

# 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 801-957-7110. 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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# EXECUTIVE DOCUMENTS

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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.

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## EXECUTIVE ORDER 2021-06

### Updating the COVID-19 Vaccination Plan

**WHEREAS**, COVID-19 is a worldwide pandemic caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

**WHEREAS**, as of February 23, 2021, 367,789 Utah residents have been infected with COVID-19; 14,520 Utah residents have been hospitalized due to COVID-19; and 1,865 Utah residents have died as a result of COVID-19;

**WHEREAS**, COVID-19 will continue to cause serious illness and death until a sufficient number of Utah residents are vaccinated or have immunity after recovering from this infection;

**WHEREAS**, the United States Food and Drug Administration has recently authorized the use of multiple COVID-19 vaccinations;

**WHEREAS**, Utah is receiving regular distributions of vaccines;

**WHEREAS**, older adults and individuals with certain medical conditions are at higher risk for serious illness or death because of COVID-19;

**WHEREAS**, it is necessary to implement a plan to offer the vaccine to higher-risk individuals before lower-risk individuals in order to prevent as much serious illness and death as possible and to prevent overwhelming hospitals;

**NOW, THEREFORE**, I, Spencer J. Cox, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do hereby order that:

1. **Definitions.** As used in this Order:
  - a. "COVID-19" means Novel Coronavirus Disease 2019 caused by Severe Acute Respiratory Syndrome Coronavirus 2, also known as SARS-CoV-2.
  - b. "COVID-19 Vaccine" means a COVID-19 vaccine and adjuvant (if applicable) provided to a vaccine provider as part of the CDC COVID-19 Vaccination Program.
  - c. "Vaccine provider" means any person, including a CDC COVID-19 Vaccination Program Provider, that administers a COVID-19 vaccine in the state of Utah.
2. **Vaccine eligibility.** The Utah Department of Health shall, in consultation with the Governor's Office, establish vaccine eligibility criteria and publish the eligibility criteria on [coronavirus.utah.gov](https://coronavirus.utah.gov).
3. **Vaccine provider requirements.** A vaccine provider shall:
  - a. prior to administering a COVID-19 vaccine to an individual, take reasonable efforts to determine whether the individual has tested positive for COVID-19 within the 90 days immediately preceding the date that the vaccine is to be administered;
  - b. discourage an individual from receiving a COVID-19 vaccine if the vaccine provider knows the individual has tested positive for COVID-19 within the 90 days immediately preceding the date that the COVID-19 vaccine is to be administered;

EXECUTIVE DOCUMENTS

- c. administer each COVID-19 vaccine within seven days of receiving the vaccine; and
  - d. each day by 6:59 a.m.:
  - i. report to the Utah Statewide Immunization Information System COVID-19 vaccines administered during the previous calendar day by the vaccine provider; and
  - ii. report to VaccineFinder the number of COVID-19 vaccines on-hand by the vaccine provider.
4. **Reduced distribution for noncompliance.** A vaccine provider that does not comply with this Order may be subject to a reduced COVID-19 vaccine distribution or no distribution for future distribution periods.
5. **Redistribution of unused vaccines.** A COVID-19 vaccine not used within seven days of distribution is subject to redistribution.
6. **Access by underserved communities.** The Utah Department of Health shall coordinate with local health departments and community stakeholders to establish procedures to offer the COVID-19 vaccine to eligible individuals in traditionally underserved communities.
7. **Monoclonal antibodies.** The Utah Department of Health shall coordinate with local health departments to establish procedures to offer monoclonal antibodies to residents of long-term care facilities who have tested positive for COVID-19.

This Order is effective immediately, and shall remain in effect until modified, amended, rescinded, or superseded.

**IN WITNESS, WHEREOF,** I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 23rd day of February, 2021.

(State Seal)

**Spencer J. Cox**  
**Governor**

ATTEST:

**Deidre M. Henderson**  
**Lieutenant Governor**

2021/06/EO

**End of the Executive Documents Section**

## NOTICES OF PROPOSED RULES

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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 February 02, 2021, 12:00 a.m., and February 16, 2021, 11:59 p.m. are included in this, the March 01, 2021, 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 March 31, 2021. 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 June 29, 2021, 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** or 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.

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**The Proposed Rules Begin on the Following Page**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R156-76	Filing No. 53315

**Agency Information**

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Occupational and Professional Licensing	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state:</b>	Salt Lake City, UT 84111-2316	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6741	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Duncombe	801-530-6235	sduncombe@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R156-76. Professional Geologist Licensing Act Rule
<b>3. Purpose of the new rule or reason for the change:</b>
These proposed amendments correct, clarify, and update certain language and licensing requirements as recommended by the Professional Geologist Licensing Board.
<b>4. Summary of the new rule or change:</b>
Subsection R156-76-102(1) corrects the definition of "ASBOG" to include the accurate name of the "National Association of State Boards of Geology". Due to closure of the company, Subsection R156-76-102(6)(a) replaces the "International Credentialing Association" with the "Foreign Credentials Service of America" (FCSA). The definitions of "employee and subordinate" in Section R156-76-304 are incorporated into this section.
Subsection R156-76-302b(2) again replaces reference to the International Credentialing Association with the FCSA.
Section R156-76-302d is amended to include the registration requirements for the ASBOG Fundamentals of Geology (FG), and the ASBOG Principles and Practice of Geology (PG) examinations, and update the examination requirements for applicants seeking licensure by endorsement, as follows: 1) applicants need only be licensed for ten years prior to their application instead of 20 years; 2) the jurisdictional predecessor exam requirement is deleted; and 3) it is clarified that the Division

of Occupational and Professional Licensing (Division) may, but is not obligated to, waive the required exams.

Section R156-76-303 is amended to update citations to renewal procedures.

Section R156-76-304 is deleted in its entirety and the definitions are incorporated into Section R156-76-102.

Subsection R156-76-502(4) updates the incorporated "Code of Ethics of the ASBOG Model Rules and Regulations" from the 2011 version to the August 2019 revision.

GOOGLE MEETS INFORMATION FOR March 10, 2021, rule hearing before the Division:

Join with Google Meet: [meet.google.com/chp-ndvb-bch](https://meet.google.com/chp-ndvb-bch)  
Join by phone: (US) +1 219-316-1532 (PIN: 522983227)

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
These proposed amendments are not expected to have any fiscal impact on state government revenues or expenditures as they will only update definitions and not affect current state practices and procedures.
<b>B) Local governments:</b>
These proposed amendments are not expected to have any fiscal impacts on local governments' revenues or expenditures as they will only update definitions and not affect local governments' practices and procedures.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
These proposed amendments are not expected to have any fiscal impact on small businesses (North American Industry Classification System (NAICS) 541360), as the amendments will not affect any small businesses' revenues or expenditures.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the geology industry in question listed in Utah (NAICS 541360) and no impact is expected to non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
The amendments to Section R156-76-302d will provide a more expedited licensure by endorsement pathway for some applicants for licensure as professional geologists. The Division estimates that on average, one applicant

every three years will qualify to obtain a waiver of the requirement to take the ASBOG FG and PG examinations. These applicants are expected to experience a one-time savings of approximately \$590 resulting from a reduction in cost of \$530 for exam fees and of approximately \$60 for study materials. These applicants may also potentially become licensed in Utah from one to twelve months earlier because the ASBOG exams are only offered twice a year, and so they may also experience a corresponding earnings increase from expedited licensure. However, the exact benefit from any expedited licensure cannot be estimated as it will depend entirely on individual circumstances and employment choices.

**F) Compliance costs for affected persons:**

These amendments are not expected to impose any compliance costs for any affected persons.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The Interim Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

The Division proposes amendments to the Professional Geologist Licensing Act Rule. The Division is filing these proposed amendments to clarify and update this rule with advisement from the Utah Professional Geologist Licensing Board. Among the changes are amendments to align the credentialing section with the definitions section, amend the registration requirements, update the renewal process, and incorporate by reference the 2019 National Association of State Boards of Geology Code of Ethics. Further, the Division has made minor amendments to update references and clarify this rule.

Small Businesses (less than 50 employees): The proposed amendments are not expected to impact small businesses' revenues or expenditures for those that employ professional geologists (NAICS 541360). Further, no fiscal impact is expected for small businesses as the costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees): These amendments will have no expected fiscal impact for non-small businesses employing professional geologists (NAICS 541360) in Utah for the same rationale as described above for small businesses. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

**B) Name and title of department head commenting on the fiscal impacts:**

Margaret W. Busse, Interim Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-76-101
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**Incorporations by Reference Information**

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references:**

	First Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>	Section 16 Code of Ethics of the ASBOG Model Rules and Regulations (updates)

<b>Publisher</b>	National Association of State Boards of Geology (ASBOG)
<b>Issue, or version</b>	August 2019

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**B) A public hearing (optional) will be held:**

On:	At:	At:
03-10-2021	9:00 AM	Rule hearing will be conducted electronically before the Division. See Box 4 above for Google Meets information to access the rule hearing.

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mark B. Steinagel, Director	<b>Date:</b>	02/08/2021
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**R156. Commerce, Occupational and Professional Licensing. R156-76. Professional Geologist Licensing Act Rule. R156-76-102. Definitions.**

In addition to the definitions in Title 58, Chapter[s] 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 76, Professional Geologist Licensing Act, the following rule definitions supplement the statutory definitions [as used in Title 58, Chapters 1 and 76, or this rule]:

(1) "ASBOG" means the National Association of State Boards of Geology.

(2) "Employee" or "subordinate" means an individual who:

(a) is not licensed as a professional geologist;

(b) works with, for, or provides professional geologic services on work initiated by a person licensed as a professional geologist; and

(c) works only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, or authorization of a person licensed as a professional geologist.

([2]3) "Geosciences"[<sub>7</sub>] as used in Subsection 58-76-302([4]3)(a), means an earth science degree [~~which~~] that results in sufficient geological knowledge to enable the practice of geology before the public.

([3]4) "Qualified individual"[<sub>7</sub>] as used in Section R156-76-302c, means a person who is licensed as a professional geologist in a recognized jurisdiction, or who otherwise meets the requirements for licensure as defined in Sections 58-76-302, [~~and~~] R156-76-302b, and R156-76-302c.

([4]5) "Practice of geology before the public"[<sub>7</sub>] as used in Subsection 58-76-102(3) does not include the following activities:

(a) routine sampling, laboratory work, or geological drafting, where the elements of initiative, scientific judgment, and decision-making are lacking;

(b) data acquisition where geological interpretation is minimal and incidental, such as [~~{~~]for example mud-logging, wireline logging, rock property measurements, dating, and geochemical, geophysical and biological surveys[~~}~~];

(c) the following aspects of paleontology:

(i) taxonomy;

(ii) biologic analysis of organisms; or

(iii) investigation and reporting of deposits [~~which~~] that may be fossiliferous, including incidental geological analysis; or

(d) the following aspects of the practice of anthropology and archeology:

(i) archeological survey, excavation, and reporting;

(ii) production of archeological plan views, profiles, and regional overviews; or

(iii) investigation and reporting of artifacts or deposits that are modified or affected by past human behavior.

([5]6) "Principal"[<sub>7</sub>] as used in Subsection 58-76-603(2), means the licensee assigned to and personally accountable for the production of specified professional geologic projects within an organization.

([6]7) "Recognized jurisdiction"[<sub>7</sub>] as used in Subsection R156-76-302d(2), means any state, district or territory of the United States that issues a license for a professional geologist, and whose licensure requirements include:

(a) a bachelor's or post-~~[-]~~graduate degree in the geosciences from an accredited institution, or equivalent foreign education as determined by the [~~International Credentialing Association~~] Foreign Credentials Service of America (FCSA) and the Division in collaboration with the board;

(b) documented qualifying experience requirements similar to the experience requirements [~~found~~] in Subsection 58-76-302(5) and Section R156-76-302; and

(c) passing the ASBOG Fundamentals of Geology (FG) Examination and the ASBOG Principles and Practice of Geology (PG) Examination.

([7]8) "Unprofessional conduct"[<sub>7</sub>] as defined in Title 58, Chapter[s] 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 76, Professional Geologist Licensing Act, is further defined, in accordance with Subsection 58-1-203([5])(1)(e), in Section R156-76-502.

**R156-76-302b. Qualifications for Licensure - Education Requirements.**

(1) In accordance with Section 58-76-302, the education requirements for graduates of an approved geoscience program are as follows:

- (a) an earned bachelor's or master's degree in geology from an accredited institution; or
- (b) an earned bachelor's or post-graduate degree in the geosciences from an accredited institution including the completion of a minimum of 24 semester or 36 quarter hours in upper level or graduate geology courses, ~~which~~ that include[s] one or more of the following subject areas:
  - (i) structural geology;
  - (ii) geophysics;
  - (iii) (A) sedimentology[4];  
~~(B) stratigraphy[4]; or~~  
~~(C) paleontology;~~
  - (iv) (A) mineralogy[4];  
~~(B) petrology[4]; or~~  
~~(C) geochemistry;~~
  - (v) (A) engineering geology[4]; or  
~~(B) environmental geology;~~
  - (vi) (A) hydrogeology[4]; or  
~~(B) hydrology;~~
  - (vii) (A) geomorphology[4]; or  
~~(B) remote sensing;~~
  - (viii) (A) economic geology[4]; or  
~~(B) petroleum geology; [and] or~~
  - (ix) field geology.

(2) In accordance with Section 58-1-302, an applicant who has been educated in a foreign country shall submit a course-by-course accreditation evaluation completed by ~~[International Credentialing Associates]~~ FCSA to determine program equivalency.

**R156-76-302d. Qualifications for Licensure - Examination Requirements.**

(1) In accordance with Subsection 58-76-302(~~[6]~~5), except as ~~otherwise~~ provided in Subsections ~~[(2) or (3)]~~ (4) or (5), the examination requirements for licensure as a professional geologist ~~[after January 1, 2004]~~ are ~~established~~ as follows:

- (a) the ASBOG ~~[Fundamentals of Geology]~~ (["FG"]) Examination with a passing score as recommended by the ASBOG; and
- (b) the ASBOG ~~[Principles and Practice of Geology]~~ (["PG"]) Examination with a passing score as established by the ASBOG.

(2) Prior to registering for the ASBOG FG Examination, an applicant shall:

- (a) be enrolled in the final semester or an approved program; or
- (b) have completed the education requirements in Section R156-76-302b.

(3) Prior to taking the ASBOG PG Examination, an applicant shall have passed the ASBOG FG Examination.

~~[(2)]~~4 The Division may waive the ASBOG FG Examination ~~[shall not be required]~~ for an applicant who:

- (a) has practiced as a principal for five years of the last seven years preceding the date of the license application;
- (b) was not required to pass the ASBOG FG Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed; and

(c) has passed the ASBOG PG Examination.

~~[(3)]~~5 The Division may waive the ASBOG FG and PG Examinations ~~[shall not be required]~~ for an applicant who:

- (a) has practiced as a principal for five years during the last seven years preceding the date of the license application;
- (b) has been licensed for ~~[20]~~ten years preceding the date of the license application; and
- (c) ~~[who]~~ was not required to pass the ASBOG FG and PG Examinations for initial licensure from the recognized jurisdiction the applicant was originally licensed ~~[but was required to pass a predecessor exam established by the recognized jurisdiction].~~

**R156-76-303. Renewal Cycle - Procedures.**

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 76, Professional Geologist Licensing Act, is established [by rule] in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308b through R156-1-308l.

**~~[R156-76-304. Exemption from Licensure.~~**

~~The exemption from licensure in Subsection 58-76-304(1) is defined or clarified as follows: An "employee" or "subordinate", as used therein and elsewhere in Title 58, Chapter 76, or this rule, means an individual who:~~

- ~~(1) is not licensed as a professional geologist;~~
- ~~(2) works with, for, or provides professional geologic services on work initiated by a person licensed as a professional geologist; and~~
- ~~(3) works only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed as a professional geologist.]~~

**R156-76-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

- (1) submitting an incomplete final plan, specification, report or set of plans to:
  - (a) a client, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, report, or set of plans to be complete and final; or
  - (b) to a government official ~~[for the purpose of]~~ to obtain ~~[ing]~~ a permit;
- (2) failing as a principal to exercise responsible charge;
- (3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or
- (4) failing to conform to the accepted and recognized standards and ethics of the profession, including those ~~[stated]~~ in Section 16 Code of Ethics of the ~~[2011 edition of the "National Association of State Boards of Geology (ASBOG)"]~~ ASBOG Model Rules and Regulations,"[;] revised August 2019, which is hereby incorporated by reference.

**KEY: licensing, professional geologists, geology**

**Date of Enactment or Last Substantive Amendment: ~~[May 8, 2017]~~2021**

**Notice of Continuation: February 2, 2017**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-76-101**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R162-2g-502a	Filing No. 53227

**Agency Information**

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Real Estate	
<b>Room no.:</b>	2nd Floor	
<b>Building:</b>	Heber M. Wells Bldg	
<b>Street address:</b>	160 E 300 S	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 146711	
<b>City, state, zip:</b>	Salt Lake City, Utah 84114-6711	
<b>Contact person(s):</b>		
	<b>Phone:</b>	<b>Email:</b>
Justin Barney	801-530-6603	justinbarney@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R162-2g-502a. Standards of Conduct and Practice
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of the proposed amendment is to delete Subsection R162-2g-502a(8) which provides that only a registered appraiser trainee or a licensed or certified appraiser may include in a property inspection report appraisal assignment results including appraiser analyses, opinions, or conclusions, and may also report on the physical characteristics of the property while an individual who is not registered, licensed, or certified is limited to reporting on the physical characteristics of the property.
Subsection R162-2g-502a(8) was adopted in 2020. After this rule was made effective, it generated a great deal of opposition from the appraisal management and banking industries. The Division of Real Estate (Division) and Appraiser Board reconsidered this rule and determined that enforcement of Subsection R162-2g-502a(8) would cause serious ramifications to these industries. The Board and Division have determined that it is in the best interest of these industries to delete Subsection R162-2g-502a(8).
<b>4. Summary of the new rule or change:</b>
This amendment deletes Subsection R162-2g-502a(8).

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The proposed rule amendment deletes Subsection R162-2g-502(8) and does not impose additional actions of the Division or its staff. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact or result in any additional cost or savings to the state budget.
<b>B) Local governments:</b>
Local governments are not required to comply with or enforce the Real Estate Appraiser Licensing and Certification Rules. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The proposed amendments are not expected to impact small businesses' revenues or expenditures for those that employ real estate appraisers. Further, no fiscal impact is expected for small businesses as the costs are either inestimable or there is no fiscal impact.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
The proposed amendment does not create new obligations for non-small businesses, nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
The proposed amendment does not create new obligations for persons other than small businesses, non-small businesses, state, or local government entities nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities.
<b>F) Compliance costs for affected persons:</b>
The proposed rule amendment reduces regulation and does not increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to affected persons.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

Margaret Busse, Executive Director of the Department of Commerce, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

The Division proposes amendments to the Real Estate Appraiser Licensing and Certification Rules. The Division is filing this proposed amendment specifically to Subsection R162-2g-502a(8) to prevent any potential harms to the banking and appraisal management industries.

**B) Name and title of department head commenting on the fiscal impacts:**

Margaret Busse, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 61-2g-201(2)(h)	Subsection 61-2g-401(5)	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Jonathan Stewart, Director	<b>Date:</b>	02/04/2021
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**R162. Commerce, Real Estate.**

**R162-2g. Real Estate Appraiser Licensing and Certification Rules. R162-2g-502a. Standards of Conduct and Practice.**

(1) Affirmative duties in general. A person registered, licensed, or certified by the division shall:

(a) if employing an unlicensed assistant who is not registered as a trainee pursuant to Section R162-2g-302:

(i) actively supervise the unlicensed assistant; and  
(ii) ensure that the assistant performs only clerical duties, including:

(A) typing research notes or reports completed by a trainee or an appraiser;

(B) taking photographs of properties; and

(C) obtaining copies of public records;

(b) except as provided in Subsection (2):

(i) comply with the current edition of USPAP; and

(ii) observe the advisory opinions of USPAP;

(c) in order to authorize another individual to sign an appraisal report on behalf of the individual who completes the report:

(i) grant authority to the signer in writing;

(ii) limit the signing authority to a specific property address;

NOTICES OF PROPOSED RULES

(iii) explicitly disclose within the appraisal report that the signer is authorized by the appraiser to sign the report on the appraiser's behalf;

(iv) attach a copy of the written permission required pursuant to this Subsection (1)(c)(i) to the report; and

(v) ensure that the signer signs the appraiser's name, followed by the word "by," and then followed by the signer's own name;

(d) if using a digital signature in place of a handwritten signature, ensure that:

(i) the software program that generates the digital signature has a security feature; and

(ii) no one other than the appraiser has control of the signature;

(e) retain a photocopy or other exact copy of each report as it is provided to the client, including the appraiser's signature;

(f) analyze and report the sales and listing history of the subject property for the three years preceding the appraisal if such information is available to the appraiser from a multiple listing service, listing agents, property owner, or other verifiable sources;

(g)(i) include in each appraisal report a statement indicating whether or not the subject property was inspected as part of the appraisal process; and

(ii) if any inspections were done, include the following information concerning each inspection:

(A) the names of [all] appraisers and trainees who participated in the inspection;

(B) whether the inspection was an exterior inspection only or both an exterior and an interior inspection; and

(C) the date that the inspection was performed; and

(h) unless Subsection (2)(b) applies, respond within ten business days to division notification:

(i) of a complaint against the individual; or

(ii) that information is needed from the individual; and

(i) immediately following the signature on the report in an appraisal report prepared and signed by a state-licensed or certified appraiser, state either:

(A) the credential type of State-Licensed Appraiser, State-Certified Residential Appraiser, or State-Certified General Appraiser; or

(B) the license or certification number assigned to the appraiser by the division.

