-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process.

(2) All students are guaranteed the right to due process.

(3) In matters of non-academic conduct that may result either expulsion or a minimum 30-day suspension, the College will provide the student with due process.

R949-1-2. References.

(1) United States Constitution, Amendment 14, Due Process.

(2) Utah Constitution, Article 1, Section 7, Due Process of Law.

(3) Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act.

(4) Davis Technical College Student Code of Conduct and Discipline Policy.

(5) Davis Technical College Student Grievance Policy.

R949-1-3. General Rights of Due Process.

(1) In matters of non-academic conduct that may result in either expulsion or a minimum 30-day suspension, the college will provide students the following minimum due process:

(a) Notice: Prior to being interviewed about allegations of misconduct, the college shall provide students with notice of the allegations against them and of their right to have an advisor throughout the process who may, but need not be, an attorney.

(i) During an inquiry, investigation, or other informal process, an advisor may only advise the student and may not actively participate in the investigation or informal process.

(b) Explanation of the evidence: Prior to a formal hearing, unless prohibited by reasonable circumstances, each party shall provide to the hearing committee chair (or hearing officer) copies of the documents they intend to submit as evidence and a list of witnesses they intend to call during the formal hearing. This information will be shared with both parties. In all circumstances, including informal processes, the college will provide students an explanation of the evidence against them.

(c) Opportunity to respond: The college will provide students an opportunity for a full hearing at which they can respond

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0

to the allegations and evidence against them. With the agreement of all parties, the college may also provide an informal hearing or opportunity to respond or an agreed upon informal resolution.

(i) At formal adjudicatory hearings, students may have an advisor advocate for them. The student's advisor may be an attorney. The student's advisor may actively participate in the hearing in accordance with the college's policies regarding active participation.

R949-1-4. Standard of Proof.

Students are presumed not to have engaged in a Code of Conduct violation until the college has established a violation by a preponderance of the evidence.

R949-1-5. Incorporations of Colleges' Policies.

The college has adopted the following policies that are incorporated by reference within this rule:

(1) Policy -- Davis Technical College Student Code of Conduct and Discipline Policy, 7/30/19.

(2) Policy -- Davis Technical College Student Grievance Policy, 7/30/19.

KEY: civil liberty, technical college, technical education, due process

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Davis Technical College
R949-2
Free Expression on Campus**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43938

FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

SUMMARY OF THE RULE OR CHANGE: Dixie Technical College (College) upholds and promotes free expression on campus. Except as limited by regulations consistent with the law and this rule: 1) all faculty, students, and staff have the right to express views and ideas, and are free to criticize, contest, and condemn views expressed on campus; and 2) neither the faculty, staff, nor students may obstruct, disrupt, suppress or otherwise interfere with the freedom of others to express views. The College's outdoor areas are a public forum. The College may not prohibit: a member of the

College's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the college's campus; or a person from freely engaging in noncommercial expressive activity in an outdoor area of the College's campus if the person's conduct is lawful.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds Free Expression on Campus Policy, published by Davis Technical College, 07/30/2019

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated cost or savings to the state because this is already taking place on campus.
- ◆ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local governments because this is already taking place on campus.
- ◆ SMALL BUSINESSES: There are no anticipated cost or savings to small businesses because this is already taking place on campus.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no persons affected because this is already taking place on campus.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this is already taking place on campus.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses from this rule because it is already taking place on campus.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
SYSTEM OF TECHNICAL COLLEGES (UTAH)
DAVIS TECHNICAL COLLEGE
1238
550 E 300 S
KAYSVILLE, UT 84037
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Julie Blake by phone at 801-593-2522, or by Internet E-mail at julie.blake@davistech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Julie Blake, Vice President, Quality and Development

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

President Darin Brush has reviewed and approved this fiscal analysis.

R949. System of Technical Colleges (Utah), Davis Technical College.

R949-2. Free Expression on Campus.

R949-2-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

R949-2-2. References.

(1) United States Constitution, Amendment 1, Freedom of Expression and Religion.

(2) Utah Constitution, Article 1, Section 15, Freedom of Speech and of the Press.

(3) Title 53B, Chapter 27, Part 2, Campus Free Expression Act.

(4) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act.

R949-2-3. Definitions.

(1) Free Expression means all forms of verbal, written, or symbolic communication, including peaceful assembly, protests,

speaking verbally, holding signs, circulating petitions, and distributing written materials.

(2) Free expression does not include speech or conduct that is not recognized as protected by the First Amendment to the U.S. Constitution and Article 1, Section 15 of the Utah Constitution, including speech or conduct that is a true threat, fraudulent, harassment, obscene, defamatory, or otherwise unlawful.

R949-2-4. General Rights of Free Expression on Campus.

(1) The College upholds and promotes free expression on campus. Except as limited by regulations consistent with the law and this rule, (a) all faculty, students, and staff have the right to express views and ideas, and are free to criticize, contest, and condemn views expressed on campus and (b) neither the faculty, staff, nor students may obstruct, disrupt, suppress or otherwise interfere with the freedom of others to express views.

(2) The College's outdoor areas are a public forum.

(3) The College may not prohibit: A member of the College's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the College's campus; or a person from freely engaging in noncommercial expressive activity in an outdoor area of the College's campus if the person's conduct is lawful.

R765-2-5. Time, Place and Manner Restrictions.

(1) The College may reasonably regulate the time, place, and manner of free expression to ensure that it does not disrupt the ordinary activities of the College. This restriction includes established procedures for engaging in organized speech activities, such as protest marches or invited speakers.

(2) These exceptions to the principle of freedom of expression must be viewpoint neutral, generally content neutral, narrowly tailored, and leave ample opportunity for alternative means for expression. The College will not use these exceptions in a manner that is inconsistent with the College's commitment to free and open discussion of ideas.

R784-2-6. Incorporations of College Policies.

The college has adopted the following policies that are incorporated by reference within this rule:

(1) Davis Technical College -- Free Expression on Campus Policy, 7/30/19.

KEY: civil liberty, technical college, technical education, free expression

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Mountainland Technical College
R953-1
Due Process**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43925

FILED: 07/29/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being dismissed for any reason.

SUMMARY OF THE RULE OR CHANGE: This rule establishes general elements of due process that must be provided to a student prior to being dismissed for any reason.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds Student Support Policies: Student Grievance Policy, published by Mountainland Technical College, 12/21/2005

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule reflects current operating practice and will not impact the state's budget.
- ◆ **LOCAL GOVERNMENTS:** This rule reflects current operating practice and will not financially impact local governments.
- ◆ **SMALL BUSINESSES:** This rule reflects current operating practice and will not financially impact small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule reflects current operating practice and will not financially impact other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule reflects current operating practice and will not financially impact affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule reflects current operating practice and will have no fiscal impact on any government or business entity.

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

SYSTEM OF TECHNICAL COLLEGES (UTAH)
 MOUNTAINLAND TECHNICAL COLLEGE
 2301 W ASHTON BLVD
 LEHI, UT 84043
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Joseph Demma by phone at 801-753-4127, or by Internet E-mail at jdemma@mtec.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Joseph Demma, Vice President

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

College President Clay Christensen has reviewed and approved this fiscal analysis.

R953. System of Technical Colleges (Utah), Mountainland Technical College.

R953-1. Student Due Process.

R953-1-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being dismissed for any reason.

R953-1-2. References.

(1) United States Constitution, Amendment 14, Due Process;

(2) Utah Constitution, Article 1, Section 7, Due Process of Law;

(3) Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act; and

(4) Mountainland Technical College Policy (effective 12.21.2005) -- Student Grievance 600.608.

R953-1-3. General Rights of Due Process.

(1) The College encourages students to address concerns on an informal basis whenever possible. In the event that the decision made does not result in an outcome satisfactory to the student, the student may choose to submit a formal appeal.

(2) When a student or potential student believes there is cause for grievance, he/she may discuss the grievance with the person(s) involved (including an instructor, student, Student Services staff, etc.) in an effort to resolve the grievance mutually and informally.

(3) Only the student may discuss the grievance with person(s) involved unless a signed FERPA release form has been filed with Student Services.

(4) Students wishing to file a grievance must do so in writing within sixty days of the alleged incident, to allow for a timely review of the complaint. Specific details regarding the reported incident should be provided, as well as the names of all parties involved.

(5) The grievance must be:

(a) Written, dated and signed.

(b) Filed within sixty days of the occurrence with the Vice President of Administrative Services at the Main Campus in Lehi.

(6) Only the student may file the grievance, unless signed FERPA release form has been filed by Student Services.

(7) All grievances will be reviewed with sensitivity for privacy of the student.

(8) Appeals are heard by the appeals committee in regularly scheduled meetings.

(9) Voting members of the Appeals Committee are the College Vice-Presidents and the Director of Student Services.

(10) Non-voting members of the appeals committee include the Academic & Career Counselors, the Program Directors, the Student Services Manager, and the Testing Manager.

(11) Any member with a conflict of interest will abstain from commenting or voting on the appeal.

(12) The Appeals Committee will determine if the information provided by the student is sufficient and may request additional information. Students are encouraged to provide any additional information in a prompt manner, so that the matter can be promptly resolved. If a student fails to come forward with additional requested information within a reasonable amount of time (typically 10 working days), the grievance will be cancelled and no further consideration will be given.

(13) The College will endeavor to provide a final decision to the complainant within sixty days.

(14) Students retain the right to contact the Commission of the Council on Occupational Education (COE), in cases where the student grievance is not satisfactorily settled at the institutional level. COE can be reached at: The Council on Occupational Education, 7840 Roswell Road, Building 300, Suite 325, Atlanta, GA 30350. By phone: Toll-free (800) 917-2081, ext. 21, Website: www.council.org.

R953-1-4. Standard of Proof.

(1) Students are presumed not to have engaged in a violation until the college has established a violation by a preponderance of the evidence.

R953-1-5. Incorporations of Colleges' Policies.

(1) The college has adopted the following policies that are incorporated by reference within this rule:

(a) Policy -- Student Grievance 600.608, effective 12.21.2005.

KEY: civil liberty, technical college, due process, technical education

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Mountainland Technical College**

R953-2

Free Expression on Campus

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43924

FILED: 07/29/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

SUMMARY OF THE RULE OR CHANGE: This rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53B Chapter 27 Part 2 and Title 53B Chapter 27 Part 3

MATERIALS INCORPORATED BY REFERENCE:

◆ Adds Operating Policies: Free Expression, published by Mountainland Technical College, 07/23/2019

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule reflects current operating practice and will not impact the state's budget in any way.

◆ **LOCAL GOVERNMENTS:** This rule reflects current operating practice and will not financially impact local governments.