(2) Exceptions.

(a) An individual is exempt from complying with the [all] provisions of USPAP when acting in an official capacity as:

(i) a division staff member or employee;

(ii) a member of the experience review committee as appointed and approved by the board;

(iii) a member of the technical review panel as appointed and approved by the board;

(iv) a hearing officer;

(v) a member of a county board of equalization;

(vi) an administrative law judge;

(vii) a member of the Utah State Tax Commission; or

(viii) a member of the board.

(b) If a deadline for response under this Subsection (1)(h) falls on a day when the division is closed, the deadline shall be extended to the next business day.

(c) When performing an evaluation as defined in the Real Estate Appraiser and Certification Act, an appraiser trainee or a licensed or certified appraiser is exempt from complying with Standards 1 through 4 of USPAP.

(3) A trainee shall:

(a) using forms provided by the division, maintain a separate log of experience hours for each supervising appraiser with whom the trainee works; and

(b) include in each log the following information for each appraisal:

(i) file number;

(ii) report date;

(iii) subject address;

(iv) client name;

(v) type of property;

(vi) report form number or type;

(vii) number of work hours;

(viii) description of work performed by the trainee; and

(ix) scope of the review and supervision of the supervising appraiser.

(4) Unless there is a client assignment condition prohibiting an appraiser trainee from signing an appraisal report, when an appraiser trainee performs significant appraisal assistance on an appraisal, the trainee may sign the appraisal report if the appraisal report is also signed by the trainee's supervisory appraiser. The appraiser trainee shall state, immediately following the trainee's signature in the report, "Trainee" and include the registration number assigned to the appraiser trainee by the division

(5)(a) A supervisory appraiser shall delegate to a trainee only such duties as the trainee is authorized to perform under Subsection R162-2g-311(1).

(b) A supervisory appraiser shall directly train and supervise the trainee in the performance of assigned duties by:

(i) critically observing and directing each [all] aspects of the appraisal process;

(ii) accepting full responsibility for the appraisal and the contents of the appraisal report by signing and certifying the appraisal complies with USPAP; and

(iii) reviewing and signing the trainee appraisal reports.

(c) A supervisory appraiser shall personally inspect:

(i) each property that is appraised with a trainee until the supervisory appraiser determines the trainee is competent to inspect the property in accordance with the competency rule of USPAP for the property type, and the trainee has performed at least:

(A) 35 residential inspections as provided in Subsection R162-2g-311(1)(c)(i); and

(B) 20 non-residential inspections as provided in Subsection R162-2g-311(1)(b)(ii); and

(ii) any property for which the appraisal report scope of work or certification requires appraiser inspection.

(d) A supervisory appraiser shall be state-certified and in good standing with the division for a period of at least three years prior to being eligible to become a supervisory appraiser.

(e) An appraiser may not act as a supervisory appraiser if the appraiser has been subject to a disciplinary action in any jurisdiction:

(i) within the three year period preceding the date on which the appraiser proposes to act as a supervisor; and

(ii) where the supervisory appraiser's legal eligibility to engage in the appraisal practice was impacted or impaired.

(f) A supervisory appraiser subject to a disciplinary action will be considered to be in good standing three years after the successful completion or termination of the sanction imposed against the appraiser.

(g) A supervisory appraiser shall comply with the competency rule of USPAP for the property type and geographic location for which the trainee appraiser is being supervised.

(h) Although a trainee is permitted to have more than one supervisory appraiser, a supervisory appraiser may not supervise more than three trainees at one time, unless a division program provides for progress monitoring, supervisory certified appraiser qualifications, and supervision and oversight requirements for supervisory appraisers.

(i) An appraisal experience log shall be maintained jointly by the supervisory appraiser and the trainee. It is the responsibility of both the supervisory appraiser and the trainee to ensure the experience log is accurate, current, and complies with division requirements.

(6) A school or continuing education provider shall:

(a) maintain a record of each student's attendance for a minimum of five years after the student enrolls;

(b) display the certification number of each ~~[all]~~ continuing education courses in advertising and marketing;

(c) upload course completion information as to each student who provides the school or continuing education provider the student's name according to division records and the student's license number:

(i) within 10 days after the end of a course offering; and

(ii) to the database specified by the division;

(d) upon request of the division, substantiate any claim made in advertising or marketing;

(e) within 15 calendar days of any material change in the information outlined in R162-2g-307b(1), provide to the division written notice of the change;

(f) with regard to the criminal history disclosure required under R162-2g-307b(2)(c)(iii):

(i) obtain each student's signature before allowing the student to participate in course instruction;

(ii) retain each signed criminal history disclosure for a minimum of two years; and

(iii) make any signed criminal history disclosure available to the division upon request;

(g) maintain a high quality of instruction;

(h) adhere to the ~~[all]~~ state laws and administrative rules regarding school and instructor certification;

(i) provide the instructor(s) for each course with the required course content outline;

(j) require instructors to adhere to the approved course content;

(k) comply with a division request for information within 10 business days of the date of the request; and

(l) verify that the material is current in any course taught on:

(i) Utah statutes;

(ii) Utah administrative rules;

(iii) Federal laws; and

(iv) Federal regulations.

(7) An instructor shall adhere to the approved outline for any course taught.

~~[(8) When performing an inspection of property for an appraisal assignment, only an individual who is registered as a trainee, or is licensed or certified as an appraiser, may include in the inspection report appraisal assignment results, including appraiser analyses, opinions, or conclusions, and may also report on the physical characteristics of the property. An individual who is not registered, licensed, or certified may not report appraisal assignment results but is limited to reporting on the physical characteristics of the property.]~~

**KEY:** real estate appraisals, school certification, instructor certification, education options

**Date of Enactment or Last Substantive Amendment:** 2021~~[June 30, 2020]~~

**Notice of Continuation: August 18, 2016**

**Authorizing, and Implemented or Interpreted Law:** 61-2g-201(2)(h); 61-2g-202(1); 61-2g-205(5)(c); 61-2g-307(3); 61-2g-401(5)

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-102</b>	<b>Filing No.</b>	<b>53316</b>
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**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

**2. Rule or section catchline:**

R277-102. Adjudicative Proceedings

**3. Purpose of the new rule or reason for the change:**

Rule R277-102 establishes guidelines for conducting adjudicative proceedings, or appeals from certain Utah State Board of Education (Board) actions, in accordance with the Utah Administrative Procedures Act.

**4. Summary of the new rule or change:**

This rule specifies the operating relationship with the Administrative Procedures Act for Board appeals and creates a review process for challenges to Board action where procedures are not clearly specified.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This proposed rule is not expected to have independent fiscal impact on state government revenues or expenditures. This rule clarifies adjudicate proceedings for certain Board actions, in accordance with the Utah Administrative Procedures Act.

<b>B) Local governments:</b>
This proposed rule is not expected to have independent fiscal impact on local governments' revenues or expenditures. This rule clarifies adjudicate proceedings for certain Board actions, in accordance with the Utah Administrative Procedures Act.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This proposed rule is not expected to have independent fiscal impact on small businesses' revenues or expenditures. This rule clarifies adjudicate proceedings for certain Board actions, in accordance with the Utah Administrative Procedures Act.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 impact 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.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i> ):
This proposed rule is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This rule clarifies adjudicate proceedings for certain Board actions, in accordance with the Utah Administrative Procedures Act.
<b>F) Compliance costs for affected persons:</b>
There are no significant compliance costs for affected persons. This rule clarifies adjudicate proceedings for certain Board actions, in accordance with the Utah Administrative Procedures Act.
<b>G) Regulatory Impact Summary Table</b> (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 impact 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 local education agencies and will not have a fiscal impact on small businesses either.			

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Section 53E-7-404	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/09/2021
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**R277. Education, Administration.**

**R277-102. Adjudicative Proceedings.**

**R277-102-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests the general control and supervision of public education in the Board,
  - (b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its duties and responsibilities under the Utah Constitution and state law; and
  - (c) Subsection 63G-4-102(6) which allows agencies to make rules regarding adjudicative proceedings in matters subject to UAPA.
- (2) The purpose of this rule is:
  - (a) to specify how to conduct adjudicative proceedings in matters subject to UAPA;

(b) to provide for review of Board actions where no opportunity for administrative review is provided by law and where there is a compelling reason for administrative review to fully and fairly facilitate the Board's decision making process; and

(c) to identify procedures the Board may apply when administrative review of a Board action is provided for by a law other than UAPA and the applicable law fails to identify procedures to be followed for the administrative review.

(3) This rule does not apply to actions for which separate adjudicative procedures are specifically provided for in statute, rule, or negotiated agreement.

(4) Nothing in this rule creates an independent basis for or requirement that the Board review a final Board action.

**R277-102-2. Definitions.**

- (1) "Agency head" means the Board Chair.
- (2) "Default" means the failure of a party to an administrative proceeding to meet the requirements or timelines of the proceeding.
- (3) "Person" has the same meaning as set forth in Subsection 63G-4-103(1)(g).
- (4) "Presiding officer" has the same meaning as set forth in Subsection 63G-4-103(1)(h).
- (5) "Utah Administrative Procedures Act" or "UAPA" means Title 63G, Chapter 4, Administrative Procedures Act.

**R277-102-3. Adjudicative Proceedings Subject to UAPA.**

- (1) The Board shall conduct all requests for agency action as informal adjudicative proceedings under UAPA unless another statute or rule specifically designates the proceedings as formal.
- (2) The presiding officer designated for a proceeding may convert an informal proceeding to a formal proceeding and vice versa as provided under Subsection 63G-4-202(3).
- (3) A person seeking review of a Board action shall:
  - (a) submit a signed request for agency action in writing to the Board's secretary, which includes the information identified in Subsection 63G-4-201(3)(a);
  - (b) mail a copy of the request to each person known to have a direct interest in the request; and
  - (c) if no timeline is provided, submit the request for agency action within 30 days of the action subject to review.
- (4) The agency head shall promptly review the request for agency action and shall notify the requesting party in writing that:
  - (a) the request is granted and that the adjudicative proceeding is completed;
  - (b) the request requires further consideration, and an informal adjudicative proceeding will be conducted to review the matter; or
  - (c) the request requires further consideration and, if expressly required by law, a formal adjudicative proceeding will be conducted to review the matter.
- (5) If the agency head determines a hearing will be held, whether formal or informal, the agency head:
  - (a) shall designate a presiding officer for the hearing; and
  - (b) may designate a hearing panel, consisting of the presiding officer and Board members, to hear the evidence and make recommendations to the full Board.
- (6)(a) The presiding officer shall:
  - (i) chair the proceeding and make rulings on motions and evidentiary issues; and
  - (ii) if no panel is appointed, shall make all findings of fact, conclusions of law, and recommendations to the Board.

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(b) If the agency head designates a hearing panel, the hearing panel shall make all findings of fact, conclusions of law, and recommendations to the Board.

(7)(a) The Superintendent shall make appropriate arrangements for an informal adjudicative proceeding including:

(i) determining the date of the hearing;

(ii) designating the hearing location and other necessary information; and

(iii) on a case by case basis, determine if an informal adjudicative proceeding may be held electronically.

(b) The Superintendent shall maintain a record of all aspects of an informal adjudicative proceeding.

(c) The Superintendent may delegate the hearing arrangements and procedures to the presiding officer.

(8) The presiding officer shall establish timelines for the hearing and shall determine if a hearing is open or closed to the public consistent with the law.

(9)(a) If the agency head determines the Board is legally required to provide a formal adjudicative proceeding or the presiding officer designates a proceeding as formal, the presiding officer shall conduct the proceedings in accordance with Sections 63G-4-204 through 63G-4-208.

(b) The presiding officer shall prescribe the means of discovery at the request of the parties to the extent necessary to allow all parties access to relevant evidence.

(10)(a) For both informal and formal adjudicative proceedings, the presiding officer shall have discretion in managing and making procedural and evidentiary decisions throughout the hearing process.

(b) In ruling on matters raised by the parties, the presiding officer may consider, but is not bound by, the Utah Rules of Evidence and the Utah Rules of Civil Procedure.

(11)(a) A presiding officer designated for a formal or informal adjudicative proceeding may recommend a default to the Board consistent with deadlines set by the presiding officer and the provisions of Section 63G-4-209.

(b) A party in default may seek to have a default set aside consistent with Subsection 63G-4-209(3) and deadlines set by the presiding officer.

(12) The presiding officer shall submit a written hearing report formalizing the hearing recommendation, to the Board and the parties, including findings of fact, conclusions of law, and recommended action for all informal and formal adjudicative proceedings within 20 calendar days of the conclusion of the hearing.

(13) The Board shall consider the recommendation submitted under Subsection (12) and within a reasonable time shall:

(a) approve the recommendation under Subsection (12); or

(b) issue an alternate written determination and action based on the findings of fact made in the hearing report, if the Board disagrees with the proposed outcome in the hearing report.

(14) The Board's decision is the final administrative decision on the issue, subject to a request for reconsideration applying the procedures of Section 63G-4-302.

(15) The Superintendent shall respond to any request for reconsideration in accordance with Subsection 63G-4-302(3).

**R277-102-4. Adjudicative Proceedings Not Subject to UAPA.**

(1) A person seeking review of a Board action not covered by UAPA shall submit a written request for review of agency action to the secretary of the Board in the same manner provided in Subsections R277-102-3(3).

(2) The agency head shall review the request for agency action in a timely manner and notify the requesting party in writing:

(a) if the request is insufficient or untimely, that the request for review is denied; or

(b) if the request is sufficient and timely, that the Board will review the matter and which method the Board will employ to conduct the review and make a final determination.

(3)(a) If a hearing is not expressly required by law, the Board may review a request for agency action under this Section R277-102-4 through a documentary review, including consideration of written information submitted by each of the parties.

(b) If the Board conducts a documentary review:

(i) the agency head will establish deadlines for document submission; and

(ii) the full Board will consider all documents submitted and issue a final administrative determination in writing in a timely manner.

(4) If a hearing is expressly provided for by law or the agency head determines the matter will best be determined by means of a hearing, the agency head shall provide for an informal adjudicative proceeding as outlined in Section R277-102-3, except that provisions for reconsideration do not apply under this Section R277-102-4.

(5) In a request under this Section R277-102-4, a party may be found in default by the Board consistent with deadlines set by the agency head or the presiding officer.

**KEY: administrative procedures, rules and procedures**

**Date of Enactment or Last Substantive Amendment: 2021**

**Authorizing, and Implemented or Interpreted Law: 63G-4; 53E-3-401(4); Art X Sec 3**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-215	Filing No. 53317

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R277-215. Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to add a presumption that would apply if an educator were convicted of homicide.
<b>4. Summary of the new rule or change:</b>
This rule adds a presumption that revocation is the presumed license consequence if an educator is convicted of homicide.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. It adds a presumption that revocation is the presumed license consequence if an educator is convicted of homicide.
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. It adds a presumption that revocation is the presumed license consequence if an educator is convicted of homicide.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. It adds a presumption that revocation is the presumed license consequence if an educator is convicted of homicide.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 change is not expected to have any fiscal impact 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.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It adds a presumption that revocation is the presumed license consequence if an educator is convicted of homicide.

**F) Compliance costs for affected persons:**

There are no significant compliance costs for affected persons. This rule change adds a presumption that revocation is the presumed license consequence if an educator is convicted of homicide.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 rule change is not expected to have any fiscal impact 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 rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Section 53E-6-506	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a

Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/11/2021
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**R277. Education, Administration.**

**R277-215. Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions.**

**R277-215-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and
  - (c) 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.
- (2) The purpose of this rule is to establish rebuttable presumptions for UPPAC and Board review of UPPAC cases.

**R277-215-2. Rebuttable Presumptions.**

- (1) UPPAC and the Board shall consider the rebuttable presumptions in this section when evaluating a case of educator misconduct.
  - (2) Revocation is presumed appropriate if an educator:
    - (a) is subject to mandatory revocation under Subsection 53E-6-604(5)(b);
    - (b) is convicted of, admits to, or is found pursuant to an evidentiary hearing to have engaged in viewing or distributing child pornography, whether real or simulated, on or off school property;
    - (c) is convicted of an offense that requires the educator to register as a sex offender under Subsection 77-41-105(3);
    - (d) intentionally provides alcohol or illegal drugs to a minor[-];
    - (e) is convicted of a violation of:
      - (i) Section 76-5-202;
      - (ii) Section 76-5-203;
      - (iii) Section 76-5-205; or
      - (iv) Section 76-5-208.
  - (3)(a) Suspension of ten years or more is presumed appropriate if an educator is convicted of any felony not specified in Subsection (2).
  - (b) An educator who is suspended based on a felony conviction under Subsection (3)(a) may apply for a reinstatement hearing early if the educator's felony:
    - (i) is expunged; or
    - (ii) is reduced pursuant to Section 76-3-402.
  - (4) Suspension of three years or more is presumed appropriate if an educator:
    - (a) engages in a boundary violation that is sexual in nature that is not sexually explicit conduct;
    - (b) is convicted of using physical force with a minor if the conduct results in a conviction of a class A misdemeanor;
    - (c) is convicted of an offense that results in the educator being placed on court supervision for three or more years;

(d) is convicted of theft or intentional misappropriation of public funds; or

(e) intentionally misappropriates public funds or property in an amount of \$500 or more.

(5) Suspension of one to three years is presumed appropriate, if an educator:

(a) willfully or knowingly creates, views, or gains access to sexually inappropriate material on school property or using school equipment;

(b) is convicted of one or more class A misdemeanor violence offenses under Title 76, Chapter 5, Offenses Against the Person, or a comparable statute from a jurisdiction outside of Utah;

(c) is convicted of two or more misdemeanor violence offenses under Title 76, Chapter 5, Offenses Against the Person, or a comparable statute from a jurisdiction outside of Utah, in the last three years;

(d) is convicted of using physical force with a minor if:

(i) the conviction is a class B misdemeanor or lower; and

(ii) the minor is a student in the educator's school;

(e) engages in repeated incidents of or a single egregious incident of excessive physical force or discipline to a student that does not meet the circumstances described in Subsection 53G-8-302(2);

(f) bullies or threatens a student physically, verbally, or electronically;

(g) engages in a pattern of boundary violations with a student under a circumstance not described in Subsection (4)(a);

(h) engages in multiple incidents or a pattern of theft or misappropriation of public funds that does not result in a criminal conviction;

(i) attends a school or school-related activity in an assigned employment-related capacity while possessing, using, or under the influence of alcohol or illegal drugs;

(j) is convicted of two drug-related offenses or alcohol-related offenses in the three years previous to the most recent conviction;

(k) engages in a pattern of or a single egregious incident of:

(i) harassing;

(ii) bullying; or

(iii) threatening a co-worker or community member; or

(l) knowingly and deliberately falsifies or misrepresents information on an education-related document.

(6) A suspension of up to one year is presumed appropriate if an educator:

(a)(i) engages in inappropriate conduct that warrants lesser discipline; and

(ii) has previously received two or more disciplinary letters or actions from UPPAC, including a letter of admonishment, education or warning, related to similar incidents of inappropriate conduct;

(b) fails to report to appropriate authorities suspected child or sexual abuse; or

(c) knowingly teaches, counsels, or assists a minor student in a manner that disregards a legal, written directive, such as a court order or an approved college and career ready plan.