♦ **SMALL BUSINESSES:** This rule reflects current operating practice and will not financially impact small businesses.
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule reflects current operating practice and will not financially impact other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule reflects current operating practice and will not financially impact affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule reflects current operating practice and will result in no fiscal impact to any government or business entity.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 SYSTEM OF TECHNICAL COLLEGES (UTAH)
 MOUNTAINLAND TECHNICAL COLLEGE
 2301 W ASHTON BLVD
 LEHI, UT 84043
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Joseph Demma by phone at 801-753-4127, or by Internet E-mail at jdemma@mtec.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Joseph Demma, Vice President

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0

Net Fiscal Benefits:	\$0	\$0	\$0
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*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 There is no anticipated impact or benefit to non-small businesses.

College President Clay Christensen has reviewed and approved this fiscal analysis.

R953. System of Technical Colleges (Utah), Mountainland Technical College.

R953-2. Free Expression on Campus.

R953-2-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

R953-2-2. References.

(1) United States Constitution, Amendment 1, Freedom of Expression and Religion;

(2) Utah Constitution, Article 1, Section 15, Freedom of Speech and of the Press;

(3) Title 53B, Chapter 27, Part 2, Campus Free Expression Act;

(4) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act; and

(5) Mountainland Technical College Policy (effective 07.23.2019) -- Free Expression 500.590.

R953-2-3. Definitions.

(1) Free Expression means all forms of verbal, written, or symbolic communication, including peaceful assembly, protests, speaking verbally, holding signs, circulating petitions, and distributing written materials.

(2) Free expression does not include speech or conduct that is not recognized as protected by the First Amendment to the U.S. Constitution and Article 1, Section 15 of the Utah Constitution, including speech or conduct that is a true threat, fraudulent, harassment, obscene, defamatory, or otherwise unlawful.

R953-2-4. General Rights of Free Expression on Campus.

(1) The college upholds and promotes free expression on campus. Except as limited by regulations consistent with the law and this rule, (a) all faculty, students, and staff have the right to express views and ideas, and are free to criticize, contest, and condemn views expressed on campus and (b) neither the faculty, staff, nor students may obstruct, disrupt, suppress or otherwise interfere with the freedom of others to express views.

(2) The college's outdoor areas are a public forum.

(3) The college may not prohibit:

(a) a member of the college's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the college's campus; or

(b) a person from freely engaging in noncommercial expressive activity in an outdoor area of the college's campus if the person's conduct is lawful.

R953-2-5. Time, Place and Manner Restrictions.

(1) The college may reasonably regulate the time, place, and manner of free expression to ensure that it does not disrupt the ordinary activities of the college. This restriction includes established procedures for engaging in organized speech activities, such as protest marches or invited speakers.

(2) These exceptions to the principle of freedom of expression must be viewpoint neutral, generally content neutral, narrowly tailored, and leave ample opportunity for alternative means for expression. The college will not use these exceptions in a manner that is inconsistent with the college's commitment to free and open discussion of ideas.

R953-2-6. Incorporations of College Policies.

(1) The college has adopted the following policies that are incorporated by reference within this rule:

(a) Policy -- Free Expression 500.590, effective 7.23.19.

KEY: civil liberty, technical college, free expression, technical education

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Ogden-Weber Technical College**

R955-1

Student Due Process

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43929

FILED: 07/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the 2018 General Session, H.B. 116 was passed regarding civil liberties on college campuses. As part of that bill colleges were asked to look at all college policies and if any involved civil liberties, colleges needed to submit an administrative rule to comply with the bill.

SUMMARY OF THE RULE OR CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being expelled or suspended for 10 days or more for non-academic code of conduct violations.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds Student Rights and Responsibilities, and Code of Conduct, published by Ogden-Weber Technical College, 07/25/2019

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There will be no impact because this is currently taking place on campus.
- ◆ LOCAL GOVERNMENTS: There will be no impact because this is currently taking place on campus.
- ◆ SMALL BUSINESSES: There will be no impact because this is currently taking place on campus.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no impact because this is currently taking place on campus.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no impact because this is currently taking place on campus.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact because this is currently taking place on campus.

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

SYSTEM OF TECHNICAL COLLEGES (UTAH)
OGDEN-WEBER TECHNICAL COLLEGE
200 N WASHINGTON BLVD
OGDEN, UT 84404
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Chad Burchell by phone at 801-627-8388, or by Internet E-mail at chad.burchell@otech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Chad Burchell, VP of Student Services

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

President Jim Taggart has reviewed and approved this fiscal analysis.

R955. System of Technical Colleges (Utah) Ogden-Weber Technical College.

R955-1. Student Due Process.

R955-1-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being expelled or suspended for 10 days or more for non-academic code of conduct violations.

R955-1-2. References.

- (1) United States Constitution, Amendment 14, Due Process.
- (2) Utah Constitution, Article 1, Section 7, Due Process of Law.
- (3) Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act.
- (4) Policy - Student Rights and Responsibilities, and Code of Conduct 530.4 -- approved on July 25, 2019.

R955-1-3. General Rights of Due Process.

- (1) In matters of non-academic conduct that may result in either expulsion or a minimum 10-day suspension, the college will provide students the following minimum due process:
- (2) Notice: Prior to being interviewed about allegations of misconduct, the college shall provide students with notice of the allegations against them and of their right to have an advisor throughout the process who may, but need not be, an attorney.
- (3) During an inquiry, investigation, or other informal process, an advisor may only advise the student and may not actively participate in the investigation or informal process.
- (4) Explanation of the evidence: Prior to a formal hearing, unless prohibited by reasonable circumstances, each party shall provide to the hearing committee chair (or hearing officer) copies of the documents they intend to submit as evidence and a list

of witnesses they intend to call during the formal hearing. This information will be shared with both parties. In all circumstances, including informal processes, the college will provide students an explanation of the evidence against them.

(5) Opportunity to respond: The college will provide students an opportunity for a full hearing at which they can respond to the allegations and evidence against them. With the agreement of all parties, the college may also provide an informal hearing or opportunity to respond or an agreed upon informal resolution.

(6) At formal adjudicatory hearings, students may have an advisor advocate for them. The student's advisor may be an attorney. The student's advisor may actively participate in the hearing in accordance with the college's policies regarding active participation.

R955-1-4. Standard of Proof.

(1) Students are presumed not to have engaged in a Code of Conduct violation until the college has established a violation by a preponderance of the evidence.

R955-1-5. Incorporations of Colleges' Policies.

(1) The college has adopted the following policies that are incorporated by reference within this rule:

(a) Policy -- Student Rights and Responsibilities, and Code of Conduct 530.4. -- approved on July 25, 2019.

KEY: civil liberty, technical college, technical education, due process

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Ogden-Weber Technical College**

R955-2

Free Expression on Campus

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43927

FILED: 07/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the 2018 General Session, H.B. 116 was passed regarding civil liberties on college campuses. As part of that bill colleges were asked to look at all college policies and if any involved civil liberties, colleges needed to submit an administrative rule to comply with the bill.

SUMMARY OF THE RULE OR CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds Free Expression on Campus, published by Ogden-Weber Technical College, 07/25/2019

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Policy and rule around free expression on campus will not have an impact on state budget due to having access already on campus.
- ◆ LOCAL GOVERNMENTS: Policy and rule around free expression on campus will not have an impact on local governments due to having access already on campus.
- ◆ SMALL BUSINESSES: Policy and rule around free expression on campus will not have an impact on small businesses due to having access already on campus.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Policy and rule around free expression on campus will not have an impact on persons other than small businesses, businesses, or local government entities due to having access already on campus.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be compliance costs. This applies to all persons on campus and will not have costs associated with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will not be a fiscal impact. This rule applies to all persons on campus and will not have costs associated with businesses.

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

SYSTEM OF TECHNICAL COLLEGES (UTAH)
 OGDEN-WEBER TECHNICAL COLLEGE
 200 N WASHINGTON BLVD
 OGDEN, UT 84404
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Chad Burchell by phone at 801-627-8388, or by Internet E-mail at chad.burchell@otech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Chad Burchell, VP of Student Services

Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

President Jim Taggart has reviewed and approved this fiscal analysis.

R955. System of Technical Colleges (Utah), Ogden-Weber Technical College.

R955-2. Free Expression on Campus.

R955-2-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

R955-2-2. References.

(1) United States Constitution, Amendment 1, Freedom of Expression and Religion.

(2) Utah Constitution, Article 1, Section 15, Freedom of Speech and of the Press.

(3) Title 53B, Chapter 27, Part 2, Campus Free Expression Act.

(4) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act.

(5) Policy -- Free Expression on Campus 500.2 -- approved on July 25, 2019.

R955-2-3. Definitions.

(1) Free Expression means all forms of verbal, written, or symbolic communication, including peaceful assembly, protests, speaking verbally, holding signs, circulating petitions, and distributing written materials.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0

(a) Free expression does not include speech or conduct that is not recognized as protected by the First Amendment to the U.S. Constitution and Article 1, Section 15 of the Utah Constitution, including speech or conduct that is a true threat, fraudulent, harassment, obscene, defamatory, or otherwise unlawful.

R955-2-4. General Rights of Free Expression on Campus.

(1) The college upholds and promotes free expression on campus. Except as limited by regulations consistent with the law and this rule, (a) all faculty, students, and staff have the right to express views and ideas, and are free to criticize, contest, and condemn views expressed on campus and (b) neither the faculty, staff, nor students may obstruct, disrupt, suppress or otherwise interfere with the freedom of others to express views.

(2) The college's outdoor areas are a public forum.

(3) The college may not prohibit:

(a) a member of the college's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the college's campus; or

(b) a person from freely engaging in noncommercial expressive activity in an outdoor area of the college's campus if the person's conduct is lawful.

R955-2-5. Time, Place and Manner Restrictions.

(1) The college may reasonably regulate the time, place, and manner of free expression to ensure that it does not disrupt the ordinary activities of the college. This restriction includes established procedures for engaging in organized speech activities, such as protest marches or invited speakers.

(2) These exceptions to the principle of freedom of expression must be viewpoint neutral, generally content neutral, narrowly tailored, and leave ample opportunity for alternative means for expression. It is vitally important that the college will not use these exceptions in a manner that is inconsistent with the college's commitment to free and open discussion of ideas.

R784-2-6. Incorporations of College Policies.

(1) The college has adopted the following policies that are incorporated by reference within this rule:

(a) Policy -- Free Expression on Campus 500.2 -- approved on July 25, 2019.

KEY: civil liberty, technical college, technical education, free expression

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Ogden-Weber Technical College
R955-3
Weapons on Campus**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43928

FILED: 07/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the 2018 General Session, H.B. 116 was passed regarding civil liberties on college campuses. As part of that bill colleges were asked to look at all college policies and if any involved civil liberties, colleges needed to submit an administrative rule to comply with the bill.

SUMMARY OF THE RULE OR CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general rights and restrictions on possessing weapons on campus.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds Weapons Prohibited on College Property and at College Activities, published by Ogden-Weber Technical College, 07/25/2019

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No impact on state budget because of already existing statute about weapons on campus.
- ◆ LOCAL GOVERNMENTS: No impact on local governments because of already existing statute about weapons on campus.
- ◆ SMALL BUSINESSES: No impact on small businesses because of already existing statute about weapons on campus.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No impact on persons other than small businesses, businesses, or local government entities because of already existing statute about weapons on campus.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact on affected persons because of already existing statute about weapons on campus.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on affected persons because of already existing statute about weapons on campus.