(7) A reprimand is presumed appropriate if an educator:

(a) engages in conduct described in Subsection (8) that is more egregious or repetitive than the conduct described in Subsection (8); or

(b)(i) engages in reportable inappropriate conduct that warrants lesser discipline; and

(ii) within the previous ten years, has received two or more written disciplinary actions from the same LEA for similar inappropriate conduct related to a violation of Board rule or LEA policy.

(8) A letter of warning is presumed appropriate if an educator:

(a) engages in a miscellaneous minimal boundary violation with a student or minor, whether physical, electronic, or verbal;

(b) engages in minimal inappropriate physical contact with a student;

(c) engages in unprofessional communications or conduct with a student, co-worker, community member, or parent;

(d) engages in an inappropriate discussion with a student that violates state or federal law;

(e) knowingly violates a requirement or procedure for special education needs;

(f) knowingly violates a standardized testing protocol;

(g) is convicted of one of the following with or without court probation:

(i) a single driving under the influence of alcohol or drugs offense under Section 41-6a-502;

(ii) impaired driving under Section 41-6a-502.5; or

(iii) a charge that contains identical or substantially similar elements to the state's driving under the influence of alcohol or drugs law or under the law of another state or territory;

(h) carelessly mismanages public funds or fails to accurately account for receipt and expenditure of public funds entrusted to the educator's care;

(i) fails to make a report required by Rule R277-~~546~~217;

(j) except for a class C misdemeanor under Title 41, Motor Vehicles, is convicted of one or two misdemeanor offenses not otherwise listed;

(k) engages in an activity that constitutes a conflict of interest;

(l)(i) is convicted of using physical force with a minor if the conduct results in a conviction of a class B misdemeanor or lower; and

(ii) the inappropriate conduct does not involve a student at the educator's school; or

(m) engages in other minor violations of the Utah Educator Standards in Rule R277-217.

(9) A letter of education is presumed appropriate if the evidence does not show a violation of the educator standards in Rule R277-217, but the evidence may show conduct that could lead to a violation of the standards in the future.

### **R277-215-3. Aggravating and Mitigating Circumstances.**

(1) In the course of evaluating a presumption described in this rule, UPPAC or the Board may consider deviating from the presumptions if:

(a) the presumption does not involve a revocation mandated by statute; and

(b) relevant aggravating or mitigating factors exist.

(2) An aggravating factor may include evidence of the following:

(a) the educator has engaged in prior misconduct;

(b) the educator presents a serious threat to a student;

(c) the educator's misconduct directly involved a student;

(d) the educator's misconduct involved a particularly vulnerable student;

(e) the educator's misconduct resulted in physical or psychological harm to a student;

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- (f) the educator violated multiple standards of professional conduct;
  - (g) the educator's attitude exhibits indifference, flippancy, disregard, or defiance towards the allegations or the consequences;
  - (h) the educator's misconduct continued after investigation by the LEA or UPPAC;
  - (i) the educator holds a position of heightened authority as an administrator;
  - (j) the educator's misconduct had a significant impact on the LEA or the community;
  - (k) the educator's misconduct was witnessed by a student;
  - (l) the educator was not honest or cooperative in the course of UPPAC's investigation;
  - (m) the educator was convicted of crime as a result of the misconduct;
  - (n) any other factor that, in the view of UPPAC or the Board, warrants a more serious consequence for the educator's misconduct; and
    - (o) the educator is on criminal probation or parole; or
    - (p) the Executive Secretary has issued an order of default on the educator's case as described in Rules R277-211 or R277-212.
- (3) A mitigating factor may include evidence of the following:
- (a) the educator's misconduct was the result of strong provocation;
  - (b) the educator was young and new to the profession;
  - (c) the educator's attitude reflects recognition of the nature and consequences of the misconduct and demonstrates a reasonable expectation that the educator will not repeat the misconduct;
  - (d) the educator's attitude suggests amenability to supervision and training;
  - (e) the educator has little or no prior disciplinary history;
  - (f) since the misconduct, the educator has an extended period of misconduct-free classroom time;
  - (g) the educator was a less active participant in a larger offense;
  - (h) the educator's misconduct was directed or approved, whether implicitly or explicitly, by a supervisor or person in authority over the educator;
  - (i) the educator has voluntarily sought treatment, counseling or training specific to the misconduct;
  - (j) the educator has made a timely, good faith effort to make restitution or rectify the consequences of the educator's misconduct;
  - (k) there was insufficient training or other policies that might have prevented the misconduct;
  - (l) there are substantial grounds to partially excuse or justify the educator's behavior though failing to fully excuse the violation;
  - (m) the educator self-reported the misconduct;
  - (n) the educator received a plea in abeyance from the court for criminal charges stemming from the alleged misconduct;
  - (o) any other factor that, in the view of UPPAC or the Board, warrants a less serious consequence for the educator's misconduct.
- (4)(a) UPPAC and the Board have sole discretion to determine the weight they give to an aggravating or mitigating factor.
- (b) The weight UPPAC or the Board give an aggravating or mitigating factor may vary in each case and any one aggravating or mitigating factor may outweigh some or all other aggravating or mitigating factors.

**R277-215-4. Circumstances Warranting Consideration of Deviation from Presumptions.**

- (1) UPPAC and the Board shall consider reducing a presumed suspension under this Rule R277-215 if the evidence shows that:
- (a) the educator's misconduct resulted in a disproportionate period of missed classroom time; or
  - (b) UPPAC's investigation into a matter with no pending criminal charges took more than six months to present to UPPAC under Subsection R277-211-3(3)(e) due to circumstances beyond the educator's control.
- (2) UPPAC and the Board may consider reducing a presumed suspension period to correspond to a probationary period in an educator's court plea in abeyance agreement if the plea results from charges stemming from the educator's alleged misconduct.

**KEY: educators, disciplinary presumptions**  
**Date of Enactment or Last Substantive Amendment:**  
**2021 [February 7, 2020]**  
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**  
**53E-6-506; 53E-3-401(4)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-216	Filing No. 53318

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R277-216. Surrender of License with UPPAC Investigation Pending
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to clarify timing for filing a petition to surrender an educator license and make other technical changes.

**4. Summary of the new rule or change:**  
 Some of the language in Sections R277-216-2, R277-216-3, and R277-216-4 updated the petition to surrender an educator license and applicability of rule.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**  
 This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The changes are minor and technical in nature.

**B) Local governments:**  
 This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The changes are minor and technical in nature.

**C) Small businesses** ("small business" means a business employing 1-49 persons):  
 This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The changes are minor and technical in nature.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):  
 There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 change is not expected to have any fiscal impact 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.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):  
 This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The changes are minor and technical in nature.

**F) Compliance costs for affected persons:**  
 There are no significant compliance costs for affected persons. The changes are minor and technical in nature.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 rule change is not expected to have any fiscal impact 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

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rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Section 53E-6-506	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/11/2021
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**R277. Education, Administration.  
R277-216. Surrender of License with UPPAC Investigation Pending.**

**R277-216-1. Authority and Purpose.**  
 (1) This rule is authorized by:  
 (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;  
 (b) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and

(c) 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.

(2) The purpose of this rule is to establish procedures for Board consideration of an educator request to surrender a license in the face of a UPPAC investigation.

(3) The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

**R277-216-2. Petition to Surrender.**

(1) An educator may surrender an educator license at any point prior to [the resolution of a] final Board action on the recommendation from a UPPAC investigation.

(2) An educator who requests to surrender an educator license under Subsection (1), shall submit a petition [~~or stipulated agreement~~] to UPPAC for submission to the Board, which shall include:

(a) a brief statement of the procedural history of the investigation leading up to the voluntary surrender;

(b) a statement that the educator is entitled to due process in UPPAC's investigation and that the educator freely and voluntarily waives the educator's due process rights, including:

- (i) a right to a hearing;
- (ii) a right to confront and cross examine witnesses;
- (iii) a right to present witnesses;
- (iv) a right to an impartial decision based upon evidence presented at the hearing; and

(v) a right to subpoena witnesses; and

(c) a statement that the educator surrenders the educator's license freely and voluntarily and without coercion or duress;

(d) a statement that the educator:

- (i) is represented by counsel; or
- (ii) understands the educator's right to be represented by counsel and knowingly and voluntarily waives the assistance of counsel in UPPAC's investigation;

(e) a statement that the educator is fully aware of the implications of surrendering the educator's license with an investigation pending, including:

- (i) that the educator may not work, consult, or volunteer in any K-12 public school in the state of Utah in any capacity;
- (ii) that the educator is not eligible for a reinstatement hearing at any time;

(iii) that UPPAC files and case resolution are subject to public disclosure in accordance with state and federal law;

(iv) that notification of the educator's license surrender will be shared with all states through NASDTEC; and

(v) except as provided in Subsection (3), that notification of the educator's license surrender will be:

- (A) classified and reported as a voluntary surrender (UPPAC investigation); and
- (B) shared with LEAs throughout the state.

(3) If an educator surrenders a license during an investigation of allegations described in Subsection 53E-6-604(5)(b), the surrender will be:

- (a) classified and reported as a revocation; and
- (b) shared with LEAs through the state.

(4)(a) Voluntary surrender of a license as set forth in this section is permanent.

(b) An educator who surrenders a license as set forth in this section is not eligible for a reinstatement hearing at any time.

**R277-216-3. Review of Petition to Surrender.**

(1)(a) Upon receiving a petition ~~or stipulated agreement~~ as provided in Subsection R277-216-2(2), the Executive Secretary shall review the request for surrender to determine if it meets the requirements set forth in the rule.

(b) If the requirements of Subsection R277-216-2(2) are not met, the Executive Secretary shall notify the educator that the request is insufficient and the reasons why the request is insufficient.

(c) If the requirements of Subsection R277-216-2(2) are met, the Executive Secretary shall notify the Board of the voluntary surrender and request direction on whether to continue the investigation.

(2) Upon receipt of a voluntary surrender of an educator license, the Executive Secretary shall:

(a) notify the educator:

(i) that the voluntary surrender was received;

(ii) whether the Board required UPPAC to continue the investigation;

(iii) that the voluntary surrender will be reported in the public record as a voluntary surrender with pending UPPAC investigation except as provided in Subsection R277-216-2(3);

(iv) that the voluntary surrender will be reported to NASDTEC and to LEAs throughout the state; and

(v) that the educator's license cannot be reinstated at any time.

(b) update ~~[CACTUS]~~the educator's licensing file to reflect the disposition;

(c) report the disposition to NASDTEC;

(d) notify the educator's last employer of record;

(e) report the disposition to LEAs through the state; and

(f) provide the educator a copy of the report to LEAs described in Subsection (2)(c).

**R277-216-4. Applicability of Rule.**

This R277-216 does not apply to an educator's voluntary surrender of the educator's license if the educator is not ~~[being investigated]~~under investigation by UPPAC.

**KEY: educators, license surrender, UPPAC**

**Date of Enactment or Last Substantive Amendment:** ~~2021~~**[August 12, 2016]**

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-6-506; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-217	Filing No. 53319

**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200

Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-217. Educator Standards and LEA Reporting
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to add a provision to the educator standards addressing cheating and academic dishonesty.
<b>4. Summary of the new rule or change:</b>
A provision to the educator standards was added in Subsection R277-217(2)(27).

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. It adds a provision to the educator standards addressing cheating and academic dishonesty.
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. It adds a provision to the educator standards addressing cheating and academic dishonesty.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. It adds a provision to the educator standards addressing cheating and academic dishonesty.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 change is not expected to have any fiscal impact on non-small businesses' revenues

NOTICES OF PROPOSED RULES

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.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It adds a provision to the educator standards addressing cheating and academic dishonesty.

**F) Compliance costs for affected persons:**

There are no significant compliance costs for affected persons. The rule change adds a provision to the educator standards addressing cheating and academic dishonesty.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Net Benefits</b>	<b>Fiscal</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 rule change is not expected to have any fiscal impact 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 rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-501(1)(a)	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a

Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/11/2021
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#### R277. Education, Administration.

##### R277-217. Educator Standards and LEA Reporting.

##### R277-217-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the certification of educators; and

(d) Title 53E, Chapter 6, Educator Licensing and Professional Practices Act, which provides all laws related to educator licensing and professional practices.

(2) The purpose of this rule is to:

(a) establish statewide ethical standards for educators;

(b) establish reporting requirements for educators and LEAs; and

(c) recognize that educators are professionals and share common professional standards, expectations, and role model responsibilities.

##### R277-217-2. Prohibited Conduct by an Educator.

An educator may not:

(1) be convicted of a felony;

(2) be convicted of a misdemeanor offense that:

(a) adversely affects the educator's ability to perform an assigned duty and carry out the educator's responsibilities; or

(b) adversely affects the well being of students;

(3) be convicted of, or engage in conduct of a sexual nature described in Subsection 53E-6-603(2);

(4) participate in sexual, physical, or emotional harassment towards any colleague or public school-age student;

(5) engage in:

(a) a single egregious instance or pattern of inappropriate contact in any communication, including written, verbal, or electronic, with a minor, student, colleague, or member of the community; or

(b) a single egregious instance or pattern of boundary violations with a student;

(6) solicit, encourage, or consummate an inappropriate relationship, whether written, verbal, or physical, with a student or minor;

(7) accept an inappropriate gift from, or give an inappropriate gift to, a student;

(8) be convicted of or commit a criminal offense involving a child, including physical abuse, cruelty, or exploitation of child;

(9) use corporal punishment, excessive physical force, or inappropriate physical restraint, except as provided in Section 53G-8-302;

(10) provide alcohol or unauthorized drugs to a student or allow a student under the educator's supervision or control to consume or obtain alcohol or unauthorized drugs;

(11) attend school or a school-related activity in an assigned employment-related capacity while possessing, using, or under the influence of alcohol or an illegal drug;

(12) attend school or a school-related activity in an assigned employment-related capacity after intentionally exceeding the prescribed dosage of a prescription medication that may impair the educator;

(13) possess or distribute an illegal drug or be convicted of any crime related to an illegal drug, including a prescription drug not specifically prescribed to the educator;

(14) be convicted of an alcohol-related offense;

(15) use or attempt to use an LEA computer or information system to access information that may be detrimental to young people or inconsistent with the educator's role model responsibility;

(16) knowingly possess, while at school or any school-related activity, any pornographic or indecent material in any form;

(17) use school equipment to intentionally view, create, distribute, or store pornographic or indecent material in any form;

(18) knowingly use, view, create, distribute, or store pornographic or indecent material involving children;

(19) expose students to material the educator knows or should have known to be inappropriate given the age and maturity of the students.

(20) violate state laws regarding the possession of a firearm while on school property or at a school-sponsored activity;

(21) knowingly allow a student to violate an LEA policy or law concerning possession or access to a weapon;

(22) interfere with or discourage a student's or colleague's legitimate exercise of constitutional, legal, or civil rights, acting consistent with the law and an LEA's policy;

(23) exclude a student from participating in any program, deny or grant any benefit to a student, or encourage a student to develop a prejudice on the basis of:

(a) race;

(b) color;

(c) creed;

(d) sex;

(e) national origin;

(f) marital status;

(g) political or religious belief;

(h) physical or mental condition;

(i) family, social, or cultural background;

(j) sexual orientation; or

(k) gender identification;

(24) knowingly or intentionally permit unauthorized collection, sharing, or use of student data;

(25) knowingly violate student confidentiality unless revealing confidential information to an authorized person serves the best interest of the student and serves a lawful purpose;

(26) violate:

(i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(ii) Title 53E, Chapter 9, Student Privacy and Data Protection;

NOTICES OF PROPOSED RULES

(iii) Rule R277-107, Educational Services Outside of an Educator's Regular Employment; or

(iv) Section R277-120-5, Classroom Materials Developed by Utah Educators[-]; or

(27) cheat or engage in academic dishonesty, whether on behalf of a student, or in the educator's own educational pursuits.

**R277-217-3. Required Conduct for an Educator.**

An educator shall:

(1) comply with all federal, state, and local laws;

(2) maintain a professional educator/student relationship, including by:

(a) treating a student with dignity and respect by promoting the health, safety and well being of students; and

(b) maintaining appropriate verbal, emotional and social boundaries;

(3) take prompt and appropriate action to prevent harassment or discriminatory conduct toward a student or school employee that the educator knew or should have known may result in a hostile, intimidating, abusive, offensive, or oppressive environment;

(4) take prompt and appropriate action to protect a student from any known condition detrimental to the student's physical health, mental health, safety, or learning;

(5) report suspected child abuse or neglect to law enforcement or the Division of Child and Family Services in accordance with Sections 53E-6-701 and 62A-4a-~~409~~403;

(6) cooperate in providing all relevant information and evidence to the proper authority in the course of an investigation by a law enforcement agency or by the Division of Child and Family Services regarding potential criminal activity, except that an educator may decline to give evidence against himself or herself in an investigation if the evidence may tend to incriminate the educator as that term is defined by the Fifth Amendment of the U.S. Constitution;

(7) take appropriate steps to notify a student's parents and refer a student to appropriate prevention services if a student threatens suicide or self harm as required by Subsections 53E-9-203(7) and 53G-9-604(2);

(8) provide truthful, accurate, and complete information in:

(a) licensing, transfer, and employment applications or other documentation;

(b) evaluations of the educator, other educators, or students;

(c) proceedings related to educator licensure, employment, or related benefits;

(d) student IEP plans and related special education documentation;

(9) be forthcoming with truthful, accurate, and complete information to an appropriate authority regarding known educator misconduct that could adversely impact performance of a professional responsibility, by another educator;

(10) notify the Superintendent at the time of application for licensure of:

(a) current investigations involving professional misconduct in another jurisdiction;

(b) prior licensing disciplinary action in another jurisdiction; and

(c) past criminal convictions;

(11) report an arrest, citation, charge or conviction to the educator's LEA in accordance with Section R277-217-4;

(12) conduct financial business with integrity by honestly accounting for all funds committed to the educator's charge, as school responsibilities require, consistent with LEA policy;

(13) follow an LEA's fiscal policy for collecting money in connection with a school activity, accounting for all money collected, and not commingling LEA or school funds with personal funds as described in R277-113; and

(14) demonstrate honesty and integrity by strictly adhering to all state and LEA instructions and protocols in managing and administering a standardized test to a student consistent with Section 53E-4-312 and Rule R277-404.

**R277-217-4. Educator Reporting of Arrests, Citations, Charges, and Convictions.**

(1) An educator who is arrested, cited or charged with the following alleged offenses shall report the arrest, citation, or charge within 48 hours or as soon as possible to the licensed educator's district superintendent, charter school director, or the LEA's designee, or to the Executive Secretary if not employed:

(a) any matters involving an alleged sex offense;

(b) any matters involving an alleged drug-related offense;

(c) any matters involving an alleged alcohol-related offense;

(d) any matters involving an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person;

(e) any matters involving an alleged felony offense under Title 76, Chapter 6, Offenses Against Property;

(f) any matters involving an alleged crime of domestic violence under Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and

(g) any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed in Subsections (1)(a) through (f).

(2) An educator shall report any conviction or plea in abeyance for a felony or misdemeanor offense to the educator's LEA, or the Executive Secretary if not employed, within 48 hours, or as soon as possible thereafter.

(3) An LEA superintendent, director, or designee shall report conviction, arrest, or offense information received from an educator to the Superintendent within 48 hours of receipt of information from an educator.

(4) The Superintendent shall provide a form on the Board's website for reports required under this section.

(5) An educator shall report for work following an arrest and provide notice to the licensed educator's employer unless directed not to report for work by the employer, consistent with LEA policy.

**R277-217-5. LEA Reporting of Misconduct to UPPAC.**

(1) An LEA shall notify UPPAC if an educator is determined pursuant to a judicial or administrative proceeding, or internal LEA investigation, to have violated the educator standards described in Sections R277-217-2 or R277-217-3.

(2) The Executive Secretary shall provide a form for an LEA to make a notification required under Subsection (1).

(3) Upon submitting a notification under Subsection (1), an LEA may make a recommendation to the Executive Secretary concerning whether an investigation by UPPAC would be appropriate under the circumstances, taking into account any employment action taken by the LEA.

(4) If no related criminal charge is filed, an LEA is not responsible to notify UPPAC of an allegation if the LEA's internal investigation establishes that the allegation is unsupported.

**KEY: educator standards, professional practices, reporting Date of Enactment or Last Substantive Amendment: 2021 [February 7, 2020] Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-3-501; 53E-6**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-303	Filing No. 53320

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-303. Educator Preparation Programs
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to clarify that participants in educator preparation programs must take a pedagogical assessment as a condition of the program receiving approval from the Superintendent.
<b>4. Summary of the new rule or change:</b>
The change to this rule is located in Subsection R277-303-4(1)(e), which includes new language about the pedagogical performance assessment meeting standards for local education agency (LEA) preparation programs.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
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<b>A) State budget:</b>
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The amendments align this rule with expectations found in other portions of this Board rule, that all teacher candidates complete a pedagogical performance assessment when such an assessment is available.
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The amendments align this rule with expectations found in other portions of this Board rule, that all teacher candidates complete a pedagogical performance assessment when such an assessment is available.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The amendments align this rule with expectations found in other portions of this Board rule, that all teacher candidates complete a pedagogical performance assessment when such an assessment is available.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 change is not expected to have any fiscal impact 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.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b>):</b>
This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendments align this rule with expectations found in other portions of this Board rule, that all teacher candidates complete a pedagogical performance assessment when such an assessment is available.

**F) Compliance costs for affected persons:**

There are no material compliance costs for affected persons. The amendments align this rule with expectations found in other portions of this Board rule, that all teacher candidates complete a pedagogical performance assessment when such an assessment is available.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS

611110). Because there are no 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 rule change is not expected to have any fiscal impact 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 rule change has no fiscal impact on LEAs and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Section 53E-6-302	Subsection 53E-6-201(3)(a)
Subsection 53E-3-401(4)		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	01/14/2021
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**R277. Education, Administration.****R277-303. Educator Preparation Programs.****R277-303-1. Authority and Purpose.**

(1) This rule is authorized by:

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

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

(c) Subsection 53E-6-201(3)(a), which directs the Board to establish the criteria for obtaining licenses; and

(d) Section 53E-6-302, which requires the Board to establish standards for approval of educator preparation programs.

(2) The purpose of this rule is to establish criteria for educator preparation programs in the State of Utah.

**R277-303-2. Definitions.**

(1)(a) "Educator preparation program" means a comprehensive program administered by an entity that is intended to prepare individuals to meet the requirements for a Utah professional license or license area of concentration.

(b) "Educator preparation program" may include a program developed by or associated with an institution of higher education, individual LEA, a consortium of LEAs, or the Board.

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

(3) "License area" has the same meaning as set forth in Subsection R277-301-2(5)(a).

(4) "Professional license" means the educator license described in Section R277-301-6.

**R277-303-3. Educator Preparation Program Review and Approval.**

(1) The Superintendent shall establish uniform procedures for initial approval and review of educator preparation programs to ensure compliance with this R277-303.

(2) The Superintendent shall approve an educator preparation program that meets the requirements of this rule and the standards for program approval established in:

(a) Rule R277-304;

(b) Rule R277-305;

(c) Rule R277-306; and

(d) all other applicable Board rules.

(3) The Superintendent shall conduct an ongoing review of approved educator preparation programs and shall renew or deny approval for a program at least every seven years.

(4) The Superintendent may grant preliminary approval to a new educator preparation program within a Utah public college or university pending approval by the Utah State Board of Regents.

(5) The Superintendent shall make a report to the Board when an educator preparation program's initial application for approval is granted or denied.

(6) The Superintendent may place an approved educator preparation program on probation for:

(a) failure to meet program requirements detailed in applicable Board rules; or

(b) failure to submit complete and accurate information in a report required under this rule.

(7) The Board may revoke the approval of a probationary program that fails to meet probationary requirements with at least one year's notice to the educator preparation program.

(8) The Superintendent may require a program or subset of programs to submit reports to inform the annual report to the Board required in Section R277-301-10.

(9) The Superintendent shall accept an approved educator preparation program's recommendations for a professional license or license area if the prospective licensee meets all other requirements of Board rule.

**R277-303-4. Educator Preparation Programs.**

(1) An educator preparation program that applies for approval by the Superintendent shall demonstrate how it will ensure that participants:

(a) are prepared to meet the Utah Effective Educator Standards established in R277-530;

(b) successfully complete or are prepared to complete the pedagogical performance assessment required in R277-301;

(c) have met the competencies required in all applicable Board rules; ~~and~~

(d) have sufficiently demonstrated the ability to work in the applicable license area and subject area~~[-]; and~~

(e) successfully completed or are prepared to complete a pedagogical performance assessment meeting standards established by the Superintendent and approved by the Board for all new students enrolled in the program after January 1, 2020 and recommended for a Utah educator license after September 1, 2021 in all license areas for which such an assessment is available.

(2) In addition to the requirements of Subsection (1), an educator preparation program that is not also a Utah LEA shall:

(a) have a physical location in the state of Utah where participants attend classes; or

(b) if the program provides only online instruction:

(i) have the program's primary headquarters located in Utah; and

(ii) be licensed to do business through the Utah Department of Commerce; and

(c) establish entry requirements that are designed to ensure that only high quality individuals enter the preparation program, which include measures of:

(i) previous academic success;

(ii) disposition for employment in an educational setting; and

(iii) basic skills in reading, writing, and mathematics; and

(d) include a pedagogical performance assessment meeting standards established by the Superintendent and approved by the Board for all new students enrolled in the program after January 1, 2020 and recommended for a Utah educator license after August 1, 2021 in all license areas for which such an assessment is available.

(3)(a) If the Superintendent denies an application from an educator preparation program, the proposed educator preparation program may appeal the Superintendent's decision to the Board by submitting a written appeal to the Board Secretary.

(b) The Board shall assign an appeal under Subsection (3)(a) to a standing committee to make a recommendation to the full Board for final action.

(4) An approved educator preparation program may recommend an individual that completed the program for a professional license or license area for up to five years after the individual completed the program, as long as all current license requirements have been met.

(5) If five years have passed since an individual completed an approved educator preparation program, the program may

NOTICES OF PROPOSED RULES

recommend the individual for a professional license or license area if the program:

- (a) reviews the individual's program; and
- (b) requires the individual to complete any additional necessary requirements to meet current programs standards prior to making a licensing recommendation.

(6)(a) An approved educator preparation program may recommend an individual who began the program before January 1, 2020 for a professional license or license area without meeting the pedagogical performance assessment requirement in R277-301, but must present documentation showing that the individual met the appropriate license requirements in effect prior to that date.

- (b) Subsection (6)(a) supersedes Subsections (4) and (5).

**R277-303-5. Superintendent Responsibilities.**

(1) The Superintendent shall provide support to educator preparation programs and potential licensees to the extent that funding allows by:

- (a) maintaining a website to:
  - (i) facilitate collaboration between educator preparation programs;
  - (ii) facilitate communication between potential educators and approved programs; and
  - (iii) provide access to up-to-date research on educator preparation and education practices;
- (b) reviewing third-party preparation materials for alignment with the Utah Effective Educator Standards in R277-530; and
- (c) working with potential licensed educators to help them become licensed educators.

(2) The Superintendent shall design and maintain a model educator preparation program that:

- (a) meets all requirements of all applicable Board rules;
- (b) may be adopted by an LEA or an accredited private school; and
- (c) is overseen by staff distinct from the staff responsible for ensuring educator preparation program compliance with all applicable Board rules.

**KEY: educator preparation program, pedagogical assessment, professional competency, programs**

**Date of Enactment or Last Substantive Amendment: 2021 [August 12, 2020]**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201(3)(a)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-308	Filing No. 53321

**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111

<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-308. New Educator Induction and Mentoring
<b>3. Purpose of the new rule or reason for the change:</b>
This rule updates requirements for local education agency (LEA) induction programs.
<b>4. Summary of the new rule or change:</b>
This rule is being amended to include greater detail on requirements for LEA induction programs in place of simply requiring a professional learning plan.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The changes clarify and add specificity to existing requirements in this rule for LEA induction programs.
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The changes clarify and add specificity to existing requirements in this rule for LEA induction programs.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The changes clarify and add specificity to existing requirements in this rule for LEA induction programs.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 change is not expected to have any fiscal impact 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.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The changes clarify and add specificity to existing requirements in this rule for LEA induction programs.

**F) Compliance costs for affected persons:**

There are no significant compliance costs for affected persons. The changes clarify and add specificity to existing requirements in this rule for LEA induction programs.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 rule change is not expected to have any fiscal impact 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 rule change has no fiscal impact on LEAs and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Section 53E-6-201	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

NOTICES OF PROPOSED RULES

<b>10. This rule change MAY become effective on:</b>	04/07/2021
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/11/2021
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**R277. Education, Administration.**

**R277-308. New Educator Induction and Mentoring.**

**R277-308-1. Authority and Purpose.**

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Section 53E-6-201, which gives the Board power to issue licenses.

(2) The purpose of this rule is to establish requirements for induction of new educators.

**R277-308-2. Definitions.**

- (1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- (2) "Mentor" means an educator with a professional educator license who is trained to advise, coach, consult, and guide the development of a new educator.

**R277-308-3. LEA Induction Programs.**

- (1) An LEA shall provide an induction program for the LEA's licensed employees if:
  - (a) an educator holds an associate educator license; or
  - (b) an educator holds a professional educator license with less than three years experience.
- (2) An LEA shall provide an induction program for at least three years for employees with an LEA-specific educator license.
- (3) An induction program under this rule shall include, at a minimum:
  - (a) ~~a documented professional learning plan, appropriate for each educator~~ a plan for on-going support and development of an educator, which may include reflective goal setting, implementation of action steps, and evaluation of outcomes that lead to refinement in instructional practice;
  - (b) LEA support in meeting the requirements of a professional license for an individual who holds an associate license;
  - (c) mentor observation and feedback for each educator beginning early in the program;
  - (d) principal observation and feedback for each educator as required by Rule R277-533; and
  - (e) assistance in meeting the pedagogical requirements described in Subsection R277-301-5(5).

- (4) An induction plan under Subsection (1) shall provide a new educator with a trained mentor educator with a professional educator license.
- (5) A trained mentor educator under Subsection (3) shall assist the educator to meet the Utah Effective Educator Standards established in Rule R277-530.
- (6) A trained mentor educator may not have responsibility to evaluate a new educator for whom the educator acts as mentor.
- (7) An LEA and a Utah approved university-based education preparation program may partner in implementing the induction program required by Subsection (1).
- (8) The Superintendent shall:
  - (a) develop a model induction program, including model competencies for mentors;
  - (b) provide training for mentors based on the competencies developed in accordance with Subsection (8)(a);
  - (c) provide training for principals to oversee and support mentor training; and
  - (d) facilitate the sharing of best practices between LEAs.

~~**R277-308-4. Effective Date.**~~

~~This rule will be effective beginning July 1, 2020.~~

**KEY: new educators, mentors, programs**

**Date of Enactment or Last Substantive Amendment:** ~~2021~~ **February 7, 2019**  
**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401(4); 53E-6-201

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-461	Filing No. 53322

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R277-461. Elementary School Counselor Grant Program

<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to clarify and streamline existing requirements for the grant application and subsequent reporting.
<b>4. Summary of the new rule or change:</b>
The amendments remove requirements for data projects and other specific requirements. This rule is updated to require an applicant submit measurable goals in alignment with the statutory requirements of the program and submit an annual update on achievement of those measurable goals. The amendments also add a definition of "risk factors of childhood trauma" as required by statute.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The amendment clarifies and streamlines the program's grant application and reporting requirements.
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The amendment clarifies and streamlines the program's grant application and reporting requirements.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The amendment clarifies and streamlines the program's grant application and reporting requirements.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 change is not expected to have any fiscal impact 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.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b>

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendment clarifies and streamlines the program's grant application and reporting requirements.

**F) Compliance costs for affected persons:**

There are no significant compliance costs for affected persons. This rule change clarifies and streamlines the program's grant application and reporting requirements.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 rule change is not expected to have any fiscal impact 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 rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Section 53F-5-209	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a

Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/11/2021
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**R277. Education, Administration.**

**R277-461. Elementary School Counselor Grant Program.**

**R277-461-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) ~~[Section 53F-5-209, which directs the Board to make rules to administer the Elementary School Counselor Grant Program]~~ 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-5-209, which directs the Board to make rules to administer the Elementary School Counselor Grant Program. ~~[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.]~~
- (2) The purpose of this rule is to provide:
  - (a) an application procedure;
  - (b) criteria and procedures for awarding grants; and
  - (c) requirements for grant recipients.

**R277-461-2. Definitions.**

- (1) "Childhood trauma" means a child who has been exposed to one or more traumas over the course of the child's life and develops reactions that persist and affect the child's daily life after the events have ended.
- (~~1~~)2) "Grant" means funding awarded by the Board to an LEA to hire qualifying personnel for purposes of supporting school-based mental health, in accordance with Section 53F-5-209.
- (2) "Qualifying personnel" means:
  - ~~(a) a school counselor or school social worker, as defined in Section 53F-5-209(1)(c); or~~
  - ~~(b) a Board licensed school psychologist who is assigned to a school and funded by grant funds to carry out work described in Subsection 53F-5-209(1)(c)(ii)]~~ the same as term is defined in Subsection 53F-5-209(1)(c).
- (4) "Risk factors for childhood trauma" means behaviors or indicators including:
  - ~~(a) office referrals or discipline reports;~~
  - ~~(b) increased absenteeism;~~
  - ~~(c) qualification for free or reduced-price lunch;~~
  - ~~(d) experiencing homelessness;~~
  - ~~(e) school-reported referrals to the Utah Division of Child and Family Services (DCFS);~~
  - ~~(f) participation in foster care;~~
  - ~~(g) experiencing intergenerational poverty; and~~
  - ~~(h) performing below benchmark reading levels.~~

**R277-461-3. Grant Applications.**

(1) The Superintendent shall develop and make available a grant application for LEAs, consistent with the requirements in Subsection 53F-5-209(4)(a).

(2) The grant application shall require the LEA to report how it intends to provide the matching funds required in Subsection 53F-5-209(4)(b), including the source of funding the LEA intends to use.

(3) For each grant cycle that the Superintendent is authorized to solicit grant applications, the Superintendent shall publish a timeline on the Board's website by March 30, including a date for the application release, and due dates for an LEA to submit required materials.

**R277-461-4. Procedures and Criteria for Awarding a Grant.**

(1) An LEA applying for a grant shall commit to establishing, at a minimum, a 3-year plan and program for using the grant funds.

(2) In accordance with Subsection 53F-5-209(3), the Superintendent shall prioritize LEA applications that propose to target funds as described in Section 53F-5-209[outlined in statute].

(3) For purposes of prioritizing grants under this Rule, the Superintendent shall examine an LEA's [behaviors and indicators in schools-]risk factors for childhood trauma[,-including:

- \_\_\_\_\_ (a) office referrals or discipline reports;
- \_\_\_\_\_ (b) absenteeism;
- \_\_\_\_\_ (c) free or reduced-price lunch;
- \_\_\_\_\_ (d) homelessness;
- \_\_\_\_\_ (e) school-reported referrals to the Utah Division of Child and Family Services (DCFS);
- \_\_\_\_\_ (f) foster care;
- \_\_\_\_\_ (g) intergenerational poverty; and
- \_\_\_\_\_ (h) grade 3 reading proficiency].

**R277-461-5. Grant Recipient Requirements, Accountability, and Reporting.**

[\_\_\_\_\_(1) A grant recipient shall engage in systemic leadership and planning to align efforts in supporting school improvement and school-based mental health, based on the Utah School Counseling Program Model.]

[(2)1] Grant funds [may]shall only be used to pay for salaries and benefits for qualified personnel.

[\_\_\_\_\_(3) A full-time equivalent (FTE) position who is a qualifying personnel funded by grant funds may not be assigned to more than two schools.]

[(4)2] Qualifying personnel funded by these grant funds shall:

(a) implement a program to achieve an LEA's measurable goals as described in Subsection 53F-5-209(4)(a);[~~systemic school-based mental health program~~];

(b) participate in USBE trainings;

(c) participate in [quarterly]regular collaboration meetings with USBE; and

(d) in accordance with Subsection 53F-5-209(8), participate in trauma-informed modules[~~and~~

\_\_\_\_\_ (e) implement data projects.

\_\_\_\_\_ (5) A data project is a process in which qualifying personnel and others:

\_\_\_\_\_ (a) identify a school's needs based on analysis of school data;

\_\_\_\_\_ (b) establish one or more interventions to address the needs or problems identified from the data;

\_\_\_\_\_ (c) design and implement, through a systemic approach, the intervention; and

\_\_\_\_\_ (d) examine and evaluate the effectiveness of the intervention, based on the school data.]

[[6]3] The Superintendent shall establish a process and accompanying forms for grant recipients to document grant requirements[~~, which may include an initial implementation report and a year-end accountability report.~~] including annual reporting consistent with the requirements described in Subsection 53F-5-209(7).

[\_\_\_\_\_(7) A grant recipient shall report its findings and outcomes from a data project to:

\_\_\_\_\_ (a) the school personnel;

\_\_\_\_\_ (b) the local school board or charter governing board; and

\_\_\_\_\_ (c) the Superintendent.

\_\_\_\_\_ (8)(a) If a grant recipient plans to discontinue its program for any reason at any time in the three-year period, the grant recipient shall notify the Superintendent, or the Superintendent's designee, in writing.

\_\_\_\_\_ (b) The written notification shall include a detailed explanation of why the grant recipient is discontinuing the program before the end of its three-year commitment.]

**KEY: grant program, school counselor, mental health, trauma-informed practice**

**Date of Enactment or Last Substantive Amendment: 2021|July 9, 2018|**

**Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; [53A-1-401|53E-3-401(4); 53F-5-209(6)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-484	Filing No. 53323

**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200

Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R277-484. Data Standards
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to move the due dates for UTREx data submissions.

**4. Summary of the new rule or change:**  
 The UTREx data submissions due dates have been amended from December 10 to December 7 of the current year.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. It pushes up the December UTREx data submissions date by three days. This should not significantly change processes at either the state or local levels.

**B) Local governments:**

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. It pushes up the December UTREx data submissions date by three days. This should not significantly change processes at either the state or local levels.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. It pushes up the December UTREx data submissions date by three days. This should not significantly change processes at either the state or local levels.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 change is not expected to have any fiscal impact 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.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It pushes up the December UTREx

data submissions date by three days. This should not significantly change processes at either the state or local levels.

**F) Compliance costs for affected persons:**

There are no significant compliance costs for affected persons. This rule change pushes up the December UTREx data submissions date by three days. This should not significantly change processes at either the state or local levels.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 rule change is not expected to have any fiscal impact 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 rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-511(8)	Subsection 53E-3-401(8)(a)
Section 53E-3-401(4)		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/11/2021
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**R277. Education, Administration.**

**R277-484. Data Standards.**

**R277-484-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
  - (c) Subsection 53E-3-401(8)(a), which allows the Board to take corrective action against an education entity that fails to comply with Board rules; and
  - (d) Subsection 53E-3-511(8), which requires the Board to ensure LEA inclusion of data in an LEA's Student Information System.
- (2) The Superintendent is required to perform certain data collection related duties essential to the operation of statewide educational accountability and financial systems as mandated in state and federal law.
- (3) The purpose of this rule is to support the operation of required educational accountability and financial systems by ensuring timely submission of data by LEAs.

**R277-484-2. Definitions.**

- (1) "Annual Financial Report" means an account of LEA revenue and expenditures by source and fund sufficient to meet the reporting requirements specified in Subsections 53E-3-301(3)(d) and (e).
- (2) "Annual Program Report" means an account of LEA revenue and expenditures by source and program sufficient to meet the reporting requirements specified in Subsections 53E-3-301(3)(d) and (e).
- (3) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the same as that term is defined in Subsection R277-512(1)(a).
- (4) "Data Warehouse" means the database of demographic information, course taking, and test results maintained by the USOE on all students enrolled in Utah schools.
- (5) "EDEN" means the Education Data Exchange Network, the mechanism by which state education agencies are mandated to submit data to the U.S. Department of Education.
- (6) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- (7) "MSP" means Minimum School Program, the set of state supported K-12 public school funding programs.
- (8) "Schools interoperability framework" or "SIF" means an open global standard for seamless, real time data transfer and usage for Utah public schools.
- (9) "Student achievement backpack" has the same meaning as that term is defined in Subsection 53E-3-511(1)(d).
- (10) "Student information system" or "SIS" means a student data collection system used for Utah public schools.
- (11) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows individual detailed student records to be exchanged electronically between public education LEAs and the Board, and allows electronic transcripts to be sent to any post-

NOTICES OF PROPOSED RULES

secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service.

(12) "Utah Student Record Store" has the same meaning as that term is defined in Subsection 53E-3-511(e).

(13) "Year" means both the school year and the fiscal year for a Utah LEA, which runs from July 1 through June 30.