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

SYSTEM OF TECHNICAL COLLEGES (UTAH)
OGDEN-WEBER TECHNICAL COLLEGE
200 N WASHINGTON BLVD
OGDEN, UT 84404
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Chad Burchell by phone at 801-627-8388, or by Internet E-mail at chad.burchell@ottech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Chad Burchell, VP of Student Services

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 There is no anticipated impact or benefit to non-small businesses.

President Jim Taggart has reviewed and approved this fiscal analysis.

R955. System of Technical Colleges (Utah), Ogden-Weber Technical College.

R955-3. Weapons on Campus.

R955-3-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general rights and restrictions on possessing weapons on campus.

R955-3-2. References.

(1) Title 76, Chapter 10, Part 500 Uniform Law (Right to bear arms in Utah).

(2) Title 76, Chapter 10, Part 501 Definitions.

(3) Title 76, Chapter 10, Part 505.5 Possession of a dangerous weapon, firearm, or sawed off shotgun on or about school premises - Penalties.

(4) Title 76, Chapter 3, Part 203.2 Definitions - Use of dangerous weapon in offenses committed on or about school premises - Enhanced penalties. Exceptions.

(5) Title 53, Chapter 5, Section 704 Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal Procedure.

(6) Title 53, Chapter 5, Section Temporary permit to carry concealed firearm - Denial, suspension, or revocation - Appeal.

(7) Title 76, Chapter 10, Possession of firearm at residence or on real property authorized.

(8) Title 76, Chapter 10, Persons exempt from weapons laws.

(9) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act.

(10) Policy -- Weapons Prohibited on College Property and at College Activities 520.52 -- approved on July 25, 2019.

R955-3-3. Possession of Weapons on Campus.

(1) The college complies with and enforces the state laws referenced in section 2 governing firearms on campus.

R955-3-4. Incorporations of College Policies.

(1) The college has adopted the following policies that are incorporated by reference within this rule:

(a) Policy - Weapons Prohibited on College Property and at College Activities 520.52. -- approved on July 25, 2019.

KEY: civil liberty, technical college, technical education, weapons on campus

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
 Southwest Technical College**

R957-1

Student Due Process

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43931

FILED: 07/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being dismissed or suspended for 10 days or more for non-academic code of conduct violations.

SUMMARY OF THE RULE OR CHANGE: In matters of non-academic conduct that may result in either dismissal or a minimum 10 calendar day suspension, the college will provide students due process.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

- MATERIALS INCORPORATED BY REFERENCE:**
- ◆ Adds Grievance Policy, published by Southwest Technical College, 07/29/2019
 - ◆ Adds Student Conduct Policy, published by Southwest Technical College, 07/29/2019
 - ◆ Adds Harassment, Nondiscrimination and Equal Opportunity, published by Southwest Technical College, 07/29/2019

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** This rule has no anticipated cost or savings to the state budget.
 - ◆ **LOCAL GOVERNMENTS:** This rule has no anticipated cost or savings to local governments.
 - ◆ **SMALL BUSINESSES:** This rule has no anticipated cost or savings to small businesses.
 - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule has no anticipated cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule has no anticipated cost for Southwest Technical College students. This is already in effect on campus.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated impact or benefit to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 SYSTEM OF TECHNICAL COLLEGES (UTAH)
 SOUTHWEST TECHNICAL COLLEGE
 757 W 800 S
 CEDAR CITY, UT 84720
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ James Mullenau by phone at 435-586-2899, or by Internet E-mail at jmullenau@stech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: James Mullenau, Vice President of Student Services

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 There is no anticipated impact or benefit to non-small businesses.

President Brennan M. Wood has reviewed and approved this fiscal analysis.

R957. System of Technical Colleges (Utah), Southwest Technical College.

R957.1 Student Due Process.

R957-1-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being dismissed or suspended for 10 days or more for non-academic code of conduct violations.

R957-1-2. References.

(1) United States Constitution, Amendment 14, Due Process.

(2) Utah Constitution, Article 1, Section 7, Due Process of Law.

(3) Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act.

(4) Policy -- Student Conduct Policy, July 29, 2019.

(5) Policy -- Grievance Policy, July 29, 2019.

(6) Policy -- Harassment, Nondiscrimination and Equal Opportunity, July 29, 2019.

R957-1-3. General Rights of Due Process.

(1) In matters of non-academic conduct that may result in either dismissal or a minimum 10-day suspension, the college will provide students the following minimum due process:

(a) Notice: Prior to being interviewed about allegations of misconduct, the college shall provide students with notice of the allegations against them and of their right to have an advisor throughout the process who may, but need not be, an attorney.

(i) During an inquiry, investigation, or other informal process, an advisor may only advise the student and may not actively participate in the investigation or informal process.

(b) Explanation of the evidence: Prior to a formal hearing, unless prohibited by reasonable circumstances, each party shall provide to the hearing committee chair (or hearing officer) copies of the documents they intend to submit as evidence and a list of witnesses they intend to call during the formal hearing. This information will be shared with both parties. In all circumstances, including informal processes, the college will provide students an explanation of the evidence against them.

(c) Opportunity to respond: The college will provide students an opportunity for a full hearing at which they can respond to the allegations and evidence against them. With the agreement of all parties, the college may also provide an informal hearing or opportunity to respond or an agreed upon informal resolution.

(i) At formal adjudicatory hearings, students may have an advisor advocate for them. The student's advisor may be an attorney. The student's advisor may actively participate in the hearing in accordance with the college's policies regarding active participation.

R957-1-4. Standard of Proof.

Students are presumed not to have engaged in a policy violation until the college has established a violation by a preponderance of the evidence.

R957-1-5. Incorporations of Colleges' Policies.

The college has adopted the following policies that are incorporated by reference within this rule:

(1) Policy - Student Conduct Policy, July 29, 2019.

(2) Policy -- Grievance Policy, July 29, 2019.

(3) Policy - Harassment, Nondiscrimination and Equal Opportunity, July 29, 2019.

KEY: civil liberty, technical college, technical education, due process

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

System of Technical Colleges (Utah),
Southwest Technical College
R957-2
Free Expression on Campus

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43932

FILED: 07/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

SUMMARY OF THE RULE OR CHANGE: This rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53B Chapter 27 Part 2 and Title 53B Chapter 27 Part 3

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds Harassment, Nondiscrimination and Equal Opportunity, published by Southwest Technical College, 07/29/2019
- ◆ Adds Grievance Policy, published by Southwest Technical College, 07/29/2019
- ◆ Adds Student Conduct Policy, published by Southwest Technical College, 07/29/2019

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule has no anticipated cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This rule has no anticipated cost or savings to local governments.
- ◆ **SMALL BUSINESSES:** This rule has no anticipated cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule has no anticipated cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule has no anticipated costs for Southwest Technical College students. This is already in effect on campus.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated impact of benefit to businesses.

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

SYSTEM OF TECHNICAL COLLEGES (UTAH)
SOUTHWEST TECHNICAL COLLEGE
757 W 800 S
CEDAR CITY, UT 84720
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ James Mullenau by phone at 435-586-2899, or by Internet E-mail at jmullenau@stech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: James Mullenau, Vice President of Student Services

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

President Brennan M. Wood has reviewed and approved this fiscal analysis.

R957. System of Technical Colleges (Utah), Southwest Technical College.

R957-2. Free Expression on Campus.

R957-2-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

R957-2-2. References.

(1) United States Constitution, Amendment 1, Freedom of Expression and Religion.

(2) Utah Constitution, Article 1, Section 15, Freedom of Speech and of the Press.

(3) Title 53B, Chapter 27, Part 2, Campus Free Expression Act.

(4) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act.

(5) Policy -- Grievance Policy, July 29, 2019.

(6) Policy -- Student Conduct Policy, July 29, 2019.

(7) Policy -- Harassment, Nondiscrimination and Equal Opportunity, July 29, 2019.

R957-2-3. Definitions.

(1) Free Expression means all forms of verbal, written, or symbolic communication, including peaceful assembly, protests, speaking verbally, holding signs, circulating petitions, and distributing written materials.

(a) Free expression does not include speech or conduct that is not recognized as protected by the First Amendment to the U.S. Constitution and Article 1, Section 15 of the Utah Constitution, including speech or conduct that is a true threat, fraudulent, harassment, obscene, defamatory, or otherwise unlawful.

R957-2-4. General Rights of Free Expression on Campus.

(1) The college upholds and promotes free expression on campus. Except as limited by regulations consistent with the law and this rule, (a) all faculty, students, and staff have the right to express views and ideas, and are free to criticize, contest, and condemn views expressed on campus and (b) neither the faculty, staff, nor students may obstruct, disrupt, suppress or otherwise interfere with the freedom of others to express views.

(2) The college's outdoor areas are a public forum.

(3) The college may not prohibit:

(a) a member of the college's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the college's campus; or

(b) a person from freely engaging in noncommercial expressive activity in an outdoor area of the college's campus if the person's conduct is lawful.

R957-2-5. Time, Place and Manner Restrictions.

(1) The college may reasonably regulate the time, place, and manner of free expression to ensure that it does not disrupt the ordinary activities of the college. This restriction includes established procedures for engaging in organized speech activities, such as protest marches or invited speakers.

(2) These exceptions to the principle of freedom of expression must be viewpoint neutral, generally content neutral, narrowly tailored, and leave ample opportunity for alternative means for expression. The college will not use these exceptions in a manner that is inconsistent with the college's commitment to free and open discussion of ideas.

R957-2-6. Incorporations of College Policies.

The college has adopted the following policies that are incorporated by reference within this rule:

- (1) Policy -- Grievance Policy, July 29, 2019.
- (2) Policy -- Student Conduct Policy, July 29, 2019.
- (3) Policy -- Harassment, Nondiscrimination and Equal Opportunity, July 29, 2019.

KEY: civil liberty, technical college, technical education, free expression

Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
 Tooele Technical College
 R959-1
 Student Due Process**

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 43941
 FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being expelled or suspended for 30 days or more for non-academic code of conduct violations.

SUMMARY OF THE RULE OR CHANGE: This rule addresses general rights of due process in matters of non-academic conduct that may result in either expulsion or suspension.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

- MATERIALS INCORPORATED BY REFERENCE:**
- ◆ Adds Student Grievances Policy, published by Tooele Technical College, 07/31/2019
 - ◆ Adds Student Code of Conduct and Discipline Policy, published by Tooele Technical College, 07/31/2019

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** There are no fiscal costs or savings to the state budget.
 - ◆ **LOCAL GOVERNMENTS:** There are no fiscal costs or savings to local governments.
 - ◆ **SMALL BUSINESSES:** There are no fiscal costs or savings to small businesses.
 - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no fiscal costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS:
 Compliance costs for affected persons is inestimable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
 There is no anticipated impact or benefit to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 SYSTEM OF TECHNICAL COLLEGES (UTAH)
 TOOEE TECHNICAL COLLEGE
 88 S TOOEE BLVD
 TOOEE, UT 84074
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Ellen Lange-Christenson by phone at 435-248-1840, or by Internet E-mail at elange@tooeletech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Ellen Lange-Christenson, Vice President of Student Services and Marketing

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

President Paul E. Hacking has reviewed and approved this fiscal analysis.

R959. System of Technical Colleges (Utah), Tooele Technical College.**R959-1. Student Due Process.****R959-1-1. Purpose.**

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being expelled or suspended for 30 days or more for non-academic code of conduct violations.

R959-1-2. References.

(1) United States Constitution, Amendment 14, Due Process.

(2) Utah Constitution, Article 1, Section 7, Due Process of Law.

(3) Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act.

(4) Policy -- Student Code of Conduct and Discipline, Approved November 4, 2015; Amended July 31, 2019.

(5) Policy -- Student Grievances, Approved July 1, 2009; Amended July 31, 2019.

R959-1-3. General Rights of Due Process.

(1) In matters of non-academic conduct that may result in either expulsion or a minimum 30-day suspension, the college will provide students the following minimum due process:

(a) Notice: Prior to being interviewed about allegations of misconduct, the college shall provide students with notice of the allegations against them and of their right to have an advisor throughout the process who may, but need not be, an attorney.

(i) During an inquiry, investigation, or other informal process, an advisor may only advise the student and may not actively participate in the investigation or informal process.

(b) Explanation of the evidence: Prior to a formal hearing, unless prohibited by reasonable circumstances, each party shall provide to the hearing committee chair (or hearing officer) copies of the documents they intend to submit as evidence and a list of witnesses they intend to call during the formal hearing. This information will be shared with both parties. In all circumstances, including informal processes, the college will provide students an explanation of the evidence against them.

(c) Opportunity to respond: The College will provide students an opportunity for a full hearing at which they can respond to the allegations and evidence against them. With the agreement of all parties, the college may also provide an informal hearing or opportunity to respond or an agreed upon informal resolution.

(i) At formal adjudicatory hearings, students may have an advisor advocate for them. The student's advisor may be an attorney. The student's advisor may actively participate in the hearing in accordance with the college's policies regarding active participation.

R959-1-4. Standard of Proof.

Students are presumed not to have engaged in a Code of Conduct violation until the college has established a violation by a preponderance of the evidence.

R959-1-5. Incorporations of Colleges' Policies.

The College has adopted the following policies that are incorporated by reference within this rule:

(1) Policy -- Student Code of Conduct and Discipline, July 31, 2019.

(2) Policy - Student Grievances, July 31, 2019.

KEY: civil liberty, technical college, technical education, due process

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Tooele Technical College
R959-2
Free Expression on Campus**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43945

FILED: 07/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

SUMMARY OF THE RULE OR CHANGE: This rule addresses general rights of free expression on campus and identifies time, place, and manner restrictions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53B Chapter 27 Part 2

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated cost or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** There are no anticipated cost or savings to local governments.

♦ **SMALL BUSINESSES:** There are no anticipated cost or savings to small businesses.

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

COMPLIANCE COSTS FOR AFFECTED PERSONS:
 Compliance costs for affected persons is inestimable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
 There is no anticipated impact or benefit to non-small businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 SYSTEM OF TECHNICAL COLLEGES (UTAH)
 TOOELE TECHNICAL COLLEGE
 88 S TOOELE BLVD
 TOOELE, UT 84074
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Ellen Lange-Christenson by phone at 435-248-1840, or by Internet E-mail at elange@tooeletech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Ellen Lange-Christenson, Vice President of Student Services and Marketing

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

President Paul E. Hacking has reviewed and approved this fiscal analysis.

R959. System of Technical Colleges (Utah), Tooele Technical College.

R959-2. Free Expression on Campus.

R959-2-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

R959-2-2. References.

(1) United States Constitution, Amendment 1, Freedom of Expression and Religion.

(2) Utah Constitution, Article 1, Section 15, Freedom of Speech and of the Press.

(3) Title 53B, Chapter 27, Part 2, Campus Free Expression Act.

(4) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act.

R959-2-3. Definitions.

(1) Free Expression means all forms of verbal, written, or symbolic communication, including peaceful assembly, protests, speaking verbally, holding signs, circulating petitions, and distributing written materials.

(a) Free expression does not include speech or conduct that is not recognized as protected by the First Amendment to the U.S. Constitution and Article 1, Section 15 of the Utah Constitution, including speech or conduct that is a true threat, fraudulent, harassment, obscene, defamatory, or otherwise unlawful.

R959-2-4. General Rights of Free Expression on Campus.

(1) The College upholds and promotes free expression on campus. Except as limited by regulations consistent with the law and this rule, (a) all faculty, students, and staff have the right to express views and ideas, and are free to criticize, contest, and condemn views expressed on campus and (b) neither the faculty, staff, nor students may obstruct, disrupt, suppress or otherwise interfere with the freedom of others to express views.

(2) The College's outdoor areas are a public forum.

(3) The College may not prohibit:

(a) a member of the College's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the College's campus; or

(b) a person from freely engaging in noncommercial expressive activity in an outdoor area of the College's campus if the person's conduct is lawful.

R959-2-5. Time, Place and Manner Restrictions.

(1) The College may reasonably regulate the time, place, and manner of free expression to ensure that it does not disrupt the ordinary activities of the college. This restriction includes established procedures for engaging in organized speech activities, such as protest marches or invited speakers.

(2) These exceptions to the principle of freedom of expression must be viewpoint neutral, generally content neutral, narrowly tailored, and leave ample opportunity for alternative means for expression. The College will not use these exceptions in a manner that is inconsistent with the college's commitment to free and open discussion of ideas.

KEY: civil liberty, technical college, technical education, free expression

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Uintah Basin Technical College**

R961-1

Student Due Process

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43904

FILED: 07/23/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being established in response to H.B. 116, Student Civil Liberties Protection Act, which was passed during the 2018 General Session.

SUMMARY OF THE RULE OR CHANGE: In accordance with Section 53B-27-302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being expelled or suspended for 10 days or more for non-academic code of conduct violations.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule has no anticipated cost or savings to the state budget because this rule is only applicable to students.

◆ **LOCAL GOVERNMENTS:** This rule has no anticipated cost or savings to local governments because this rule is only applicable to students.

◆ **SMALL BUSINESSES:** This rule has no anticipated cost or savings to small businesses because this rule is only applicable to students.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule has no anticipated cost or savings to other persons because this rule is only applicable to students.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule will not results in a direct fiscal impact to businesses because this rule is only applicable to students.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
SYSTEM OF TECHNICAL COLLEGES (UTAH)
UINTAH BASIN TECHNICAL COLLEGE
1100 E LAGOON STREET
ROOSEVELT, UT 84066
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Dean Wilson by phone at 435-722-6916, or by Internet E-mail at dean@ubtech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Dean Wilson, Vice President of Student Service

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
There is no anticipated impact or benefit to non-small businesses.

President Aaron Weight has reviewed and approved this fiscal analysis.

R961. System of Technical Colleges (Utah), Uintah Basin Technical College.

R961-1. Student Due Process.

R961-1-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being expelled or suspended for 10 days or more for non-academic code of conduct violations.

R961-1-2. References.

(1) United States Constitution, Amendment 14, Due Process.

(2) Utah Constitution, Article 1, Section 7, Due Process of Law.

(3) Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act.

R961-1-3. General Rights of Due Process.

(1) In matters of non-academic conduct that may result in either expulsion or a minimum 10-day suspension. The college will provide students the following minimum due process:

(a) Notice: Prior to being interviewed about allegations of misconduct, the college shall provide students with notice of the allegations against them and of their right to have an advisor throughout the process who may, but need not be, an attorney.

(i) During an inquiry, investigation, or other informal process, an advisor may only advise the student and may not actively participate in the investigation or informal process.

(b) Explanation of the evidence: Prior to a formal hearing, unless prohibited by reasonable circumstances, each party shall provide to the hearing committee chair (or hearing officer) copies of the documents they intend to submit as evidence and a list of witnesses they intend to call during the formal hearing. This information will be shared with both parties. In all circumstances, including informal processes, the college will provide students an explanation of the evidence against them.

(c) Opportunity to respond: The college will provide students an opportunity for a full hearing at which they can respond to the allegations and evidence against them. With the agreement of all parties, the college may also provide an informal hearing or opportunity to respond or an agreed upon informal resolution.

(i) At formal adjudicatory hearings, students may have an advisor advocate for them. The student's advisor may be an attorney. The student's advisor may actively participate in the hearing in accordance with the college's policies regarding active participation.

R961-1-4. Standard of Proof.

Students are presumed not to have engaged in a Code of Conduct violation until the college has established a violation by a preponderance of the evidence.

KEY: civil liberty, technical college, technical education, due process

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Uintah Basin Technical College**

R961-2

Free Expression on Campus

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43905

FILED: 07/23/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being established in response to H.B. 116, Student Civil Liberties Protection Act, which was passed during the 2018 General Session.

SUMMARY OF THE RULE OR CHANGE: This new rule is being implemented in accordance with Section 53B-27-302, which requires Uintah Basin Technical College to initiate rulemaking proceedings to make a policy directly affecting a student's civil liberty in regard to free expression on campus.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule has no anticipated cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This rule has no anticipated cost or savings to local governments.
- ◆ **SMALL BUSINESSES:** This new rule has no anticipated cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This new rule has no anticipated cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule will not result in a direct fiscal impact to businesses.

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

SYSTEM OF TECHNICAL COLLEGES (UTAH)
UINTAH BASIN TECHNICAL COLLEGE
1100 E LAGOON STREET
ROOSEVELT, UT 84066
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dean Wilson by phone at 435-722-6916, or by Internet E-mail at dean@ubtech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Dean Wilson, Vice President of Student Service

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

President Aaron Weight has reviewed and approved this fiscal analysis.

R961. System of Technical Colleges (Utah), Uintah Basin Technical College.

R961-2. Free Expression on Campus.

R961-2-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

R961-2-2. References.

(1) United States Constitution, Amendment 1, Freedom of Expression and Religion.

(2) Utah Constitution, Article 1, Section 15, Freedom of Speech and of the Press.

(3) Title 53B, Chapter 27, Part 2, Campus Free Expression Act.

(4) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act.

R961-2-3. Definitions.

(1) Free Expression means all forms of verbal, written, or symbolic communication, including peaceful assembly, protests, speaking verbally, holding signs, circulating petitions, and distributing written materials.