**R277-484-3. Deadlines for Data Submission.**

(1) An LEA shall submit student level data to the Board through UTREx.

(2) An LEA shall by 5:00 p.m. Mountain Standard Time on the date specified in Table 1 submit reports in the format specified by the Superintendent.

(3) If a deadline in Table 1 falls on a weekend or state holiday in a given year, an LEA shall submit the report on the next business day following the date specified in Table 1.

TABLE 1  
Reporting Deadlines

Report	Deadline
Adult Education - Final Report - Prior Year	July 15
Adult Education - Final Audit Report - Prior Year	September 15
Annual Assurance Letter - R277-108	October 1
Annual Financial Report - Prior Year	October 1
Annual Program Report - Prior Year	October 1
Bus Driver Credentials Report - Current Year	December 15
Bus Inventory Report	July 15
CACTUS - Final Update - Current Year	June 29
CACTUS - Midyear Update - Current Year	November 15
Charter School Projections	September 15
Classified Personnel Report - Prior Year	July 15
Community Development and Renewal Agency Representative List	February 28
Driver Education Report - Prior Year	July 15
Emergency Preparedness Compliance Statement - Prior Year	July 1
Emergency Response Plan - Prior Year	July 1
Enrollment and Transfer Student Documentation Audit - Current Year	November 1
ESEA Choice and Supplemental Services Report - Prior Year	July 15
Financial Audit Report - Prior Year	November 30
Fire Drill Compliance Statement - Prior Year	July 1
Free and Reduced Price Lunch October 31 Enrollment Survey - Current Year	November 15
Home Schooled Students Report - Prior Year	July 15
Immunization Status Report (to Utah Department of Health) - Final	June 15
Immunization Status Report - Current Year	November 1
LEA Budget - Next Fiscal Year	July 15
LEA Budget - Next Fiscal Year - Planned Truth in Taxation Process	August 15
Membership Audit Report - Prior Year	September 15
Negotiations Report - Current Year	November 1
Other Emergency (Earthquake and School Violence) Drills Compliance Statement - Prior Year	July 1
Pupil Transportation - Schedule A1 (Miles, Minutes, Students Report) - Current Year Projected	November 1
Pupil Transportation Schedule B (Miscellaneous Expenditure Report) - Prior Year	November 1
Pupil Transportation Statistics Year End Report- Prior Year	July 15
Redevelopment Agency Taxing Entity Committee Representative List	February 28
UTREx - Complete December 1 Update - Current Year	December 1 [140]
UTREx - Complete October 1 Update -	

Current Year	October 1 [140]
UTREx - Revised December 1 Update - Current Year - Significant Errors Identified by the Superintendent or LEA	December 15
UTREx - Revised October 1 Update - Current Year	
Significant Errors Identified by the Superintendent or LEA	October 15
UTREx - Final Comprehensive Update - Prior Year	July 7

**R277-484-4. Adjustments to Deadlines.**

(1) An LEA may seek an extension of a deadline to ensure continuation of funding and provide more accurate information to allocation formulas by submitting a written request to the Superintendent no later than 24 hours before the specified deadline in Table 1.

(2) An extension request shall include:

(a) The reasons for the extension request;

(b) The signatures of the LEA business administrator and superintendent or director; and

(c) The date by which the LEA proposes to submit the report.

(3) If an LEA requests an extension under Subsection (1), the Superintendent may do any of the following after taking into consideration the pattern of LEA compliance with reporting deadlines and the urgency of the need for the data to be submitted:

(a) Approve the request and allow the MSP fund transfer process to continue; or

(b) Deny the request and stop the MSP fund transfer process; or

(c) Recommend corrective action to the Board in accordance with Rule R277-114.

(4) If, after receiving an extension, an LEA fails to submit the report by the designated date, the MSP fund transfer process shall be stopped and the procedures described in Section R277-484-7 shall apply.

(5) An extension shall apply only to the specific reports and dates for which an extension was requested.

(6) The Superintendent may not extend deadlines for the following reports:

(a) AFR;

(b) APR;

(c) Mid-year or Final CACTUS updates;

(d) a Financial Audit Report; or

(e) any UTREx updates.

**R277-484-5. Official Data Source and Required LEA Compatibility.**

(1) The Superintendent shall load operational data collections into the Data Warehouse as of the submission deadlines specified.

(2) The Data Warehouse shall be the sole official source of data for annual:

(a) school performance reports required under Section 53E-5-204;

(b) determination of state and federal accountability reports; and

(c) submission of data files to the U.S. Department of Education via EDEN.

(3)(a) An LEA shall use an SIS approved by the Superintendent to ensure compatibility with Board data collection systems.

(b) The Superintendent shall maintain a list of approved student information systems.

(4) Prior to the Superintendent granting approval for an LEA to initiate or replace a student information system that was not previously approved, the LEA shall:

(a) send written request for approval to the Superintendent no later than November 15 of the year prior to the year the LEA proposes to use the SIS for production software;

(b) submit documentation to the Superintendent that the new or modified student information system is SIF certified;

(c) submit documentation to the Superintendent that an SIF agent can meet the UTREx specifications profile for Vertical Reporting Framework (VRF) and eTranscripts;

(d) ensure that a new student information system can generate valid data collection by submitting an actual file to the Superintendent for review;

(e) ensure that the new student information system can generate the Statewide Student Identifier (SSID) request file by submitting an actual file to the Superintendent for review.

(5)(a) The Superintendent shall review documentation and grant or deny an LEA submission under Subsection (4) within 30 calendar days.

(b) An approved replacement system shall run in parallel to a state-approved system for a period of at least three months and be able to generate duplicate reports to previously generated information.

(6) An LEA shall submit daily updates to the Board Clearinghouse using all School Interoperability Framework (SIF) objects defined in the UTREx Clearinghouse specification.

(7) An LEA shall electronically submit all public high school transcripts requested by a public education post-secondary school if the post-secondary school is capable of receiving transcripts through the electronic transcript service designated by the Superintendent.

(8) No later than June 30, 2017, an LEA shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack is integrated into the LEA's SIS and is made available to a student's parent or guardian and an authorized LEA user in an easily accessible viewing format.

(9) Failure to comply with any of the requirements of this Section R277-484-5 may result in a recommendation for corrective action in accordance with Rule R277-114.

**R277-484-6. Adjustments to Summary Statistics Based on Compliance Audits.**

(1) For the purpose of allocating MSP funds and projecting enrollment, the Superintendent may modify LEA level aggregate membership and fall enrollment counts on the basis of the values in the Membership and Enrollment audit reports, respectively, when an audit report review team agrees that an adjustment is warranted by the evidence of an audit.

(2) An audit report review team shall make a determination under Subsection (1) within 60 working days of the authorized audit report deadline.

(3) The Superintendent may only adjust values downward if an audit report is received after an authorized deadline.

**R277-484-7. Financial Consequences of Failure to Submit Reports on Time.**

(1) If an LEA fails to submit a report by its deadline as specified in Table 1, consistent with procedures outlined in R277-114, the Superintendent may recommend corrective action, including

stopping the LEA's MSP funds transfer process, unless the LEA has obtained an extension of the deadline in accordance with the procedure described in Section R277-484-4.

(2) The Superintendent may recommend loss of up to 1.0 WPU from Kindergarten or Grades 1-12 programs, depending on the grade level and aggregate membership of the student, in the current year Mid Year Update for each student whose prior year immunization status was not accounted for in accordance with Utah Code 53G-9-302 as of June 15.

**KEY: data standards, reports, deadlines**

**Date of Enactment or Last Substantive Amendment:** 2021|~~August 7, 2017~~

**Notice of Continuation:** June 6, 2017

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-301(d) and (e); 53E-3-401; 53E-3-401(8)(a); 53E-3-511(8)2

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-490	Filing No. 53325

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R277-490. Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to clarify that a local education agency (LEA) or university recipient is not entitled to recover indirect costs under the BTSALP.
<b>4. Summary of the new rule or change:</b>
The amendment in Subsection R277-490-5(6) clarifies indirect costs to the BTSALP may not be charged by a LEA grant recipient.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. This rule change only affects BTSALP grant recipients.

**B) Local governments:**

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. This rule change prohibits BTSALP grantees from charging indirect costs to the program. Therefore, to cover these types of costs, LEAs may need to utilize other funding sources.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. This rule change only affects BTSALP grant recipients.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 change is not expected to have any fiscal impact 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.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This rule change only affects BTSALP grant recipients.

**F) Compliance costs for affected persons:**

There are no significant changes to compliance costs for affected persons. This rule change prohibits BTSALP grantees from charging indirect costs to the program. Therefore, to cover these types of costs, LEAs may need to utilize other funding sources.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 rule change is not expected to have any fiscal impact 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

rule change has no fiscal impact on LEAs and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Section 53F-2-506	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	03/31/2021
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<b>10. This rule change MAY become effective on:</b>	04/07/2021
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/11/2021
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**R277. Education, Administration.**

**R277-490. Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP).**

**R277-490-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

- (c) Section 53F-2-506, which directs the Board to establish a grant program for LEAs to hire qualified arts professionals to encourage student participation in the arts in Utah public schools and embrace student learning in Core subject areas.

(2) The purpose of this rule is:

- (a) to implement the BTSALP model in public schools through LEAs and consortia that submit grant applications to hire arts educators who are paid on an LEA's licensed teacher salary schedule;
- (b) to distribute funds to LEAs to purchase supplies and equipment as provided for in Subsections 53F-2-506(4) and (6);
- (c) to fund activities at endowed universities to provide pre-service training, professional development, research, and leadership for arts educators and arts education in Utah public schools; and
- (d) to appropriately monitor, evaluate, and report programs and program results.

**R277-490-2. Definitions.**

- (1) "Arts equipment and supplies" includes musical instruments, recording and play-back devices, cameras, projectors, computers to be used in the program, CDs, DVDs, teacher reference books, and art-making supplies.
- (2) "Arts Program coordinator" or "coordinator" means an individual, employed full-time, who is responsible to:
  - (a) coordinate arts programs for an LEA or consortium;
  - (b) inform arts teachers;
  - (c) organize arts professional development including organizing arts local learning communities;
  - (d) oversee, guide, and organize the gathering of assessment data;
  - (e) represent the LEA or consortium arts program; and
  - (f) provide general leadership for arts education throughout the LEA or consortium.
- (3) "Beverley Taylor Sorenson Elementary Arts Learning Program model," "BTSALP model," or "Program" means a program in grades K-6 including the following components:
  - (a) a qualified arts educator to work collaboratively with the regular classroom teacher to deliver quality, sequential, and developmental arts instruction in alignment with the state fine arts core standards;
  - (b) regular collaboration between the classroom teacher and arts educator in planning arts integrated instruction; and
  - (c) other activities that may be proposed by an LEA on a grant application and approved by the Board.
- (4) "Endowed university" has the same meaning as defined in Subsection 53F-2-506(1)(b).
- (5) "Highly qualified school arts program educator" or "arts educator" means [-]an educator who holds a current:
  - (a) Associate, Professional, or LEA Specific educator license as described in Rule R277-301; and
  - (b)(i) k-12 art form specific endorsement;
  - (ii) elementary specialist art form specific endorsement; or
  - (iii) qualifications for a state approved endorsement plan to complete the endorsement requirements.
- (6) "Matching funds" means funds that equal at least 20% of the total costs for salary plus benefits incurred by an LEA or consortium to fund the LEA or consortium's arts educator.

**R277-490-3. Arts Educator Grant Program - LEA Consortium.**

(1) LEAs may form a consortium to employ arts educators appropriate for the number of students served.

NOTICES OF PROPOSED RULES

(2) An LEA or a consortium of LEAs may submit a grant request consistent with time lines provided in this rule.

(3) An LEA or a consortium shall develop its proposal consistent with the BTSALP model outlined under Subsection R277-490-2(3).

(4) A consortium grant request shall explain the necessity or greater efficiency and benefit of an arts educator serving several elementary schools within a consortium of LEAs.

(5) A consortium grant shall explain a schedule for each specialist to serve the group of schools within several of the LEAs similarly to an arts educator in a single school.

(6) A consortium grant request shall provide information for a consortium arts educator's schedule that minimizes the arts educator's travel and allows the arts educator to be well integrated into several schools.

(7) An LEA's grant application shall include the collaborative development of the application with the LEA's partner endowed university and school community councils if matching funds come from School LAND Trust Funds.

**R277-490-4. Arts Educator Grant Program Timelines.**

(1) An LEA or a consortium shall complete a program grant application annually.

(2) The Board shall grant funding priority to renewal applications.

(3) An LEA or consortium shall submit a completed application requesting funding to the Superintendent by May 1 annually.

(4) The Board shall designate an LEA or a consortium for funding no later than June 1 annually.

**R277-490-5. Distribution of Funds for Arts Educator.**

(1) A program LEA or consortium shall submit a projection of salaries, including benefits, of all arts educators the LEA or consortium expects to employ in the coming school year by May 1 annually.

(2) A program LEA or consortium shall submit complete information of salaries, including benefits, of all arts educators employed by the LEA or consortium no later than September 30 annually.

(3)(a) If a program LEA or consortium provides matching funds, the Superintendent shall distribute funds to program grant recipients annually up to 80% of the salaries plus benefits for approved hires in the program, and not to exceed the amount projected in accordance with Subsection (1), consistent with Subsection 53F-2-506(5).

(b) The Superintendent shall determine the exact percentage awarded following review of available program funding and exact costs for continuing programs.

(c) The Superintendent may not award funds to an LEA for a new arts educator unless program funding provides 80% funding for all continuing grants.

(4) The Superintendent shall annually set the upper limit on a grant amount, which may not exceed the increase in the WPU.

(5) A grant recipient shall provide matching funds for each arts educator funded through the program.

(6) Notwithstanding Rule R277-424, an LEA grant recipient may not charge indirect costs to the BTSALP.

**R277-490-6. Distribution of Funds for Arts Educator Supplies.**

(1) The Board shall distribute funds for arts educator supplies to an LEA or consortium as available.

(2) A grant recipient shall distribute funds to participating schools as provided in the approved LEA or consortium grant and consistent with LEA procurement policies.

(3) A grant recipient shall require arts educators to provide adequate documentation of arts supplies purchased consistent with the grant recipient's plan, this rule, and the law.

(4) Summary information about effective supplies and equipment shall be provided in the school or consortium evaluation of the program.

**R277-490-7. LEA or Consortium Employment of Arts Coordinators.**

(1)(a) An LEA or consortium may apply for funds to employ arts coordinators in the LEA or consortium.

(b) These are intended as small stipends for educators who are already employed in rural districts to help support arts education and the implementation of BTSALP.

(2) An applicant shall explain:

(a) how an arts coordinator will be used, consistent with the BTSALP model;

(b) what requirements an arts coordinator must meet; and

(c) what training will be provided, and by whom.

(3) The Superintendent shall notify an LEA that receives a grant award no later than June 1 annually.

**R277-490-8. Endowed University Participation in the BTSALP.**

(1) The Superintendent may consult with endowed chairs and integrated arts advocates regarding program development and guidelines.

(2) An endowed university may apply for grant funds to fulfill the purposes of this program, which include:

(a) delivery of high quality professional development to participating LEAs;

(b) the design and completion of research related to the program;

(c) providing the public with elementary arts education resources; and

(d) other program related activities as may be included in a grant application and approved by the Board.

(3) An endowed university grant application shall include documentation of collaborative development of a plan for delivery of high quality professional development to participating LEAs.

(4) The Superintendent shall determine the LEAs assigned to each endowed university.

(5) The Board may award no more than 10% of the total legislative appropriation for grants to endowed universities.

(6) Notwithstanding Rule R277-424, a higher education grant recipient may not charge indirect costs to the BTSALP.

~~(6)7~~ The Superintendent shall monitor the activities of the grantees to ensure compliance with grant rules, fulfillment of grant application commitments, and appropriate fiscal procedures.

~~(7)8~~ An endowed university shall cooperate with the Superintendent in the monitoring of its grant.

~~(8)9~~ An endowed university that receives grant funds shall consult, as requested by the Superintendent, in the development and presentation of an annual written program report as required in statute.

**R277-490-9. LEAs Cooperation with the Superintendent for BTSALP.**

(1) A BTSALP staff member may visit a school receiving a grant to observe implementation of the grant.

(2) A BTSALP school shall cooperate with the Superintendent to allow visits of members of the Board, legislators, and other invested partners to promote elementary arts integration.

(3) An LEA shall accurately report the number of students impacted by the program grant and report on the delivery systems to those students as requested by the Superintendent.

(4)(a) An LEA found to be out of compliance with the terms of the grant will be notified within 30 days of the discovery of non-compliance.

(b) An LEA found to be non-compliant will be given 30 days to correct the issues.

(c) If non-compliance is not resolved within that time frame, an LEA is subject to losing the grant funds for the school or schools found to be non-compliant.

**KEY:** arts programs, endowed universities, grants, public schools

**Date of Enactment or Last Substantive Amendment:** ~~2021~~ **July 9, 2020**

**Notice of Continuation:** January 12, 2018

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401(4); 53F-2-506

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-505	Filing No. 53324

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-505. Education Leadership License Areas of Concentration and Programs
<b>3. Purpose of the new rule or reason for the change:</b>
The Board's adoption of Rule R277-305 in August 2019 renders Rule R277-505 obsolete.

<b>4. Summary of the new rule or change:</b>
The rule is being repealed due to the passage of Rule R277-305, which renumbered and recodified provisions included in Rule R277-505. There will be no changes because requirements have been moved to the new rule, and this rule is repealed in its entirety.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This proposed repeal is not expected to have independent fiscal impact on state government revenues or expenditures. The Board's adoption of Rule R277-305 in August 2019 renders Rule R277-505 obsolete by incorporating these topics into that rule. Therefore, Rule R277-505 is being repealed.
<b>B) Local governments:</b>
This proposed repeal is not expected to have independent fiscal impact on local governments' revenues or expenditures. The Board's adoption of Rule R277-305 in August 2019 renders Rule R277-505 obsolete by incorporating these topics into that rule. Therefore, Rule R277-505 is being repealed.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This proposed repeal is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The Board's adoption of Rule R277-305 in August 2019 renders Rule R277-505 obsolete by incorporating these topics into that rule. Therefore, Rule R277-505 is being repealed.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 repeal is not expected to have any fiscal impact 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.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>

This proposed repeal is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The Board's adoption of Rule R277-305 in August 2019 renders Rule R277-505 obsolete by incorporating these topics into that rule. Therefore, Rule R277-505 is being repealed.

**F) Compliance costs for affected persons:**

There are no compliance costs for affected persons. The Board's adoption of Rule R277-305 in August 2019 renders Rule R277-505 obsolete by incorporating these topics into that rule. Therefore, Rule R277-505 is being repealed.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 repeal is not expected to have any fiscal impact 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 repeal has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Section 53E-6-201	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/16/2021
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**R277. Education, Administration.**

~~**R277-505. Education Leadership License Areas of Concentration and Programs.**~~

~~**R277-505-1. Authority and Purpose.**~~

- ~~(1) This rule is authorized by:~~
  - ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;~~
  - ~~(b) Section 53E-6-201, which permits the Board to issue certificates for educators; and~~
  - ~~(c) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.~~
- ~~(2) The purpose of this rule is to:~~
  - ~~(a) specify the requirements for education leadership license areas of concentration;~~
  - ~~(b) provide standards and procedures for district specific and charter school specific education leadership license areas of concentration; and~~
  - ~~(c) specify the requirements for an education leadership preparation program that must be met to receive Board approval of the program.~~

~~**R277-505-2. Definitions.**~~

- ~~(1) "Education leadership license area of concentration" means the initial credential issued by the Board that authorizes a holder to be employed in a position that requires the license holder to administer educational programs or supervise educators in improving educational practices and outcomes within the public education system, including the administration and supervision of a school.~~
- ~~(2) "Internship" means an on-site supervised experience in an accredited public or private school or other approved location.~~
- ~~(3) "Level 2 license" means a Utah professional educator license issued to an applicant after the Level 2 applicant:~~
  - ~~(a) completes all requirements for a Level 1 license;~~
  - ~~(b) completes the requirements under R277-522 for a teacher whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public or accredited private school;~~
  - ~~(c) completes:~~
    - ~~(i) at least three years of successful education experience in a Utah public LEA or accredited private school; or~~
    - ~~(ii)(A) one year of successful education experience in a Utah public LEA or accredited private school; and~~
    - ~~(B) at least three years of successful education experience in a public LEA or accredited private school outside of Utah; and~~

- ~~(d) completes additional requirements established by law or rule;~~
- ~~(4) "Level 3 license" means a Utah professional educator license issued to an educator who:~~
  - ~~(a) holds a current Utah Level 2 license; and~~
  - ~~(b) receives:~~
    - ~~(i) National Board Certification;~~
    - ~~(ii) a doctorate in:~~
      - ~~(A) education; or~~
      - ~~(B) a field related to a content area in a unit of the public education system or an accredited private school; or~~
    - ~~(iii)(A) a Speech Language Pathology area of concentration; and~~
    - ~~(B) currently holds American Speech Language Hearing Association (ASHA) certification.~~
  - ~~(5) "LEA governing board" means:~~
    - ~~(a) for a school district, the school district's local school board; or~~
    - ~~(b) for a charter school, the charter school's charter school governing board.~~

~~**R277-505-3. Education Leadership License Area of Concentration Positions.**~~

- ~~(1) An LEA shall determine the various positions and settings in which an individual must hold an Education Leadership license area of concentration in accordance with the requirements of Sections:~~
  - ~~(a) 53G-5-405;~~
  - ~~(b) 53G-4-301;~~
  - ~~(c) 53E-6-306;~~
  - ~~(d) 53E-6-304; and~~
  - ~~(e) this Board rule.~~
- ~~(2) An LEA's governing board shall adopt a policy, in an open and public meeting, that describes the required licenses or credentials for administrators in the LEA's schools.~~

~~**R277-505-4. Education Leadership License Area of Concentration Requirements.**~~

- ~~(1) Except as provided in Subsection (2), an applicant for an education leadership license area of concentration may be granted an education leadership license area of concentration if the applicant:~~
  - ~~(a) holds a master's degree or more advanced degree;~~
  - ~~(b) passes a Board approved education leadership test; and~~
  - ~~(c)(i) completes a Board approved education leadership licensure program; or~~
    - ~~(ii) subject to Subsection (3), holds an education leadership license valid in another state under the NASDTEC interstate agreement.~~
- ~~(2) The Board may grant an education leadership license area of concentration to an applicant for:~~
  - ~~(a) exceptional professional experience, including non-education experience;~~
  - ~~(b) exceptional education accomplishments; or~~
  - ~~(c) other noteworthy experiences or circumstances.~~
- ~~(3) An applicant that holds an education leadership license valid in another state under the NASDTEC interstate agreement as described in Subsection (1)(c)(ii) shall complete:~~
  - ~~(a) at least one year of education leadership experience in that state; or~~
  - ~~(b) an education leadership internship substantially equivalent to the internship required for Board approved education leadership licensure programs as described in this rule.~~

~~R277-505-5. Standards for the Approval of Programs for Education Leadership Licensure.~~

~~(1) The Board may approve the education leadership licensure preparation program of an institution of higher education if the program:~~

~~(a) prepares candidates to meet the Utah educational leadership Standards described in R277-530;~~

~~(b) subject to Subsection (2), establishes entry requirements designed to ensure that only high quality individuals enter the licensure program;~~

~~(c) includes coursework specifically designed to prepare candidates to:~~

~~(i) properly utilize data, including student performance data, to evaluate educator and school performance and provide actionable information to educators to improve instruction;~~

~~(ii) facilitate educator use of technology to support and meaningfully supplement the learning of students in traditional, online-only, and blended classrooms~~

~~(iii) collaborate with all stakeholder groups to create a shared vision, mission, and goals for a school;~~

~~(iv) communicate effectively with parents, community groups, staff, and students;~~

~~(v) recognize effective and ineffective instructional practice in order to ensure authentic learning and assessment experiences for all students;~~

~~(vi) counsel educators in relation to the educator's evaluation, professional learning, and student performance to improve the educator's practice;~~

~~(vii) ensure a safe, secure, emotionally protective and healthy school environment, including the prevention of bullying and youth suicide; and~~

~~(viii) connect management operations, policies, and resources to the vision and values of the school; and~~

~~(d) includes a minimum of 50 hours of clinical experience in elementary and secondary schools throughout program coursework.~~

~~(2) Beginning on January 1, 2017, the entry requirements described in Subsection (1)(b) shall require an individual entering a Board approved education leadership licensure program to:~~

~~(a) clear a USOE fingerprint background check;~~

~~(b) hold a Level 2 or 3 Utah educator license;~~

~~(c) have been deemed effective or higher by:~~

~~(i) an evaluation system meeting the standards of R277-531;~~

~~or~~

~~(ii) the LEA's equivalent on the applicant's most recent evaluation;~~

~~(d) have a recommendation from:~~

~~(i) the individual's immediate administrative supervisor; or~~

~~(ii) an LEA level administrator with knowledge regarding the individual's potential as an education leader; and~~

~~(e) pass an interview conducted by the program to measure the potential of the individual as an education leader.~~

~~(3) A Board approved education leadership licensure program may waive the entrance requirements described in Subsections (2)(b) through (e) based on program established guidelines for no more than ten percent of an incoming cohort.~~

~~(4) A Board approved education leadership licensure program shall ensure that each incoming cohort after January 1, 2017 has a mean post secondary G.P.A. of 3.0 or higher.~~

~~(5) A Board approved education leadership licensure program is exempt from the entrance requirements in R277-502-3(C)(6).~~

~~(6) For a program applicant accepted on or after January 1, 2017, a Board approved education leadership licensure program shall require the following opportunities for a program applicant to demonstrate application of knowledge and skills gained through the program in a culminating experience:~~

~~(a) analyzing school assessment data from common formative assessments, summative assessments, standardized assessments, and interim or benchmark assessments with school staff and with individual teachers;~~

~~(b) participating in all aspects of at least two teacher evaluations using an evaluation system that meets the requirements of:~~

~~(i) R277-531; or~~

~~(ii) the LEA's equivalent;~~

~~(c) participating in all aspects of at least one evaluation of a classified employee;~~

~~(d) planning, or participating in the planning of, organizing, conducting, and evaluating the effectiveness of a professional development activity for school staff;~~

~~(e) participating in multiple meetings of more than one school based learning team;~~

~~(f) participating in School Community Council meetings including the annual development and evaluation of the School Improvement Plan or the School LAND Trust plan;~~

~~(g) participating in multiple classroom observations and walk-throughs;~~

~~(h) participating in multiple IEP and 504 accommodation plan meetings in support of or as the LEA representative;~~

~~(i) handling multiple cases of student discipline referred to the school office for more than one type of misconduct;~~

~~(j) supervising a variety of after school activities and monitoring the process for collecting and handling fees and gate receipts;~~

~~(k) participating in the school's screening process, including interviews and the notification of successful and unsuccessful applicants; and~~

~~(l) any additional specific experiences as defined by the program.~~

~~(7) A program applicant shall complete the competencies described in Subsection (6) by participating in one of the following culminating experiences:~~

~~(a) employment in an education leadership position where the educator:~~

~~(i) supervises other educators and that meets the following requirements:~~

~~(ii) is employed half time or more in the position for a full school year;~~

~~(iii) is mentored by a licensed education leader that has been deemed effective or higher by:~~

~~(A) an evaluation meeting the standards of R277-531; or~~

~~(B) the LEA's equivalent on the educator's most recent evaluation;~~

~~(iv) works a minimum of 100 hours in a minimum of two hour blocks during the regular school day and the regular school year in an elementary school where the educator is not employed if the educator is not employed as an elementary principal or vice principal; and~~

~~(v) works a minimum of 100 hours in a minimum of two hour blocks during the regular school day and the regular school year in a secondary school where the educator is not employed if the educator is not employed as a secondary principal or vice principal; or~~

~~(b) an internship where the educator:~~

~~(i) works a minimum of 400 hours of supervised clinical experiences, excluding additional hours required by a university for seminars or discussion sessions within the required hours;~~  
~~(ii) works a minimum of 300 of the required hours in a school setting which offers the opportunity of working with:~~  
~~(A) students, faculty, classified employees, parents, and patrons; and~~  
~~(B) a licensed principal that has been deemed effective or higher by:~~  
~~(I) an evaluation system meeting the standards of R277-531; or~~  
~~(II) the LEA's equivalent on the principal's most recent evaluation;~~  
~~(iii) works the remainder of the required internship hours in a school district office; at the USOE; with a Board-approved agency; or in another Board-approved program or school setting;~~  
~~(iv) works the majority of the school-level supervised experience completed during the regular school day and in concentrated blocks of a minimum of two hours each when students are present;~~  
~~(v) works a minimum of 150 hours in an elementary school;~~  
~~(vi) works a minimum of 150 hours in a secondary school; and~~  
~~(vii) works a minimum of 32 hours in concentrated blocks of a minimum of eight hours each during the regular school day and the regular school year in a school in which the intern is not employed as a teacher.~~  
~~(8) The Superintendent may approve a culminating experience proposal that does not meet the requirements of Subsection (6) to pilot innovative or alternative practice if:~~  
~~(a) a Board-approved education leadership licensure program and a partner LEA submit a joint proposal to the Superintendent; and~~  
~~(b) the proposal is for a maximum of two years.~~  
~~(9) The Superintendent shall report the results of a pilot described in Subsection (8)(a) to the Board after completion.~~

~~**R277-505-6. LEA-specific Competency-based License for Education Leadership Area of Concentration.**~~

~~An LEA may request an LEA-specific competency-based license for an education leadership area of concentration under Subsection R277-503-4D for an individual if the individual has successfully completed:~~

- ~~(1) a master's degree or more advanced degree; and~~
- ~~(2) a Board-approved education leadership test.~~

~~**R277-505-7. Education Leadership Tier Two Credentials.**~~

~~(1) The Superintendent shall work with LEAs and Board-approved licensure programs to create a tier two principal credential that may be earned by an individual employed as a principal or vice-principal.~~  
~~(2) In the first year of employment as an education leader, an individual shall complete a one school year mentoring experience established and supervised by the employing LEA in consultation with a Board-approved education leadership program that includes criteria identified in R277-522-3A and B, as applied to education leaders.~~  
~~(3) An individual employed for the first time as a Utah school principal or vice principal after June 30, 2019 in a school district shall complete the tier two principal credential within the first three years of employment as a principal or vice principal.~~  
~~(4) An individual holding a Utah Administrative/Supervisory (K-12) license area of concentration shall be considered to hold an education leadership license area of concentration and the tier two principal credential for all licensure purposes.~~

~~(5) The Superintendent shall work with LEAs and Board-approved licensure programs to develop additional tier two leadership credentials intended to provide specialized skills for individuals holding an education leadership license area of concentration.~~

~~**KEY: professional competency, teacher certification, accreditation**~~  
~~**Date of Enactment or Last Substantive Amendment: May 23, 2016**~~  
~~**Notice of Continuation: March 30, 2016**~~  
~~**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6; 53E-3-401**~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-506	Filing No. 53326

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-506. School Psychologists, School Social Workers, School Counselors, Communication Disorders (Audiologists), Speech-Language Pathologists, and Speech-Language Technicians Licenses and Programs
<b>3. Purpose of the new rule or reason for the change:</b>
The Board's adoption of Rule R277-306 supersedes Rule R277-506 and renders this rule obsolete.
<b>4. Summary of the new rule or change:</b>
The rule is being repealed due to the passage of Rule R277-306, which renumbered and recodified provisions included in Rule R277-506. There will be no changes because requirements have been moved to the new rule, and this rule is repealed in its entirety.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This proposed repeal is not expected to have independent fiscal impact on state government revenues or expenditures. The Board adopted Rule R277-306, which renumbered and recodified provisions included in Rule R277-506. Therefore, Rule R277-506 is no longer needed and is being repealed.

**B) Local governments:**

This proposed repeal is not expected to have independent fiscal impact on local governments' revenues or expenditures. The Board adopted Rule R277-306, which renumbered and recodified provisions included in Rule R277-506. Therefore, Rule R277-506 is no longer needed and is being repealed.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

This proposed repeal is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The Board adopted Rule R277-306, which renumbered and recodified provisions included in Rule R277-506. Therefore, Rule R277-506 is no longer needed and is being repealed.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 repeal is not expected to have any fiscal impact 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.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This proposed repeal is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The Board adopted Rule R277-306, which renumbered and recodified provisions included in Rule R277-506. Therefore, Rule R277-506 is no longer needed and is being repealed.

**F) Compliance costs for affected persons:**

There are no compliance costs for affected persons. The Board adopted Rule R277-306, which renumbered and recodified provisions included in Rule R277-506. Therefore, Rule R277-506 is no longer needed and is being repealed.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 repeal is not expected to have any fiscal impact 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 rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-401(4)
----------------------	-------------------------

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	12/12/2021
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**R277. Education, Administration.**

~~[R277-506. School Psychologists, School Social Workers, School Counselors, Communication Disorders (Audiologists), Speech-Language Pathologists, and Speech-Language Technicians Licenses and Programs.~~

**R277-506-1. Definitions.**

- ~~\_\_\_\_\_ A. "Board" means the Utah State Board of Education.~~
- ~~\_\_\_\_\_ B. "Career information delivery systems" means the state approved computer software program which provides specific occupation and career planning information, scholarship information, and information about postsecondary institutions.~~
- ~~\_\_\_\_\_ C. "Communication Disorders license area of concentration" means the area of content required for an audiologist to provide services to individuals from birth through age 22. Communication Disorders area of concentration carries an audiology endorsement.~~
- ~~\_\_\_\_\_ D. "Consultation" means consulting with parents, teachers, other educators, and community agencies regarding strategies to help students.~~
- ~~\_\_\_\_\_ E. "Guidance curriculum planning" means structured, developmental experiences presented systematically through classroom and group activities which are organized in areas of self knowledge, education and occupational exploration, and career planning directed toward meeting the Board approved student competencies.~~
- ~~\_\_\_\_\_ F. "LEA" means local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~
- ~~\_\_\_\_\_ G. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule.~~
- ~~\_\_\_\_\_ H. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience.~~
- ~~\_\_\_\_\_ I. "Practicum" means a practical, usually simulated, application of previously studied theory, monitored by a professional in the field. The experience shall include at least the following subject matter: student assessment and interpretation, guidance curriculum planning, individual and group counseling, individual education and occupational planning, and use of career information delivery systems.~~
- ~~\_\_\_\_\_ J. "Speech Language Pathologist (SLP) license" means a Speech Language Pathologist area of concentration required for teaching students with communication disorders, birth through age 21. A Speech Language Pathologist license carries a Speech Language Pathologist endorsement.~~
- ~~\_\_\_\_\_ K. "Speech Language Technician (SLT) license area of concentration" means an area of concentration in which an individual has completed a Board approved bachelor's degree in communication disorders at an accredited higher education institution and additional training as required by the USOE.~~
- ~~\_\_\_\_\_ L. "Temporary license" means a designation that an applicant has met all requirements of Section 3A(1), below.~~
- ~~\_\_\_\_\_ M. "USOE" means the Utah State Office of Education.~~

**R277-506-2. Authority and Purpose.**

~~\_\_\_\_\_ A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Subsections 53E-3-501(1)(a), which requires the Board to make rules regarding the qualification and certification of educators and ancillary personnel who provide direct student services,~~

NOTICES OF PROPOSED RULES

and Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

- \_\_\_\_\_ B. The purpose of this rule is to specify:
  - \_\_\_\_\_ (1) the standards for obtaining licenses and other credentials issued by the Board for employment in the public schools as school psychologists, school social workers, school counselors, audiologists, speech language pathologists, and speech language technicians; and
  - \_\_\_\_\_ (2) the standards which shall be met by a post secondary institution in order to receive Board approval of its program for school psychologists, school social workers, school counselors, audiologists, speech language pathologists, and speech language technicians.

**R277-506-3. School Psychologist.**

- \_\_\_\_\_ A. A candidate for the Level 1 School Psychologist License area of concentration shall have:
  - \_\_\_\_\_ (1) completed at least an approved masters degree or equivalent certification program consisting of a minimum of 60 semester (90 quarter) hours in school psychology at an accredited institution;
  - \_\_\_\_\_ (2) demonstrated competence in the following:
    - \_\_\_\_\_ (a) understanding the organization, administration, and operation of schools, the major roles of personnel employed in schools, and curriculum development;
    - \_\_\_\_\_ (b) directing psychological and psycho educational assessments and intervention including all areas of exceptionality;
    - \_\_\_\_\_ (c) individual and group intervention and remediation techniques, including consulting, behavioral methods, counseling, and primary prevention;
    - \_\_\_\_\_ (d) understanding the ethical and professional practice and legal issues related to the work of school psychologists;
    - \_\_\_\_\_ (e) social psychology, including interpersonal relations, communications and consultation with students, parents, and professional personnel;
    - \_\_\_\_\_ (f) coordination and work with community school relations and multicultural education programs and assessment; and
    - \_\_\_\_\_ (g) the use and evaluation of tests and measurements, developmental psychology, affective and cognitive processes, social and biological bases of behavior, personality, and psychopathology;
  - \_\_\_\_\_ (3) completed a one school year internship or its equivalent with a minimum of 1200 clock hours in school psychology. At least 600 of the 1200 clock hours shall be in a school setting or a setting with an educational component; and
  - \_\_\_\_\_ (4) been recommended by an institution whose program of preparation for school psychologists has been approved by the Board.

\_\_\_\_\_ B. Current certification as a nationally certified school psychologist by the National School Psychology Certification Board shall be accepted in lieu of requirements for the Level 1 License.

- \_\_\_\_\_ C. A candidate for the Level 2 School Psychologist License area of concentration shall:
  - \_\_\_\_\_ (1) satisfy requirements for the Level 1 school psychologist License;
  - \_\_\_\_\_ (2) have completed at least two years of successful experience as a school psychologist under a Level 1 School Psychologist License area of concentration or its equivalent; and
  - \_\_\_\_\_ (3) have been recommended by the employing LEA with consultation from a teacher education institution.

\_\_\_\_\_ D. The Board may approve the school psychologist preparation program of an institution if the program meets the standards prescribed in the Standards for State Approval of Teacher Education for school psychologists. These standards were developed by school psychologists in Utah schools and recommended to the Board by SACTE and are available from the USOE.

**R277-506-4. School Social Workers.**

- \_\_\_\_\_ A. A candidate for the Level 1 School Social Worker License area of concentration shall have:
  - \_\_\_\_\_ (1) completed a Board approved program for the preparation of school social workers including a Master of Social Work degree from an accredited institution;
  - \_\_\_\_\_ (2) demonstrated competence in the following:
    - \_\_\_\_\_ (a) articulation of the role and function of the school social worker including relationships with other professional school and community personnel, organizations, and agencies;
    - \_\_\_\_\_ (b) the understanding of the organization, administration, and evaluation of a school social work program;
    - \_\_\_\_\_ (c) social work practice with individuals, families, and groups;
    - \_\_\_\_\_ (d) the development and interpretation on of a social history and psycho social assessment of the individual and the family system;
    - \_\_\_\_\_ (e) the analysis of family dynamics and experience in counseling and conflict management and resolution;
    - \_\_\_\_\_ (f) the communication and consultation of skills in working with the client, the family, the school staff, and community and social agencies;
    - \_\_\_\_\_ (g) the understanding of the teaching/learning environment;
    - \_\_\_\_\_ (h) the analysis of school law and child welfare issues;
    - \_\_\_\_\_ (i) the use of social work methods to facilitate the affective domain of education and the learning process; and
    - \_\_\_\_\_ (j) the knowledge pertaining to the cause and effects of social forces, cultural changes, stress, disability, disease, deprivation, neglect, and abuse on learning and on human behavior and development, and the effect of these forces on minorities of race, ethnicity, and class.
  - \_\_\_\_\_ (3) completed an approved school social work internship in a school setting or in an agency which includes a substantial amount of experience with children and contact with schools; and
  - \_\_\_\_\_ (4) been recommended by an institution whose program of preparation for social workers has been approved by the Board.
- \_\_\_\_\_ B. A candidate for the Level 2 Standard School Social Worker License area of concentration shall have:
  - \_\_\_\_\_ (1) completed at least three years of successful experience as a school social worker under a Level 1 School Social Worker License area of concentration or its equivalent; and
  - \_\_\_\_\_ (2) been recommended by the employing LEA with consultation from a teacher education institution.
- \_\_\_\_\_ C. The Board may approve the social worker program of an institution if the program meets the standards prescribed in the Standards for State Approval of Teacher Education for school social workers, developed and available as provided in R277-506-3D.