(a) Free expression does not include speech or conduct that is not recognized as protected by the First Amendment to the U.S. Constitution and Article 1, Section 15 of the Utah Constitution, including speech or conduct that is a true threat, fraudulent, harassment, obscene, defamatory, or otherwise unlawful.

R961-2-4. General Rights of Free Expression on Campus.

(1) The college upholds and promotes free expression on campus. Except as limited by regulations consistent with the law and this rule, (a) all faculty, students, and staff have the right to express views and ideas, and are free to criticize, contest, and condemn views expressed on campus and (b) neither the faculty, staff, nor students may obstruct, disrupt, suppress or otherwise interfere with the freedom of others to express views.

(2) The college's outdoor areas are a public forum.

(3) The college may not prohibit:

(a) a member of the college's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the college's campus; or

(b) a person from freely engaging in noncommercial expressive activity in an outdoor area of the college's campus if the person's conduct is lawful.

R961-2-5. Time, Place and Manner Restrictions.

(1) The college may reasonably regulate the time, place, and manner of free expression to ensure that it does not disrupt the ordinary activities of the college. This restriction includes established procedures for engaging in organized speech activities, such as protest marches or invited speakers.

(2) These exceptions to the principle of freedom of expression must be viewpoint neutral, generally content neutral, narrowly tailored, and leave ample opportunity for alternative means for expression. The college will not use these exceptions in a manner that is inconsistent with the college's commitment to free and open discussion of ideas.

KEY: civil liberty, technical college, technical education, free expression

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**System of Technical Colleges (Utah),
Uintah Basin Technical College**

R961-3

Weapons on Campus

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43906

FILED: 07/23/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being established in response to H.B. 116, Student Civil Liberties Protection Act, which was passed during the 2018 General Session.

SUMMARY OF THE RULE OR CHANGE: This new rule is being implemented in accordance with Section 53B-27-302 requiring Uintah Basin Technical College to initiate rulemaking proceedings to make a policy directly affecting a student's civil liberty regarding weapons on campus.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-27-302

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This new rule has no anticipated cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This rule has no anticipated cost or savings to local governments.
- ◆ **SMALL BUSINESSES:** This new rule has no anticipated cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This new rule has no anticipated cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule will not result in a direct fiscal impact to businesses.

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

SYSTEM OF TECHNICAL COLLEGES (UTAH)
 UINTAH BASIN TECHNICAL COLLEGE
 1100 E LAGOON STREET
 ROOSEVELT, UT 84066
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Dean Wilson by phone at 435-722-6916, or by Internet E-mail at dean@ubtech.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 09/23/2019

AUTHORIZED BY: Dean Wilson, Vice President of Student Service

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no anticipated impact or benefit to non-small businesses.

President Aaron Weight has reviewed and approved this fiscal analysis.

R961. System of Technical Colleges (Utah), Uintah Basin Technical College.

R961-3. Weapons on Campus.

R961-3-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general rights and restrictions on possessing weapons on campus.

R961-3-2. References.

(1) Title 76, Chapter 10, Part 500 Uniform Law (Right to bear arms in Utah).

(2) Title 76, Chapter 10, Part 501 Definitions.

(3) Title 76, Chapter 10, Part 505.5 Possession of a dangerous weapon, firearm, or sawed off shotgun on or about school premises - Penalties.

(4) Title 76, Chapter 3, Part 203.2 Definitions - Use of dangerous weapon in offenses committed on or about school premises - Enhanced penalties. Exceptions.

(5) Title 53, Chapter 5, Section 704 Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal Procedure.

(6) Title 53, Chapter 5, Section Temporary permit to carry concealed firearm - Denial, suspension, or revocation - Appeal.

(7) Title 76, Chapter 10, Possession of firearm at residence or on real property authorized.

(8) Title 76, Chapter 10, Persons exempt from weapons laws.

(9) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act

R961-3-3. Possession of Weapons on Campus.

(1) The college complies with and enforces the state laws referenced in section 2 governing firearms on campus.

KEY: civil liberty, technical college, technical education, weapons on campus

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented or Interpreted Law: 53B-27-302

**Workforce Services, Employment
Development
R986-700
Child Care Assistance**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 43934
FILED: 07/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services (DWS) administers the federal Child Care and Development Block Grant (CCDBG). The CCDBG provides funds for child care assistance, or subsidies, to assist low-income families in paying for child care. Federal law requires all states to consider the level of quality when establishing subsidy rates for child care providers. As a result, Utah must identify the quality of its child care programs and publish the results to the general public. Utah's Child Care Quality System will help parents make informed choices about the child care programs their child attends so that the program will better prepare their child for kindergarten and life. This system will also ensure government child care subsidies are supporting quality programs. Participation is voluntary for child care

programs not covered by state child care subsidies, however all licensed programs will be eligible to receive a rating. All programs that care for children covered by child care subsidies will receive a rating. That rating will then be used to establish the subsidy rate for the child. These amendments also repeal Section R986-700-776, Intergenerational Poverty School Readiness Scholarship Program, as that program ended when the law authorizing the program was repealed by S.B. 166 in the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: These changes add new sections (R986-700-740, R986-700-741, R986-700-742, and R986-700-743) outlining procedures related to Utah's Child Care Quality System (CCQS), including: how a CCQS rating or status is assigned to licensed center programs, how programs can qualify to receive an Enhanced Subsidy Grant, and how a program may request that a CCQS rating be reviewed if the program disagrees with the rating. These amendments also repeal Section R986-700-776 as that program has ended.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-310 and Subsection 35A-3-203(12)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: These proposed rule changes are not expected to have any fiscal impact on state government revenues or expenditures because any costs, including grant costs, will be paid with funds granted to the state through the federal Child Care and Development Fund (CCDF). Congress approved and allocated additional CCDF funds to states to be able to fully implement changes in CCDF regulations. There are no additional state employees or resources needed to oversee these proposed rule changes. These changes will not increase workload and can be carried out with existing budget.

♦ LOCAL GOVERNMENTS: These proposed rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures because the program is federally-funded and does not rely on local governments for funding, administration, or enforcement.

♦ SMALL BUSINESSES: There are potentially 1,120 small businesses providing child care services (NAICS 624410) that could accept subsidy payments in Utah. In its first year of implementation, 30 percent of the eligible licensed child care center providers are estimated to be eligible for an additional \$1,500,000 annually through the new Enhanced Subsidy Grants. The percentage of eligible providers is expected to increase each year with a full implementation benefit of \$5,000,000. Grants will be paid directly to high quality providers for the cost of high quality child care. Providers include both small businesses and non-small businesses. These businesses will receive a portion of the additional annual subsidy payments, which will result in increased revenues each year. In the chart below, it is presumed that small businesses will receive approximately two times more in grants than non-small businesses.

However, there are too many variables to precisely separate the benefits between small and non-small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Upon full implementation, an annual average of 6,500 families who receive child care subsidies will benefit from these changes. Indirect benefits to families include helping low-income parents to choose the highest quality care available for their children and expanding access to high quality child care. There are also inestimable benefits for employers of child care recipients. Employers will benefit from their employees having stable, high quality child care arrangements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed rule changes are not expected to cause any compliance costs for affected persons because participation is voluntary and programs that receive child care subsidies may choose to receive a default rating.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After a thorough analysis, it was determined that these proposed rule changes will result in a positive fiscal impact to affected businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 EMPLOYMENT DEVELOPMENT
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Amanda McPeck by phone at 801-517-4709, or by Internet E-mail at ampeck@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/16/2019

THIS RULE MAY BECOME EFFECTIVE ON: 10/01/2019

AUTHORIZED BY: Jon Pierpont, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0

Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$1,000,000	\$1,333,000	\$1,666,000
Non-Small Businesses	\$500,000	\$667,000	\$834,000
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$1,500,000	\$2,000,000	\$2,500,000
Net Fiscal Benefits:	\$1,500,000	\$2,000,000	\$2,500,000

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are four non-small businesses providing child care services (NAICS 624410) that accept subsidy payments in Utah. In its first year of implementation, 30 percent of the eligible licensed child care center providers are estimated to be eligible for an additional \$1,500,000 annually through the new Enhanced Subsidy Grants. The percentage of eligible providers is expected to increase each year with a full implementation benefit of \$5,000,000. Grants will be paid directly to high quality providers for the cost of high quality child care. Providers include both small businesses and non-small businesses. These businesses will receive a portion of the additional annual subsidy payments, which will result in increased revenues each year. In the chart above, it is presumed that small businesses will receive approximately two times more in grants than non-small businesses. However, there are too many variables to precisely separate the benefits between small and large businesses.

The executive director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.

R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-740. Child Care Quality System (CCQS) Definitions and Acronyms.

In addition to the definitions of terms found in 35A Chapter 3 and R986-100-104, and the acronyms found in R986-100-103, the following definitions apply to CCQS:

(1) "CC subsidy" means a Child Care Assistance subsidy payment.

(2) "CCDF" means the Child Care and Development Fund.

(3) "CCL" means Utah Department of Health, Child Care Licensing Program.

(4) "Certified quality rating" means the CCQS rating determined by applying the CCQS framework and assigned by OCC.

(5) "Certified Quality Rating Review Committee" or "Review Committee" means a committee consisting of one representative from OCC, one representative from a licensed private child care program; and one expert in the field of early childhood education or school-age children, which reviews disputed quality ratings and makes recommendations to the Director of Adjudication concerning final certified quality rating decisions.

(6) "Child care program" or "program" refers to an individual location of a child care business.

(7) "Child Care Quality System" or "CCQS" refers to the comprehensive statewide system administered by OCC that provides quality ratings to eligible programs and supports programs in attaining higher levels of quality.

(8) "CCQS status" means the status assigned by OCC to a program without a default rating or certified quality rating.

(9) DWS-eligible child care program or "eligible provider" means a provider who:

(a) meets CCDF eligibility requirements;

(b) is compliant with CCL licensing requirements;

(c) has followed the CCL process to indicate the program will accept funding from OCC, including funding for children covered by CC subsidy; and

(d) can potentially receive CC subsidy and OCC grants, including ESG, if approved.

(10) "Enhanced Subsidy Grant" or "ESG" refers to monthly payments issued to an eligible program serving children covered by CC subsidies and achieving a rating of High Quality or High Quality Plus.

(11) "License in good standing" means a program is licensed by CCL, but not with a conditional license.

(12) "OCC" means the Department of Workforce Services, Office of Child Care.

(13) "Not participating" is a CCQS Status referring to a program that:

(a) has withdrawn from participation in the CCQS;

(b) does not hold a center license in good standing from CCL;

(c) is ineligible due to being disqualified by OCC; or

(d) has not applied for a certified quality rating and has not elected to become DWS-eligible.

R986-700-741. CCQS Rating and Status.

(1) Each licensed center program shall receive a CCQS rating or status, unless the program withdraws from participation following the process established by OCC policy.

(a) A licensed center program who chooses not to apply for a certified quality rating will receive a default rating.