**R277-506-5. School Counselors.**

- \_\_\_\_\_ There are three levels of licensure for a K-12 school counselor:
  - \_\_\_\_\_ A. The Board shall issue a School Counselor Professional Educator Level 1 License:
    - \_\_\_\_\_ (1) to counselors who are beginning their professional careers who have completed an approved 600 hour field experience (400 hours if the applicant has completed two or more years of successful teaching experience as approved by USOE licensing); and
    - \_\_\_\_\_ (2) upon completion of an accredited counselor education program; or
    - \_\_\_\_\_ (3) to candidates applying for licensure under interstate agreements;
  - \_\_\_\_\_ B. School Counselor Professional Educator License Level 2 is:

~~(1) a license issued after satisfaction of all requirements for a Level 1 license and 3 years of successful experience as a school counselor in an accredited school in Utah; and~~  
~~(2) is valid for five years.~~  
~~C. Counseling Intern Temporary License is based on written recommendation from a USOE accredited program that a candidate:~~  
~~(1) is currently enrolled in the program;~~  
~~(2) has completed 30 semester hours of course work, including successful completion of a practicum; and~~  
~~(3) has skills to work in a school as an intern with supervision from the school setting and from the counselor education program.~~  
~~(a) Letters from the accredited program recommending eligible candidates shall be submitted to USOE at the beginning of each school year.~~  
~~(b) The Counseling Intern Temporary License is valid for the current year only and is not renewable.~~

**R277-506-6. Communication Disorders (Audiologist).**

~~A. A candidate shall complete a Board approved program for teaching students with communication disorders, which includes a master's degree, to qualify for the Communication Disorders license areas of concentration (audiologist).~~  
~~B. The Board may approve the preparation program for audiologists of a higher education institution if the program is aligned with the standards prescribed by ASHA.~~

**R277-506-7. Speech Language Pathologist (SLP).**

~~A. A candidate shall complete a Board approved program for teaching students with speech/language impairments to qualify for the SLP area of concentration. Such programs include:~~  
~~(1) a master's degree and Certificate of Clinical Competence (CCC); or~~  
~~(2) a master's degree; or~~  
~~(3) an international equivalent of a master's degree, earned in a communication disorders program, or equivalent after receiving a bachelor's degree at an accredited higher education institution.~~  
~~B. The Board may approve the preparation program for speech language pathologists of a higher education institution if the program is aligned with the standards prescribed by ASHA.~~  
~~C. The Board may license a candidate who has been accepted into a Board approved program and the candidate may be an SLT as described in R277-506-1K. The duties and responsibilities of the candidate may not exceed the candidate's current preparation.~~  
~~D. This area of concentration does not qualify the individual to provide services outside of the educational setting.~~

**R277-506-8. Speech Language Technician (SLT).**

~~A. a candidate shall complete a Board approved bachelor's degree in communication disorders and additional training as required by the USOE to qualify for the SLT area of concentration. A candidate shall complete additional professional development prior to or within the first year of receiving this area of concentration, in order to meet defined competencies.~~  
~~B. A SLT shall work under the supervision of a SLP who accepts full responsibility for the work of the SLT.~~  
~~C. The supervising SLP maintains full responsibility for the caseload of the SLP and any SLTs supervised by the SLP.~~  
~~D. A candidate for the SLT area of concentration may perform SLT functions and duties solely within the confines of the public school.~~

~~E. The SLT's function and duties shall conform to Utah's SLP/SLT Handbook, developed by the USOE, 2007.~~  
~~F. The performance of SLP and SLT duties shall be strictly consistent with Utah's SLP/SLT Handbook.~~  
~~G. An LEA may substitute documented clinical employment at the LEA's, for employment in education.~~

~~**KEY: educational program evaluations, professional competency, educator licensing**~~  
~~**Date of Enactment or Last Substantive Amendment: November 10, 2014**~~  
~~**Notice of Continuation: November 8, 2019**~~  
~~**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a); 53E-6-102; 53E-3-401(4)**~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-716	Filing No. 53327

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R277-716. Alternative Language Services for Utah Students
<b>3. Purpose of the new rule or reason for the change:</b>
The amendment to this rule is removing a teacher licensing reference that is no longer used.
<b>4. Summary of the new rule or change:</b>
This amendment removes the reference to the State Assessment Endorsement Program or SAEP because the program no longer exists.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The amendment is minor and should not result in programmatic changes.

**B) Local governments:**

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The amendment is minor and should not result in programmatic changes.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The amendment is minor and should not result in programmatic changes.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no 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 change is not expected to have any fiscal impact 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.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendment is minor and should not result in programmatic changes.

**F) Compliance costs for affected persons:**

This rule change is not expected to have significant fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendment is minor and should not result in programmatic changes.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no 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 rule change is not expected to have any fiscal impact 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

rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-401(4)	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 03/31/2021

**10. This rule change MAY become effective on:** 04/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/12/2021
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**R277. Education, Administration.**

**R277-716. Alternative Language Services for Utah Students.**

**R277-716-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;
  - (b) Title III; and
  - (c) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.
- (2) The purpose of this rule is:

- (a) to address the requirements of Title III and implementing regulations and case law;
- (b) to clearly define the respective responsibilities of the Superintendent and LEAs:
  - (i) in identifying students learning English who are currently enrolled in Utah schools; and
  - (ii) in providing evidence-based language instruction educational programs to identified students; and
- (c) in order to:
  - (i) meet Title III requirements;
  - (ii) meet funding eligibility requirements; and
  - (iii) appropriately distribute Title III funds for students learning English to LEAs with approved plans in the Utah Grants Management System.

**R277-716-2. Definitions.**

- (1) "Alternative language services program" or "ALS program" means an evidence-based language instruction educational program used to achieve English proficiency and academic progress of identified students.
- (2) "Alternative language services" or "ALS" means language services designed to meet the education needs of all students learning English so that students are able to participate effectively in the regular instruction program.
- (3) "Consolidated State Plan" means the application for federal funds authorized under the Elementary and Secondary Education Act, or ESEA, 20 U.S.C. Sec. 1001, et seq., as amended, and other federal sources submitted annually to the Superintendent.
- (4) "Evidence-based language instruction education program" means evidence-based methods, recommended by the Superintendent, that meet the "Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments" developed by the U.S. Department of Education.
- (5) "Immigrant children and youth" for purposes of this rule means individuals who:
  - (a) are ages 3 through 21;
  - (b) were born outside of the United States; and
  - (c) have not been attending one or more schools in any one or more states of the United States for more than three full academic years.
- (6) "Instructional Materials Commission" means a Commission appointed by the Board to evaluate instructional materials for recommendation by the Board consistent with Title 53E, Chapter 4, State Instructional Materials Commission.
- (7) "Language instruction educational program" means an instructional course:
  - (a) in which a student learning English is placed for the purpose of developing and attaining English proficiency, while meeting challenging state academic standards;
  - (b) that may make instructional use of both English and a child's native language to enable the child to attain and develop English proficiency; and
  - (c) that may include the participation of English proficient children if the course is designed to enable all participating children to become proficient in English and a second language.
- ~~(8) "State Approved Endorsement Program" or "SAEP" means a professional development plan on which a licensed Utah educator is working to obtain an endorsement.~~
- (9) "Student learning English" means an individual who:
  - (a) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual the opportunity to:

## NOTICES OF PROPOSED RULES

(i) learn successfully in classrooms where the language of instruction is English; or

(ii) participate fully in society;

(b) who was not born in the United States or whose native language is a language other than English and who comes from an environment where a language other than English is dominant; or

(c) who is an American Indian or Alaskan native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency.

(~~10~~9) "TESOL" means Teachers of English to Speakers of Other Languages.

(~~11~~10) "TESOL Standards" mean the Pre-K-12 English Language Proficiency Standards established by TESOL International.

(~~12~~11) "Title III" means federal provisions for providing language instruction to students learning English and immigrant children and youth under 20 U.S.C. 6801, et seq.

### **R277-716-3. Superintendent Responsibilities.**

(1) The Superintendent shall make available in Utah's approved Title III plan identification and placement procedures to support evidence-based language instruction education programs for students learning English.

(2) The Superintendent shall develop and require all LEAs to administer a Board approved annual English language proficiency assessment to measure fluency level and progress in:

(a) listening;

(b) speaking;

(c) reading; and

(d) writing.

(3) The Superintendent shall apply a formula and distribute funds to LEAs for identification and services to students learning English and their families.

(a) The formula shall provide an amount based upon eligible students and available funds, to be distributed to all eligible LEAs and consortia consistent with Title III requirements.

(b) The formula shall provide for an additional amount to qualifying LEAs based on numbers of immigrant children and youth.

(4) An LEA that receives Title III funds under this rule shall provide the following to the Superintendent:

(a) assurances and documentation maintained of services or a program used to serve students; and

(b) assurances and documentation maintained of required parent notification.

(7) The Superintendent shall provide timelines to LEAs for meeting Title III requirements.

(8) The Superintendent shall assist and provide training to LEAs in development of ALS and Title III services to students learning English who do not meet the state designated annual growth goals in both increased English proficiency and academic standards.

(9) An LEA shall maintain:

(a) an ALS budget plan;

(b) a plan for delivering student instruction as a requirement in the monitoring section of the Utah Grants Management System;

(c) ALS assessments to date;

(d) a sample of parent notification required under Subsection R277-716-4(7); and

(e) documentation or evidence of progress in the state accountability system.

(10) The Superintendent shall conduct on-site monitoring of all funded ALS programs at least once every five years.

(11) The Superintendent shall provide technical assistance during on-site monitoring and as the Superintendent deems necessary.

### **R277-716-4. LEA Responsibilities.**

(1) An LEA that receives funds under Title III shall assure that the LEA has a written plan that:

(a) includes an identification process for students learning English, including a home language survey and a language proficiency for program placement, that is implemented with student registration;

(b) uses a valid and reliable assessment of a student's English proficiency in:

(i) listening;

(ii) speaking;

(iii) reading; and

(iv) writing;

(c) provides an evidence-based language instruction educational program based on Board-approved Utah English Language Proficiency Standards;

(d) establishes student exit criteria from ALS programs or services; and

(e) includes the count of students learning English, by classification, prior to July 1 of each year.

(2) Following receipt of Title III funds, an LEA shall:

(a) determine what type of Title III ALS services are available and appropriate for each student identified in need of ALS services, including:

(i) dual immersion;

(ii) ESL content-based; and

(iii) sheltered instruction;

(b) implement an approved language instruction educational program designed to achieve English proficiency and academic progress of an identified student;

(c) ensure that all identified students learning English receive English language instructional services, consistent with Subsection (1)(c);

(d) provide adequate staff development to assist a teacher and staff in supporting students learning English; and

(e) provide necessary staff with:

(i) curricular materials approved by the Instructional

Materials Commission consistent with Rule R277-469; and

(ii) facilities for adequate and effective training.

(3) Following evaluation of student achievement and services, an LEA shall:

(a) analyze results and determine the program's success or failure; and

(b) modify a program or services that are not effective.

(4) An LEA shall have a policy to identify and serve students who qualify for services under IDEA, including:

(a) implementing procedures and training, consistent with federal regulations and state special education rules, that ensure students learning English are not misidentified as students with disabilities due to their inability to speak and understand English;

(b) reviewing the assessment results of a student's language proficiency in English and other language prior to initiating evaluation activities, including selecting additional assessment tools;

(c) conducting assessments for IDEA eligibility determination and educational programming in a student's native language when appropriate;

(d) using nonverbal assessment tools when appropriate;

(e) ensuring that accurate information regarding a student's language proficiency in English and another language is considered in evaluating assessment results;

(f) considering results from assessments administered both in English and in a student's native language;

(g) ensuring that all required written notices and communications with a parent who is not proficient in English are provided in the parent's preferred language, including utilizing interpretation services; and

(h) coordinating the language instruction educational program and special education and related services to ensure that the IEP is implemented as written.

(5) An LEA shall provide information and training to staff that:

(a) limited English proficiency is not a disability; and

(b) if there is evidence that a student with limited English proficiency has a disability, the staff shall refer the student for possible evaluation for eligibility under IDEA.

(6)(a) An LEA shall notify a parent who is not proficient in English of the LEA's required activities.

(b) A school shall provide information about required and optional school activities in a parent's preferred language.

(c) An LEA shall provide interpretation and translation services for a parent at:

(i) registration;

(ii) an IEP meeting;

(iii) an SEOP meeting;

(iv) a parent-teacher conference; and

(v) a student disciplinary meeting.

(d) An LEA shall provide annual notice to a parent of a student placed in a language instruction educational program at the beginning of the school year or no later than 30 days after identification.

(e) If a student has been identified as requiring ALS services after the school year has started, the LEA shall notify the student's parent within 14 days of the student's identification and placement.

(7) A required notice described in Subsection (6) shall include:

(a) the student's English proficiency level;

(b) how the student's English proficiency level was assessed;

(c) the status of the student's academic achievement;

(d) the methods of instruction proposed to increase language acquisition, including using both the student's native language and English if necessary;

(e) specifics regarding how the methods of instruction will help the child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation; and

(f) the specific exit requirements for the program including:

(i) the student's expected rate of transition from the program into a classroom that is not tailored for a student learning English; and

(ii) the student's expected high school graduation date if funds appropriated consistent with this rule are used for a secondary school student.

**R277-716-5. Teacher Qualifications.**

(1) A Utah educator who is assigned to provide instruction in a language acquisition instructional program shall comply with state ESL endorsement requirements.

(2) A Utah educator whose primary assignment is to provide English language instruction to a student learning English shall have:

(a) an ESL endorsement, through an approved program based on the TESOL Standards;

(b) an advanced degree or certification in teaching English as a Second Language, including an approved competency program consistent with Board rule; or

(c) a bilingual endorsement consistent with the educator's assignment.

**R277-716-6. Miscellaneous Provisions.**

(1)(a) An LEA that generates less than \$10,000 from the LEA's count of students learning English, may form a consortium with other similar LEAs.

(b) A consortium described in Subsection (1)(a) shall designate a fiscal agent and shall submit all budget and reporting information from all of the member LEAs of the consortium.

(c) Each member of a consortium shall submit plans and materials to the fiscal agent of the consortium for final reporting submission to the Superintendent.

(d) A fiscal agent of a consortium described in Subsection (1)(a) shall assume all responsibility of an LEA under Section R277-716-4.

(2) No LEA or consortium may withhold more than two percent of Title III funding for administrative costs in serving students learning English.

**KEY: alternative language services**

**Date of Enactment or Last Substantive Amendment:** ~~2021 July 31, 2019~~

**Notice of Continuation:** February 16, 2016

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R307-101-3	Filing No. 53312

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Air Quality	
<b>Building:</b>	Multi Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO BOX 144820	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4820	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R307-101-3. Version of Code of Federal Regulations Incorporated by Reference

<b>3. Purpose of the new rule or reason for the change:</b>
This rule is updated to reflect changes to the federal air quality regulations as published in Title 40 of the Code of Federal Regulations (CFR).
<b>4. Summary of the new rule or change:</b>
This filing amends this rule to incorporate all changes within the updated version of 40 CFR from July 1, 2019, to July 1, 2020.
A public hearing is set for Thursday, April 1, 2021. Further details may be found below. The hearing will be cancelled should no request for one be made by Wednesday, March 31, 2020, at 10:00AM MST. The final status of the public hearing will be posted on Friday, May 1, 2021, after 10:00AM MST. The status of the public hearing may be checked at the following website location under the corresponding rule.
<a href="https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment">https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment</a>

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule incorporates already existing federal regulations. No additional costs or benefits affect the state budget after incorporation.
<b>B) Local governments:</b>
This rule incorporates already existing federal regulations. No additional costs or benefits affect local governments after incorporation.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule incorporates already existing federal regulations. No additional costs or benefits affect small businesses after incorporation.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
This rule incorporates already existing federal regulations. No additional costs or benefits affect non-small businesses after incorporation.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
This rule incorporates already existing federal regulations. No additional costs or benefits affect persons other than small-businesses, non-small businesses, state, or local government-entities after incorporation.

<b>F) Compliance costs for affected persons:</b>																																																												
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Due to the nature of incorporating already existing federal regulations into state rules, no additional fiscal impacts on businesses will result from this amendment.																																																												

**B) Name and title of department head commenting on the fiscal impacts:**  
 Kim Shelley, Interim Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection		
19-2-104(1)(a)		

**Incorporations by Reference Information**

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references:**

	First Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>	Code of Federal Regulations
<b>Publisher</b>	Office of the Federal Register
<b>Date Issued</b>	07/01/2020
<b>Issue, or version</b>	Title 40

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	03/31/2021
<b>B) A public hearing (optional) will be held:</b>	
<b>On:</b>	<b>At:</b>
04/01/2021	10:00 AM
	meet.google.com/bba-xhvd-uwe, or 1-617-675-4444. PIN 103 132 725 7941

<b>10. This rule change MAY become effective on:</b>	04/07/2021
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and

will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Bryce C. Bird, Division Director	<b>Date:</b>	01/19/2021
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**R307. Environmental Quality, Air Quality.**

**R307-101. General Requirements.**

**R307-101-3. Version of Code of Federal Regulations Incorporated by Reference.**

Except as specifically identified in an individual rule, the version of the Code of Federal Regulations (CFR) incorporated throughout Title R307 is dated July 1, 2020[19].

**KEY: air pollution, definitions**

**Date of Enactment or Last Substantive Amendment:** 2021[September 3, 2020]

**Notice of Continuation:** November 13, 2018

**Authorizing, and Implemented or Interpreted Law:** 19-2-104(1)(a)

**NOTICE OF PROPOSED RULE**

<b>TYPE OF RULE:</b> Amendment		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R307-210</b>	<b>Filing No. 53313</b>

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Air Quality	
<b>Building:</b>	Multi Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO BOX 144820	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4820	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R307-210. Standards of Performance for New Stationary Sources
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is amended to reflect changes to the federal air quality regulations as published in Title 40 of the Code of Federal Regulations (CFR).

**4. Summary of the new rule or change:**

This filing amends the rule to incorporate all changes within the updated version of 40 CFR from July 1, 2019, to July 1, 2020. This rule amendment removes the specific date reference for CFR incorporations in Rule R307-210 so the reference date now moves to the date found in Section R307-101-3.

A public hearing is set for Thursday, April 1, 2021. Further details may be found below. The hearing will be cancelled should no request for one be made by Wednesday, March 31, 2021, at 10:00AM MST. The final status of the public hearing will be posted on Wednesday, March 31, 2021, after 10:00AM MST. The status of the public hearing may be checked at the following website location under the corresponding rule.

<https://deq.utah.gov/public-notices-archive/air-quality-rule-plan-changes-open-public-comment>

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**  
This rule incorporates already existing federal regulations. No additional costs or benefits affect the state budget after incorporation.

**B) Local governments:**  
This rule incorporates already existing federal regulations. No additional costs or benefits affect local governments after incorporation.

**C) Small businesses** ("small business" means a business employing 1-49 persons):  
This rule incorporates already existing federal regulations. No additional costs or benefits exist for small businesses after incorporation.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):  
This rule incorporates already existing federal regulations. No additional costs or benefits exist for non-small businesses after incorporation.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):  
This rule incorporates already existing federal regulations. No additional costs or benefits exist for persons other than small business, non-small businesses, state, or local government entities after incorporation.

**F) Compliance costs for affected persons:**

There are no new compliance costs as a result of incorporation.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

Kimberly D. Shelley, Executive Director for the Department of Environmental Quality, has reviewed and accepts this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Due to the nature of the incorporated materials already existing as federal regulations, the incorporation into state rules will result in no additional fiscal impacts on businesses.

<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Kimberly D. Shelley, Interim Executive Director

**Citation Information**

<b>7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Subsection		
19-2-104(1)(a)		

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
<b>A) Comments will be accepted until:</b>	04/01/2021	
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
04/01/2021	10:00 AM	meet.google.com/bba-xhvd-uwe, or 1-617-675-4444. PIN 103 132 725 7941

<b>10. This rule change MAY become effective on:</b>	04/08/2021
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Bryce C. Bird, Division Director	<b>Date:</b>	01/19/2021
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**R307. Environmental Quality, Air Quality.**  
**R307-210. Standards of Performance for New Stationary Sources.**  
**R307-210-1. Standards of Performance for New Stationary Sources.**

The provisions of 40 Code of Federal Regulations (CFR) Part 60, [~~effective on July 1, 2019,~~] except for Subparts Cb, Cc, Cd, Ce, BBBB, DDDD, and HHHH, are incorporated by reference into [~~these rules~~] this rule under Section R307-101-3 with the exception that

references in 40 CFR to "Administrator" shall mean "director" unless by federal law the authority referenced is specific to the Administrator and cannot be delegated.