(b) A DWS-Eligible child care program is required to participate in CCQS to remain an eligible provider. Participation means maintaining at least a default rating. An eligible provider is not required to submit an application for a certified quality rating.

(c) All CCQS ratings or statuses shall be made public on the Care About Childcare website.

(d) A DWS-eligible child care program which withdraws from participation in CCQS will become ineligible to receive CC subsidy and OCC grants or funding.

(2) A program may apply for a certified quality rating in accordance with OCC policy through the Care About Childcare website.

(a) A rating shall be awarded or a status shall be assigned no later than 180 days after the application was submitted.

(b) Certified quality ratings will be published publicly on the first day of the month of the certified rating period.

(3) A certified quality rating shall remain in place during the 12-month certified quality rating period unless a program:

(a) loses its license in good standing and goes on conditional license; or

(b) is disqualified from accepting funds from CCDF.

(4) The 12-month certified quality rating period may be modified when a program is receiving CCQS technical assistance and support from OCC, in accordance with OCC policy.

(5) Recertification. Upon expiration of the certified quality rating period, a program must recertify in order to maintain a certified quality rating.

(a) A program must follow the recertification procedures established by OCC policy.

(b) A program failing to recertify in a timely manner may receive one of the following ratings or statuses until a certified quality rating is awarded:

(i) a default Foundation of Quality rating for a program that is DWS-Eligible;

(ii) not participating status for a program that is not DWS-Eligible; or

(iii) denied participation status for a program operating on a conditional license at the time of recertification.

R986-700-742. Enhanced Subsidy Grant (ESG).

(1) To receive an Enhanced Subsidy Grant (ESG) a program must:

(a) receive a certified quality rating of:

(i) High Quality; or

(ii) High Quality Plus;

(b) serve children for whom child care was paid for with CC subsidy payments during the 12-month period used to calculate the ESG;

(c) maintain a license in good standing with CCL during the 12-month certification period;

(d) maintain status as a DWS-Eligible child care program during the 12-month certification period;

(e) agree to the comply with the requirements outlined in the certified quality rating award notice;

(f) agree to the amount of the ESG stated on the certified quality rating award notice;

(g) agree to receive the ESG through the process established by OCC policy; and

(h) not have a pending administrative review on the awarded certified quality rating.

(i) Upon final disposition of a pending administrative review, an ESG may be issued retroactively where all other ESG requirements are met.

(2) An ESG for a program that has an outstanding adjudicated overpayment or other debt owing to OCC shall be issued as follows:

(a) if the overpayment amount is less than the monthly ESG amount, the ESG shall be reduced by the amount of outstanding overpayment due; or

(b) if the overpayment amount is greater than the monthly ESG, a monthly ESG shall continue to be reduced until the overpayment is fully repaid.

(3) An overpayment for which there is pending administrative review or appeal shall not impact the ESG until final disposition of the action is issued.

(4) The monthly ESG will be calculated in accordance with OCC policy.

R986-700-743. CCQS Rating Administrative Review.

(1) A child care program may request a review of a certified quality rating following the process established by OCC policy.

(2) A review request shall be submitted within 30 calendar days of the date of the certified rating award notice except where there is good cause for failing to request a review within this timeframe.

(a) Good cause for failing to timely request review is limited to circumstances that are:

(i) beyond the party's control, or;

(ii) compelling and reasonable.

(b) Good cause excludes ordinary illness, lack of transportation and temporary absences.

(3) Quality Rating Pending Review. The certified quality rating issued in the quality rating award notice shall be published by OCC and remain published until the review is complete. Issuance of an ESG shall be temporarily suspended until the review is complete.

(4) OCC Review. All requests for review submitted to OCC shall be subject to an OCC review. Upon final determination of the OCC review, a notice of determination shall be sent to the program.

(5) If a program does not agree with the OCC review determination, the program may request a review by the Certified Quality Rating Review Committee.

(a) A review request shall be submitted within 30 calendar days of the date of the OCC review determination, except where there is good cause for failing to request a review within this timeframe pursuant to R994-700-742(2).

(b) A review by the Review Committee is an informal adjudicative proceeding under the Utah Administrative Procedures Act.

(c) A review may:

(i) include an OCC staff member to present the conclusions of the OCC review;

(ii) provide an opportunity for the program to present their reasons and evidence for the review request; and

(iii) include witnesses or legal representatives, as applicable; and

(iv) a request for any additional documentation relevant to the review, from either OCC or the program.

(d) Failure by the program to respond to any request by the Review Committee shall result in a dismissal of the review request.

(e) The Review Committee will issue a recommendation to the Department of Workforce Services Director of Adjudication once the review process is complete.

(6) The Director of Adjudication will make a final certified quality rating decision based upon the recommendation of the Review Committee. The Director of Adjudication decision is the final agency action pursuant to the Utah Administrative Procedures Act.

[R986-700-776. Intergenerational Poverty School Readiness Scholarship Program.

(1) Scholarships are available, as funding permits, for a child who

(a) will be four years of age on or before September 2 of the school year in which the individual intends to participate in a school readiness program;

(b) has not entered kindergarten; and

(c) is experiencing intergenerational poverty, as determined by the Department.

(2) The Department will mail scholarship applications to individuals who the Department has identified as potentially eligible and who live in an area where one or more high quality preschool programs is available. Individuals who do not receive an application from the Department may still apply by contacting the OCC and requesting an application. The Department will notify potential applicants of the due date for filing a completed application.

(3) An applicant may be required to show that transportation to a high quality preschool program is available if the child does not live within a reasonable commuting distance from the high quality preschool.

(4) An applicant may be required to provide verification and supporting documentation if necessary to determine eligibility.

(5) The value of the scholarship will be determined by which program the parent chooses.

(6) Scholarships are transferable however funds cannot be prorated during a given month. So if a child attends one day or more during a given month at one program, and wishes to transfer to a second program at any time during that month, the full scholarship payment will be made to the first program.

(7) Payment will be made directly to the high quality preschool provider. The provider must send the OCC an invoice at the end of the month, or as soon thereafter as feasible, when services were provided.]

KEY: child care, grant programs

Date of Enactment or Last Substantive Amendment: [June 1,] 2019

Notice of Continuation: September 3, 2015

Authorizing, and Implemented or Interpreted Law: 35A-3-203(12); 35A-3-310; [53A-1b-110]; [53F-5-210

End of the Notices of Proposed 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 help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Agriculture and Food, Conservation Commission

R64-1

Agriculture Resource Development Loans (ARDL)

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43907

FILED: 07/23/2019

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 4-18-105 establishes the authority of the Conservation Commission to issue loans from the Agriculture Resource Development Loans (ARDL) funds for conservation purposes. This rule establishes the procedure by which loan applications are received and issued.

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 of Agriculture and Food has not received comments during the last 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: This rule is necessary to ensure that ARDL loans can be processed and issued in a transparent and public process. This rule ensures that the Conservation Commission is issuing loans in compliance with the

requirements of Section 4-18-105. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD
CONSERVATION COMMISSION
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kelly Pehrson by phone at 801-538-7102, or by Internet E-mail at kwpehrson@utah.gov
- ◆ Melissa Ure by phone at 801-538-4978, or by Internet E-mail at mure@utah.gov
- ◆ RJ Spencer by phone at 801-538-7171, or by Internet E-mail at rjspencer@utah.gov

AUTHORIZED BY: Kerry Gibson, Commissioner

EFFECTIVE: 07/23/2019

Natural Resources; Oil, Gas and Mining; Coal

R645-105

Blaster Training, Examination and Certification

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43913

FILED: 07/23/2019

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: Sections 40-10-6 and 40-10-6.5 provide rulemaking authority to the Board of Oil, Gas, and Mining (Board) for rules that are specifically necessary for the regulation of coal mining operations and reclamation operations.

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 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 is necessary to minimize duplication of efforts of Utah agencies in certifying, licensing, or training mining personnel. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Natasha Ballif by phone at 801-538-5336, or by Internet E-mail at natashaballif@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 07/23/2019

**Natural Resources; Oil, Gas and Mining; Coal
R645-106**

Exemption for Coal Extraction Incidental to the Extraction of Other Minerals

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 43914
FILED: 07/23/2019**

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: Sections 40-10-6 and 40-10-6.5 provide rulemaking authority to the Board of Oil, Gas, and Mining (Board) for rules that are specifically necessary for the regulation of coal mining operations and reclamation operations. Subsection 40-10-3(20) does not include extraction activities of coal incidental to the extraction of other minerals where coal does not exceed 16-2/3% of the tonnage of minerals removed for purposes of commercial use, sale, or coal explorations.

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 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 is necessary as it implements the exemption contained in Section 40-10-3(20) of the Act concerning the extraction of coal incidental to the extraction of other minerals. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Natasha Ballif by phone at 801-538-5336, or by Internet E-mail at natashaballif@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 07/23/2019

**Natural Resources; Oil, Gas and Mining; Coal
R645-400**

Inspection and Enforcement: Division Authority and Procedures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43916
 FILED: 07/23/2019

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: Sections 40-10-6 and 40-10-6.5 provide rulemaking authority to the Board of Oil, Gas, and Mining (Board) for rules that are specifically necessary for the regulation of coal mining operations and reclamation operations.

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 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 is necessary as Subsection 40-10-6(2) gives duties to the Board and the Division of Oil, Gas and Mining; Coal, to authorize its employees, agents, or contractors to enter upon any property for the purpose of carrying out the provisions of Title 40, Chapters 8 and 10. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
 OIL, GAS AND MINING; COAL
 ROOM 1210
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Natasha Ballif by phone at 801-538-5336, or by Internet E-mail at natashaballif@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 07/23/2019

Natural Resources; Oil, Gas and
 Mining; Oil and Gas
R649-10
 Administrative Procedures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43912
 FILED: 07/23/2019

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 63G, Chapter 4, Administrative Procedures Act, and Section 40-6-1 et seq. provide rulemaking authority to the Board of Oil, Gas, and Mining (Board) as necessary for the adjudicative proceedings which shall be conducted informally before the Division of Oil, Gas and Mining; Oil and Gas (Division). Section 40-6-10 specifically provides that the Board and the Division shall comply with the procedures and requirements of Title 63G, Chapter 4, in their adjudicative proceedings.

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 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 is necessary to designate informal adjudicative proceedings conducted informally before the Division. This rule should be continued so the Division may act in accordance with the rules and provisions of the applicable Oil and Gas Conversation General Rules.

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

NATURAL RESOURCES
 OIL, GAS AND MINING; OIL AND GAS
 ROOM 1210
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Natasha Ballif by phone at 801-538-5336, or by Internet E-mail at natashaballif@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 07/23/2019

Natural Resources, Water Rights
R655-3
 Reports of Water Rights Conveyance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43922
 FILED: 07/27/2019

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 issued pursuant to Section 73-1-10 which provides that the state engineer shall adopt rules that specify when a water right owner is authorized to prepare a Report of Conveyance to the state engineer; the kinds of information required in such reports; and the procedures for processing such reports.

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 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 is still required for processing reports of conveyance. Therefore, this rule should be continued.

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

NATURAL RESOURCES
 WATER RIGHTS
 ROOM 220
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

AUTHORIZED BY: Kent Jones, State Engineer/Director

EFFECTIVE: 07/27/2019

**Natural Resources, Water Rights
 R655-4
 Water Wells**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43923
 FILED: 07/27/2019

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 73-2-1(4)(b), the State Engineer, as the Director of the Utah Division of Water Rights (Division), is required to make rules regarding well construction and related regulated activities, and the licensing of water well drillers and pump installers. This rule is promulgated pursuant to Section 73-3-25. The purpose of this rule is to assist in the orderly development of underground water; insure that minimum construction standards are followed in the drilling, construction, deepening, repairing, renovating, cleaning, development, pump installation/repair, and abandonment of water wells and other regulated wells; prevent pollution of aquifers within the state; prevent wasting of water from flowing wells; obtain accurate records of well construction operations; and insure compliance with the state engineer's authority for appropriating water. This rule also establishes administrative procedures for applications, approvals, hearings, notices, revocations, orders and their judicial review, and all other administrative procedures required or allowed by this rule. This rule shall be liberally construed to permit the Division to effectuate the purposes of Utah law.

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 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: This rule is still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

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

NATURAL RESOURCES
 WATER RIGHTS
 ROOM 220
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

AUTHORIZED BY: Kent Jones, State Engineer/Director

EFFECTIVE: 07/27/2019

**Regents (Board of), Administration
R765-604
New Century Scholarship**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 43901
FILED: 07/17/2019

**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 enacted under Title 53B, Chapter 8, Part 105, which creates the New Century Scholarship program to be operated by the Board of Regents. Under the program, high school students can earn an associate's degree from a public institution of higher education while attending high school. The statute directs the Board of Regents (Board) to establish administrative rules to administer the 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 comments have been received on 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: The scholarship is a statutorily established program. That statute is still in effect, which obligates the Board to administer the program under the current administrative rule. Because there has not been a change in the Board's statutory responsibility, this rule needs to remain effective. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Geoff Landward by phone at 801-321-7136, or by Internet E-mail at glandward@ushe.edu

AUTHORIZED BY: Dave Buhler

EFFECTIVE: 07/17/2019

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 administrative 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 make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the 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.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Agriculture and Food

Horse Racing Commission (Utah)

No. 43753 (AMD): R52-7. Horse Racing

Published: 06/15/2019

Effective: 07/22/2019

Animal Industry

No. 43754 (AMD): R58-18. Elk Farming

Published: 06/15/2019

Effective: 07/22/2019

No. 43752 (AMD): R58-20. Domesticated Elk Hunting Parks

Published: 06/15/2019

Effective: 07/22/2019

Plant Industry

No. 43758 (NEW): R68-28. Cannabis Processing

Published: 06/15/2019

Effective: 07/22/2019

Commerce

Occupational and Professional Licensing

No. 43747 (AMD): R156-55a. Utah Construction Trades

Licensing Act Rule

Published: 06/15/2019

Effective: 07/22/2019

Education

Administration

No. 43728 (R&R): R277-462. Comprehensive Counseling

and Guidance Program

Published: 06/15/2019

Effective: 07/31/2019

No. 43733 (AMD): R277-503. Licensing Routes

Published: 06/15/2019

Effective: 07/31/2019

No. 43732 (AMD): R277-604. Private School, Home School, and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests

Published: 06/15/2019

Effective: 07/31/2019

No. 43729 (NEW): R277-622. School-based Mental Health Qualified Grant Program

Published: 06/15/2019

Effective: 07/31/2019

No. 43703 (REP): R277-714. Dissemination of Information About Juvenile Offenders

Published: 06/01/2019

Effective: 07/31/2019

No. 43731 (AMD): R277-716. Alternative Language Services for Utah Students

Published: 06/15/2019

Effective: 07/31/2019

Governor

Economic Development

No. 43755 (REP): R357-8. Allocation of Private Activity Bond Volume Cap

Published: 06/15/2019

Effective: 07/26/2019

Health

Disease Control and Prevention, Health Promotion

No. 43757 (AMD): R384-201. School-Based Vision

Screening for Students in Public Schools

Published: 06/15/2019

Effective: 08/01/2019

No. 43562 (AMD): R384-203. Prescription Drug Database Access

Published: 04/01/2019

Effective: 07/23/2019

Disease Control and Prevention, Environmental Services

No. 43660 (R&R): R392-110. Food Service Sanitation in Residential Care Facilities

Published: 05/15/2019

Effective: 07/16/2019

Human Services

Administration

No. 43690 (AMD): R495-885. Employee Background Screenings

Published: 05/15/2019

Effective: 07/18/2019

Administration, Administrative Services, Licensing

No. 43691 (AMD): R501-14. Human Service Program Background Screening

Published: 05/15/2019

Effective: 07/18/2019

Recovery Services

No. 43593 (AMD): R527-38. Unenforceable Cases

Published: 04/15/2019

Effective: 07/18/2019

Natural Resources

Parks and Recreation

No. 43759 (AMD): R651-411. OHV Use in State Parks

Published: 06/15/2019

Effective: 07/22/2019

No. 43756 (AMD): R651-615. Motor Vehicle Use

Published: 06/15/2019

Effective: 07/22/2019

Water Rights

No. 43743 (R&R): R655-13. Stream Alteration

Published: 06/15/2019

Effective: 07/25/2019

Wildlife Resources

No. 43741 (AMD): R657-5. Taking Big Game

Published: 06/15/2019

Effective: 07/22/2019

No. 43724 (AMD): R657-37. Cooperative Wildlife Management Units for Big Game or Turkey

Published: 06/15/2019

Effective: 07/22/2019

No. 43736 (AMD): R657-41. Conservation and Sportsman Permits

Published: 06/15/2019

Effective: 07/22/2019

No. 43723 (AMD): R657-44. Big Game Depredation

Published: 06/15/2019

Effective: 07/22/2019

No. 43725 (AMD): R657-62. Drawing Application Procedures

Published: 06/15/2019

Effective: 07/22/2019

Transportation

Operations, Aeronautics

No. 43722 (NEW): R914-4. Challenging Corrective Action Orders

Published: 06/15/2019

Effective: 07/23/2019

Preconstruction

No. 43742 (AMD): R930-7. Utility Accommodation

Published: 06/15/2019

Effective: 07/23/2019

No. 43745 (AMD): R930-8. Utility Relocations Required by Highway Projects

Published: 06/15/2019

Effective: 07/23/2019

UTech Board of Trustees

Administration

No. 43617 (AMD): R945-1. UTech Scholarship

Published: 04/15/2019

Effective: 07/16/2019

Workforce Services

Housing and Community Development

No. 43746 (NEW): R990-200. Private Activity Bonds

Published: 06/15/2019

Effective: 07/30/2019

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, 2019 through August 01, 2019. 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 the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-2	Management of Records and Access to Records	43744	5YR	05/29/2019	2019-12/135
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1	Parental Defense Counsel Training	43705	REP	07/08/2019	2019-11/4
<u>Facilities Construction and Management</u>					
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities	43524	NSC	03/01/2019	Not Printed
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities	43569	5YR	03/06/2019	2019-7/59
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43642	5YR	04/11/2019	2019-9/79
R23-29	Delegation of Project Management	43525	NSC	03/01/2019	Not Printed
R23-29	Delegation of Project Management	43567	5YR	03/06/2019	2019-7/60
R23-33	Rules for the Prioritization and Scoring of Capital Improvements by the Utah State Building Board	43568	5YR	03/06/2019	2019-7/60
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	43656	AMD	07/01/2019	2019-9/4
R25-10	State Entities' Posting of Financial Information to the Utah Public Finance Website	43404	AMD	01/23/2019	2018-24/6
R25-11	Utah Transparency Advisory Board, Procedures for Electronic Meetings	43471	5YR	01/07/2019	2019-3/43
<u>Purchasing and General Services</u>					
R33-1	Utah Procurement Rules, General Procurement Provisions	43859	5YR	07/08/2019	2019-15/33
R33-2	Rules of Procedure for Procurement Policy Board	43854	5YR	07/08/2019	2019-15/33
R33-3	Procurement Organization	43855	5YR	07/08/2019	2019-15/34
R33-4	Supplemental Procurement Procedures	43856	5YR	07/08/2019	2019-15/34
R33-5	Other Standard Procurement Processes	43857	5YR	07/08/2019	2019-15/35
R33-6	Bidding	43858	5YR	07/08/2019	2019-15/35
R33-7	Request for Proposals	43860	5YR	07/08/2019	2019-15/36
R33-8	Exceptions to Standard Procurement Process	43861	5YR	07/08/2019	2019-15/36
R33-9	Cancellations, Rejections, and Debarment	43862	5YR	07/08/2019	2019-15/37

R33-10	Preferences	43864	5YR	07/08/2019	2019-15/37
R33-11	Form of Bonds	43863	5YR	07/08/2019	2019-15/38
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	43865	5YR	07/08/2019	2019-15/38
R33-13	General Construction Provisions	43866	5YR	07/08/2019	2019-15/39
R33-14	Procurement of Design-Build Transportation Project Contracts	43867	5YR	07/08/2019	2019-15/39
R33-15	Procurement of Design Professional Services	43868	5YR	07/08/2019	2019-15/40
R33-16	Protests	43869	5YR	07/08/2019	2019-15/40
R33-17	Procurement Appeals Panel	43870	5YR	07/08/2019	2019-15/41
R33-18	Appeals to Court and Court Proceedings	43871	5YR	07/08/2019	2019-15/41
R33-19	General Provisions Related to Protest or Appeal	43872	5YR	07/08/2019	2019-15/42
R33-20	Records	43873	5YR	07/08/2019	2019-15/42
R33-21	Interaction Between Procurement Units	43875	5YR	07/08/2019	2019-15/43
R33-22	Reserved	43874	5YR	07/08/2019	2019-15/43
R33-23	Reserved	43876	5YR	07/08/2019	2019-15/44
R33-24	Unlawful Conduct and Ethical Standards	43877	5YR	07/08/2019	2019-15/44
R33-25	Executive Branch Insurance Procurement	43879	5YR	07/08/2019	2019-15/45
R33-26	State Surplus Property	43878	5YR	07/08/2019	2019-15/45
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	43760	5YR	06/03/2019	2019-13/111
R35-1a	State Records Committee Definitions	43761	5YR	06/03/2019	2019-13/111
R35-2	Declining Appeal Hearings	43762	5YR	06/03/2019	2019-13/112
R35-4	Compliance with State Records Committee Decisions and Orders	43763	5YR	06/03/2019	2019-13/112
R35-4-1	Authority and Purpose	43766	NSC	06/12/2019	Not Printed
R35-5	Subpoenas Issued by the Records Committee	43764	5YR	06/03/2019	2019-13/113
R35-6	Expedited Hearing	43765	5YR	06/03/2019	2019-13/113
<u>Risk Management</u>					
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	43235	AMD	01/18/2019	2018-21/2
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-18	Elk Farming	43754	AMD	07/22/2019	2019-12/6
R58-18	Elk Farming	43909	NSC	08/01/2019	Not Printed
R58-20	Domesticated Elk Hunting Parks	43469	5YR	01/07/2019	2019-3/43
R58-20	Domesticated Elk Hunting Parks	43752	AMD	07/22/2019	2019-12/13
R58-20	Domesticated Elk Hunting Parks	43910	NSC	08/01/2019	Not Printed
<u>Conservation Commission</u>					
R64-1	Agriculture Resource Development Loans (ARDL)	43907	5YR	07/23/2019	Not Printed
R64-3	Utah Environmental Stewardship Certification Program (UESCP), a.k.a Agriculture Certification of Environmental Stewardship (ACES)	43685	5YR	04/30/2019	2019-10/115
<u>Horse Racing Commission (Utah)</u>					
R52-7	Horse Racing	43753	AMD	07/22/2019	2019-12/4
<u>Marketing and Development</u>					
R65-1	Utah Apple Marketing Order	43546	NSC	03/13/2019	Not Printed
R65-5	Utah Red Tart and Sour Cherry Marketing Order	43547	NSC	03/13/2019	Not Printed
R65-8	Management of the Junior Livestock Show Appropriation	43545	NSC	03/13/2019	Not Printed
R65-11	Utah Sheep Marketing Order	43548	NSC	03/13/2019	Not Printed
R65-12	Utah Small Grains and Oilseeds Marketing Order	43549	NSC	03/13/2019	Not Printed
R65-12	Utah Small Grains and Oilseeds Marketing Order	43641	5YR	04/11/2019	2019-9/79

RULES INDEX

Plant Industry

R68-1	Utah Bee Inspection Act Governing Inspection of Bees	43908	NSC	08/01/2019	Not Printed
R68-25	Industrial Hemp Research Pilot Program for Processors	43571	NSC	03/21/2019	Not Printed
R68-27	Cannabis Cultivation	43686	EMR	05/03/2019	2019-10/107
R68-28	Cannabis Processing	43758	NEW	07/22/2019	2019-12/16

Regulatory Services

R70-310	Grade A Pasteurized Milk	43775	5YR	06/07/2019	2019-13/114
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CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43662	5YR	04/17/2019	2019-10/115
R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43517	AMD	06/13/2019	2019-5/6

COMMERCE

Consumer Protection

R152-34a	Utah Postsecondary School State Authorization Act Rule	43612	5YR	04/01/2019	2019-8/101
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Occupational and Professional Licensing

R156-15A	State Construction Code Administration and Adoption of Approved State Construction Code Rule	43522	AMD	04/08/2019	2019-5/8
R156-20a (Changed to R156-20b)	Environmental Health Scientist Act Rule	43466	NSC	01/11/2019	Not Printed
R156-28	Veterinary Practice Act Rule	43189	AMD	03/25/2019	2018-19/7
R156-28	Veterinary Practice Act Rule	43189	CPR	03/25/2019	2019-4/40
R156-31c	Nurse Licensure Compact Rule	43822	5YR	06/17/2019	2019-14/77
R156-55a	Utah Construction Trades Licensing Act Rule	43747	AMD	07/22/2019	2019-12/23
R156-55e	Elevator Mechanics Licensing Rule	43542	AMD	04/22/2019	2019-6/4
R156-60	Mental Health Professional Practice Act Rule	43543	5YR	02/26/2019	2019-6/41
R156-60a	Social Worker Licensing Act Rule	43799	5YR	06/13/2019	2019-13/114
R156-60b	Marriage and Family Therapist Licensing Act Rule	43800	5YR	06/13/2019	2019-13/115
R156-63a	Security Personnel Licensing Act Contract Security Rule	43318	AMD	05/13/2019	2018-22/89
R156-63a	Security Personnel Licensing Act Contract Security Rule	43318	CPR	05/13/2019	2019-7/48
R156-63a	Security Personnel Licensing Act Contract Security Rule	43577	NSC	05/14/2019	Not Printed
R156-63b	Security Personnel Licensing Act Armored Car Rule	43319	AMD	05/13/2019	2018-22/96
R156-63b	Security Personnel Licensing Act Armored Car Rule	43319	CPR	05/13/2019	2019-7/53
R156-63b	Security Personnel Licensing Act Armored Car Rule	43578	NSC	05/14/2019	Not Printed
R156-78	Vocational Rehabilitation Counselors Licensing Act Rule	43890	5YR	07/15/2019	2019-15/46
R156-79	Hunting Guides and Outfitters Licensing Act Rule	43880	5YR	07/08/2019	2019-15/46
R156-80a	Medical Language Interpreter Act Rule	43465	5YR	01/02/2019	2019-2/19

Real Estate

R162-2f	Real Estate Licensing and Practices Rules	43407	AMD	01/23/2019	2018-24/8
R162-2f	Real Estate Licensing and Practices Rules	43643	AMD	06/19/2019	2019-9/10

CORRECTIONS

Administration

R251-105	Applicant Qualifications for Employment with Department of Corrections	43218	AMD	02/11/2019	2018-20/12
R251-111	Government Records Access and Management	43596	5YR	03/19/2019	2019-8/102

EDUCATION

Administration

R277-100	Definitions for Utah State Board of Education (Board) Rules	43479	AMD	03/13/2019	2019-3/2
R277-102	Adjudicative Proceedings	43609	REP	05/23/2019	2019-8/4
R277-105	Recognizing Constitutional Freedoms in the Schools	43610	REP	05/23/2019	2019-8/6
R277-115	LEA Supervision and Monitoring Requirements of Third Party Providers and Contracts	43619	NEW	05/23/2019	2019-8/10
R277-117	Utah State Board of Education Protected Documents	43511	REP	04/08/2019	2019-5/19
R277-119	Discretionary Funds	43618	REP	05/23/2019	2019-8/12
R277-122	Board of Education Procurement	43441	AMD	02/07/2019	2019-1/17
R277-301	Educator Licensing	43654	AMD	07/02/2019	2019-9/15
R277-303	Educator Preparation Programs	43657	AMD	07/02/2019	2019-9/20
R277-304	Teacher Preparation Programs	43624	NEW	05/23/2019	2019-8/13
R277-308	New Educator Induction and Mentoring	43442	NEW	02/07/2019	2019-1/22
R277-400	School Facility Emergency and Safety	43507	5YR	02/08/2019	2019-5/95
R277-400	School Facility Emergency and Safety	43512	AMD	04/08/2019	2019-5/21
R277-404	Requirements for Assessments of Student Achievement	43450	AMD	02/22/2019	2019-2/6
R277-406	Early Literacy Program and Benchmark Reading Assessment	43649	AMD	07/02/2019	2019-9/23
R277-407	School Fees	43532	AMD	04/08/2019	2019-5/25
R277-417	Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation	43658	AMD	07/02/2019	2019-9/26
R277-419	Pupil Accounting	43475	NSC	01/15/2019	Not Printed
R277-437	Student Enrollment Options	43397	AMD	01/09/2019	2018-23/6
R277-462	Comprehensive Counseling and Guidance Program	43739	5YR	05/23/2019	2019-12/135
R277-462	Comprehensive Counseling and Guidance Program	43728	R&R	07/31/2019	2019-12/39
R277-463	Class Size Average and Pupil-Teacher Ratio Reporting	43636	5YR	04/08/2019	2019-9/80
R277-463	Class Size Average and Pupil-Teacher Ratio Reporting	43652	AMD	07/02/2019	2019-9/29
R277-470	Charter Schools - General Provisions	43374	REP	01/09/2019	2018-23/9
R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	43637	5YR	04/08/2019	2019-9/81
R277-480	Charter School Revolving Account	43712	5YR	05/13/2019	2019-11/41
R277-480	Charter School Revolving Account	43647	AMD	07/02/2019	2019-9/31
R277-481	Charter School Oversight, Monitoring and Appeals	43399	REP	01/09/2019	2018-23/12
R277-482	Charter School Timelines and Approval Processes	43392	REP	01/09/2019	2018-23/15
R277-483	LEA Reporting and Accounting Requirements	43515	NEW	04/08/2019	2019-5/36
R277-486	Professional Staff Cost Program	43508	5YR	02/08/2019	2019-5/95
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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<u>access to records</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	43665	R722-900	AMD	06/24/2019	2019-10/95
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<u>cannabis production establishment</u>					
Agriculture and Food, Plant Industry	43758	R68-28	NEW	07/22/2019	2019-12/16
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	43734	R357-7	5YR	05/22/2019	2019-12/136
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	43512	R277-400	AMD	04/08/2019	2019-5/21
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	43886	R398-5	5YR	07/12/2019	2019-15/47
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Labor Commission, Boiler, Elevator and Coal Mine Safety	43572	R616-2-3	AMD	05/08/2019	2019-7/35
	43710	R616-2-3	EMR	05/09/2019	2019-11/39
	43711	R616-2-3	AMD	07/08/2019	2019-11/21
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Education, Administration	43374	R277-470	REP	01/09/2019	2018-23/9
	43637	R277-472	5YR	04/08/2019	2019-9/81
	43712	R277-480	5YR	05/13/2019	2019-11/41
	43647	R277-480	AMD	07/02/2019	2019-9/31
	43399	R277-481	REP	01/09/2019	2018-23/12
	43400	R277-550	NEW	01/09/2019	2018-23/21
	43393	R277-551	NEW	01/09/2019	2018-23/24
	43478	R277-551	AMD	03/13/2019	2019-3/10
	43401	R277-553	NEW	01/09/2019	2018-23/31
	43395	R277-554	NEW	01/09/2019	2018-23/34
	43396	R277-555	NEW	01/09/2019	2018-23/38
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	43358	R512-305	AMD	01/09/2019	2018-23/115	
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	43683	R277-493	AMD	07/02/2019	2019-10/9	
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	43903	R850-21	NSC	08/01/2019	Not Printed	
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	43189	R156-28	CPR	03/25/2019	2019-4/40	
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	43542	R156-55e	AMD	04/22/2019	2019-6/4	
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	43318	R156-63a	CPR	05/13/2019	2019-7/48	
	43577	R156-63a	NSC	05/14/2019	Not Printed	
	43319	R156-63b	AMD	05/13/2019	2018-22/96	
	43319	R156-63b	CPR	05/13/2019	2019-7/53	
	43578	R156-63b	NSC	05/14/2019	Not Printed	
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	43691	R501-14	AMD	07/18/2019	2019-10/73	
	43237	R501-21	AMD	02/12/2019	2018-21/91	
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	43607	R708-24	5YR	03/28/2019	2019-8/106	
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	43708	R414-312	EMR	05/07/2019	2019-11/28
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