**KEY: air pollution, stationary sources, new source review**

**Date of Enactment or Last Substantive Amendment:** ~~2021~~ ~~June 4, 2020~~

**Notice of Continuation:** May 12, 2016

**Authorizing, and Implemented or Interpreted Law:** 19-2-104(3)(q); 19-2-108

<b>NOTICE OF PROPOSED RULE</b>		
<b>TYPE OF RULE:</b> Amendment		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R307-214</b>	<b>Filing No. 53314</b>

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Air Quality	
<b>Building:</b>	Multi Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO BOX 144820	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4820	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R307-214. National Emission Standards for Hazardous Air Pollutants
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is updated to reflect changes to the federal air quality regulations as published in Title 40 of the Code of Federal Regulations (CFR).
<b>4. Summary of the new rule or change:</b>
This filing amends the rule to incorporate all changes within the updated version of 40 CFR from July 1, 2019 to July 1, 2020. The rule amendment removes the specific date reference for CFR incorporations in Rule R307-214 so the reference date now moves to the date found in Section R307-101-3.
A public hearing is set for Thursday, April 1, 2021. Further details may be found below. The hearing will be cancelled should no request for one be made by Wednesday, March

31, 2021, at 10:00AM MST. The final status of the public hearing will be posted on Wednesday, March 31, 2021, after 10:00AM MST. The status of the public hearing may be checked at the following website location under the corresponding rule.

<https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment>

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This rule incorporates already existing federal regulations. No additional costs or benefits affect the state budget after incorporation.

**B) Local governments:**

This rule incorporates already existing federal regulations. No additional costs or benefits affect local governments after incorporation.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

This rule incorporates already existing federal regulations. No additional costs or benefits exist for small businesses after incorporation.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

This rule incorporates already existing federal regulations. No additional costs or benefits exist for small businesses after incorporation.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule incorporates already existing federal regulations. No additional costs or benefits exist for persons other than small businesses, non-small businesses, state, or local government entities after incorporation.

**F) Compliance costs for affected persons:**

There are no new compliance costs as a result of incorporation.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

Kim Shelley, Interim Executive Director for the Department of Environmental Quality, has reviewed and accepts this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Due to the nature of incorporating already existing federal regulations into Utah state rules, there will be no additional fiscal impacts on businesses as a result of this amendment.

**B) Name and title of department head commenting on the fiscal impacts:**

Kimberly D. Shelley, Interim Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 19-2-104(1)(a)		
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**Incorporations by Reference Information**

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references:**

	First Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>	Code of Federal Regulations
<b>Publisher</b>	Office of the Federal Register
<b>Date Issued</b>	07/01/2020
<b>Issue, or version</b>	Title 40

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	04/01/2021	
<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
04/01/2020	10:00 AM	meet.google.com/ bba-xhvd-uwe, or 1-617-675-4444. PIN 103 132 725 7941

<b>10. This rule change MAY become effective on:</b>	04/08/2021
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Bryce C. Bird, Division Director	<b>Date:</b>	01/19/2021
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**R307. Environmental Quality, Air Quality.****R307-214. National Emission Standards for Hazardous Air Pollutants.****R307-214-1. Pollutants Subject to Part 61.**

The provisions of Title 40 of the Code of Federal Regulations (40 CFR) Part 61, National Emission Standards for Hazardous Air Pollutants, [~~effective as of July 1, 2019,~~] are incorporated [~~into these rules~~] by reference into this rule under Section R307-101-3. For pollutant emission standards delegated to the State, references in 40 CFR Part 61 to "the Administrator" shall refer to the director.

**R307-214-2. Sources Subject to Part 63.**

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, [~~effective as of July 1, 2019,~~] are incorporated [~~into these rules~~] by reference into this rule under Section R307-101-3. References in 40 CFR Part 63 to "the Administrator" shall refer to the director, unless by federal law the authority is specific to the Administrator and cannot be delegated.

(1) 40 CFR Part 63, Subpart A, General Provisions.

(2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).

(3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

(4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

(6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

(7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.

(8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.

(9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

(10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

(11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.

(12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

(13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

(14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

(15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.

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(17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.

(18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

(21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.

(23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

(24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

(25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.

(26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

(27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

(28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

(29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

(30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).

(31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).

(32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).

(33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).

(35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

(36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.

(37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.

(39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

(40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.

(41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.

(42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.

(43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.

(44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.

(45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.

(47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).

(48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.

(49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.

(50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.

(52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.

(55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.

(56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products.

(57) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline).

(58) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.

(59) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.

(60) 40 CFR Part 63, Subpart HHHH, National Emission Standards for Wet-Formed Fiberglass Mat Production.

(61) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks.

(62) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.

(63) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans.

(64) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

(65) 40 CFR Part 63, Subpart NNNN, National Emission Standards for Large Appliances Surface Coating Operations.

(66) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.

(67) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.

(68) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.

(69) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.

(70) 40 CFR Part 63, Subpart SSSS, National Emission Standards for Metal Coil Surface Coating Operations.

(71) 40 CFR Part 63, Subpart TTTT, National Emission Standards for Leather Tanning and Finishing Operations.

(72) 40 CFR Part 63, Subpart UUUU, National Emission Standards for Cellulose Product Manufacturing.

(73) 40 CFR Part 63, Subpart VVVV, National Emission Standards for Boat Manufacturing.

(74) 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.

(75) 40 CFR Part 63, Subpart XXXX, National Emission Standards for Tire Manufacturing.

(76) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

(77) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

(78) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.

(79) 40 CFR Part 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

(80) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.

(82) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(83) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing.

(84) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation.

(85) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing.

(86) 40 CFR Part 63, Subpart IIIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants.

(87) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(88) 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(89) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing.

(90) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

(91) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production.

(92) 40 CFR Part 63, Subpart PTTTT, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

(93) 40 CFR Part 63, Subpart QQQQQ, National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

(94) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing.

(95) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

(96) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

(97) 40 CFR Part 63, Subpart UUUUU, National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-Fired Electric Utility Steam Generating Units.

(98) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hospital Ethylene Oxide Sterilizers.

(99) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.

(100) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.

(101) 40 CFR Part 63 Subpart BBBB National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

(102) 40 CFR Part 63 Subpart CCCCC National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

(103) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.

(104) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.

(105) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.

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(106) 40 CFR Part 63, Subpart GGGGGG, National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources--Zinc, Cadmium, and Beryllium.

(107) 40 CFR Part 63, Subpart JJJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources.

(108) 40 CFR Part 63, Subpart LLLLLL, National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.

(109) 40 CFR Part 63, Subpart MMMMMM, National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.

(110) 40 CFR Part 63, Subpart NNNNNN, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.

(111) 40 CFR Part 63, Subpart OOOOOO, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.

(112) 40 CFR Part 63, Subpart PPPPPP, National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.

(113) 40 CFR Part 63, Subpart QQQQQQ, National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.

(114) 40 CFR Part 63, Subpart RRRRRR, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.

(115) 40 CFR Part 63, Subpart SSSSSS, National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.

(116) 40 CFR Part 63, Subpart VVVVVV, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.

(117) 40 CFR Part 63, Subpart TTTTTT, National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.

(118) 40 CFR Part 63, Subpart WWWWWW, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.

(119) 40 CFR Part 63, Subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

(120) 40 CFR Part 63, Subpart YYYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.

(121) 40 CFR Part 63, Subpart ZZZZZZ, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.

(122) 40 CFR Part 63, Subpart AAAAAA, National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing.

(123) 40 CFR Part 63, Subpart BBBBBB, National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.

(124) 40 CFR Part 63, Subpart CCCCCC, National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.

(125) 40 CFR Part 63, Subpart DDDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.

(126) 40 CFR Part 63, Subpart EEEEEEE, National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category.

**KEY: air pollution, hazardous air pollutant, MACT, NESHAP**  
**Date of Enactment or Last Substantive Amendment: 2021~~June 4, 2020~~**  
**Notice of Continuation: September 8, 2017**  
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends March 31, 2021.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through June 29, 2021, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective 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. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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**The Changes in Proposed Rules Begin on the Following Page**

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R70-580	Filing No. 52663

**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Regulatory Services	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state, zip:</b>	Salt Lake City, UT 84115	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>		
R70-580. Kratom Product Registration and Labeling		
<b>3. Change in Proposed Rule:</b>		
Changes FILING Name, Publication date of prior filing:	R70-580. Kratom Product Registration and Labeling, Filing No. 52663, Third CPR, Published 12/15/2020	
<b>4. Reason for this change:</b>		
Additional changes are needed to the third change in proposed rule (CPR) published on December 15, 2020, based on public comments received.		
<b>5. Summary of this change:</b>		
This change will clarify the accreditation requirements for laboratories that test kratom products in Utah. (EDITOR'S NOTE: This is the fourth change in proposed rule (CPR) for Rule R70-580. The original proposed new rule upon which the first CPR was based was published in the May 1, 2020, issue of the Utah State Bulletin, on page 16. The first CPR upon which the second CPR is based was published in the June 15, 2020, issue of the Utah State Bulletin, on page 105. The second CPR upon which the third CPR is based was published in the October 15, 2020,		

issue of the Utah State Bulletin, on page 68. The third CPR upon which this fourth CPR is based was published in the December 15, 2020, issue of the Utah State Bulletin, on page 110. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike out indicates text that has been deleted. You must view the first CPR, the second CPR, the third CPR, the fourth CPR, and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**Fiscal Information**

<b>6. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change provides a small clarification on this rule's requirements with respect to laboratories and has no fiscal implications for the state budget.
<b>B) Local government:</b>
This rule change provides a small clarification on this rule's requirements with respect to laboratories and has no fiscal implications for local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change provides a small clarification on this rule's requirements with respect to laboratories and has no fiscal implications for small businesses.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
This rule change provides a small clarification on this rule's requirements with respect to laboratories and has no fiscal implications for non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, or state or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
This rule change provides a small clarification on this rule's requirements with respect to laboratories and has no fiscal implications for other persons.
<b>F) Compliance costs for affected persons:</b>
Compliance costs should not be affected by this change and fees charged by the Department of Agriculture and Food (Department) for kratom processors remain the same.
<b>G) Regulatory Impact Summary Table</b> (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The Acting Commissioner of the Department of Agriculture and Food, Craig Buttars, has reviewed and approves the regulatory impact analysis.

**7. A) Comments by the department head on the fiscal impact the rule may have on businesses:**

This rule change will not have a fiscal impact on businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

Craig Buttars, Acting Commissioner

**Citation Information**

<b>8. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 4-45-107		

**Public Notice Information**

<b>10. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	03/31/2021

<b>11. This rule change MAY become effective on:</b>	04/07/2021
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 11, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig Buttars, Acting Commissioner	<b>Date:</b>	02/04/2021
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**R70. Agriculture and Food, Regulatory Services.**

**R70-580. Kratom Product Registration and Labeling.**

**R70-580-1. Authority and Purpose.**

Pursuant to Section 4-45-107, this rule establishes the requirements for labeling and registration of products made from and containing kratom.

**R70-580-2. Definitions.**

- 1) "Certificate of Analysis (COA)" means a certificate from a third-party laboratory describing the results of the laboratory's testing of a sample.
- 2) "End Consumer" means an individual who does not resell the purchased kratom product.
- 3) "Food" means a raw, cooked, or processed edible substance, ice, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

NOTICES OF CHANGES IN PROPOSED RULES

4) "Label" means the display of all written, printed, or graphic matter upon the immediate container of a kratom product or a statement by the kratom processor directly related to and accompanying the kratom product bearing the label.

5) "Third-party Laboratory" means a laboratory that has no direct interest in a processor of kratom product that is capable of performing mandated testing utilizing validated methods.

6) "Approved Kratom Delivery Form" means a kratom product in raw leaf, capsule, tablet, powder, liquid tincture, tea bag, concentrated, extract, or gummy forms. The following are not an approved kratom delivery form:

a) any form that is combustible or intended to be used for vaporization;

b) any form that is intended to be added to food; or

c) any form that mimics a candy product or is manufactured, packaged, or advertised in a way that appeals to children.

7) "Kratom Type" means the specified strain of *Mitragyna speciosa*.

8) "Kratom Processor" means any kratom product manufacturer, distributor, or retailer who offers a kratom product for sale or resale to consumers in the state.

9) "Kratom Product" means a product manufactured or processed from kratom raw materials acquired by a kratom processor that is certified to be compliant with provisions of Title 4, Chapter 45, Kratom Consumer Protection Act.

10) "Kratom Retailer" means a kratom processor who sells a kratom product to an end consumer.

**R70-580-3. Product Registration.**

1) A kratom product distributed or available for distribution that is intended to be offered for sale to an end consumer in Utah, including on internet or social media platforms, shall be:

a) in an approved kratom delivery form; and

b) registered with the department annually by the kratom processor.

2) A product that contains the same kratom ingredients in the same kratom delivery form but a different container, package, or volume shall be included in a single registration.

3) Application for registration shall be made on a form provided by the department that includes the following information:

a) the name and address of the kratom processor and the name and address of the person whose name will appear on the label, if other than the kratom processor;

b) the name of the kratom product included in the registration;

c) the kratom type and recommended usage, including directions for use or serving size for the kratom product;

d) the approved kratom delivery form;

e) the weights or volumes, as appropriate, of the package of kratom product offered for sale for the recommended usage and for the entire package;

f) a complete copy of the label that will appear on the kratom product or the document that can be reached via scannable bar code, QR code or web address, pursuant to Subsection R70-580-6 (7);

g) a certificate of analysis for the kratom product from a third-party laboratory that shall obtain and keep the International Organization for Standardization (ISO) 17025:2017 accreditation

from an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement;

[#]i) a third-party laboratory may test kratom product prior to obtaining ISO/IEC 17025:2017 accreditation provided the third-party laboratory:

[#]A) adopts and follows minimum good laboratory practices which satisfy the OECD Principles of Good Laboratory Practice and Compliance Monitoring published by the Organization for Economic Co-operation and Development; and

[#]B) becomes ISO/IEC 17025:2017 accredited within 18 months, by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement;

i) if a kratom processor uses an out-of-state laboratory they shall include a copy of the laboratory accreditation with the registration;

[#]h) certification that:

i) the kratom manufacturer has not added any substance to the kratom product that is listed in Title 58, Chapter 37, Utah Controlled Substances Act;

ii) the kratom manufacturer has not mixed or packed any nonkratom substance that affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;

iii) the kratom product manufacturer has not added any synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the kratom plant;

iv) the registrant assumes full responsibility and liability for the product; and

v) that the registered kratom product is compliant with current state and federal guidelines for food safety.

4) A non-refundable registration fee, as set forth in the fee schedule approved by the legislature, shall be paid to the department with the submission of a registration application.

5) A separate registration fee shall be required for each kratom product manufactured or processed from raw materials with the same specifications, same name, and same kratom delivery form.

6) The department may deny registration for an incomplete application.

7) The department shall deny or withdraw registration for a kratom product that:

a) violates Title 4, Chapter 45, Kratom Consumer Protection Act;

b) is adulterated with foreign materials that would be injurious to a consumer;

c) makes a material change in the alkaloid content of the kratom product; or

d) if there is any reasonable basis to suspect that the kratom product is unsafe or that ingredients violate state law.

8) A new registration application is required for the following:

a) a change in the kratom product ingredients or processes that materially alters the product;

b) a change to the recommended usage; and

c) a change of name for the product.

9) Other changes shall not require a new registration application but the registrant shall submit copies of all label changes to the department as soon as they are effective.

NOTICES OF CHANGES IN PROPOSED RULES

10) The kratom processor registering the kratom product is responsible for the accuracy and completeness of the information submitted.

11) A registration is renewable for up to a one-year period with an annual renewal fee per kratom product that shall be paid on or before June 30th of each year.

12) A kratom product that has been discontinued shall continue to be registered in Utah until the kratom product is no longer available for distribution.

13) A late fee shall be assessed for a renewal of a kratom product registration submitted after June 30th and shall be paid before the registration renewal is issued.

**R70-580-4. Establishment Registration.**

1) Pursuant to Subsection 4-45-104(5), a kratom processor shall register as a food establishment under Section 4-5-301.

2) A kratom processor may be registered in another state that meets or exceeds the requirements in Section 4-5-301, if they provide the department with a copy of the registration from the federal or state regulatory agency.

3) A kratom processor shall be subject to any statutes, rules, regulations, policies, and procedures for food establishments specific to the form of the kratom product offered for sale in Utah.

4) A kratom processor shall not have more than one DBA.

5) The application for registration shall include a certification that the kratom processor maintains a master manufacturing record (MMR) that documents:

a) batch-to-batch uniformity;

b) that each batch conforms to kratom raw material specifications;

c) that each batch record shows that each step of the MMR was performed;

d) that the product processes, controls, and tests ensure reliable, reproducible results; and

e) that the finished kratom product meets each specification before the product is released for distribution.

5) MMR testing shall be performed on finished kratom product as identified by lot or batch number.

6) Each MMR shall also include the following information:

a) the lot or batch identification number of the tested product;

b) the date received;

c) the date of testing completion;

d) the method of analysis for each test conducted;

e) a photo of the kratom product that was tested;

f) the name and address of the kratom processor that manufactured the product; and

g) the name and address where the MMR records are maintained and available for inspection by the department.

**R70-580-5. Certificate of Analysis.**

1) At a minimum, the certificate of analysis for each batch of kratom product shall include the following test results:

a) the contents of mitragynine and 7-hydroxymitragynine in the kratom product certifying compliance with this rule and Subsection 4-45-104(1);

b) at a minimum, test results that indicate:

i) that the level of pathogens in the kratom product do not exceed the amounts listed in Table 1 when a one gram or greater sample is tested;

TABLE 1

Microbial Analytes and Action Levels  
Microbial Limit Requirement

Total Aerobic Microbial Count	NMT ≤10,000,000 cfu/g
Total Combined Yeast and Mold	NMT ≤100,000 cfu/g
Total Bile-tolerant Gram-negative Bacteria	NMT <10,000 cfu/g
Absence of Salmonella spp. & E. coli	in 100g

ii) that the levels of heavy metals in the kratom product do not exceed the amounts listed in Table 2;

TABLE 2

Heavy Metals

Metals	Natural Health Products Acceptable limits in parts per million
Arsenic	<2
Cadmium	<0.82
Lead	<1.2
Mercury	<0.4

2) Testing shall be performed on finished kratom product as identified by lot or batch number.

3) The certificate of analysis shall also include the following information:

a) the lot or batch identification number of the tested product;

b) the date received;

c) the date of testing completion;

d) the method of analysis for each test conducted;

e) a photo of the kratom product that was tested;

f) the name and address of the kratom processor that manufactured the product; and

g) the name and address of the laboratory that completed the testing.

4) The lot or batch number on the certificate of analysis shall match the lot or batch number on the kratom product and shall be conspicuously placed on the container or label of the kratom product.

5) Upon receipt of an adverse or non-compliant test result, the kratom processor shall be required to produce a new certificate of analysis from an independent third-party laboratory on the reported product to affirm compliance.

6) Failure to submit a new certificate of analysis shall be cause for withdrawal or denial of a product registration.

7) Mycotoxin testing of a kratom product may be required if the department has reason to believe that mycotoxins may be present.

**R70-580-6. Label Requirements.**

1) A kratom product shall be labeled pursuant to 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.7, 21 CFR 101.9(j)(13), 21 CFR 101.9(j)(17), 21 CFR 101.15, and 21 CFR 101.36.

2) The label shall contain the factual basis upon which the kratom processor represents the product as a kratom product.

NOTICES OF CHANGES IN PROPOSED RULES

3) The label shall identify kratom product by batch or lot number for each container that shall match the batch and lot number on the certificate of analysis.

4) A kratom product shall not contain claims that the product is intended to diagnose, treat, cure, or prevent any medical condition or disease on the label.

5) Each kratom product label shall include the following text pursuant to 21 CFR 101.93 (c), prominently displayed:

"This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

6) A kratom product shall meet the standards in 21 U.S.C. 9, the Food Drug and Cosmetic Act, other applicable federal laws and regulations, and all applicable state laws and regulations relating to the labeling of food and cosmetics.

7) If there is not sufficient room on the kratom product label, the kratom product shall display on the label a scannable bar code, QR code, or web address linked to a document containing the information required in Subsections (1) through (6).

8) No other information, illustration, or depiction shall appear on the label.

**R70-580-7. Product Appearance and Flavor.**

1) A kratom processor may not produce a kratom product that is designed to mimic a candy product.

2) A kratom processor may not produce a product that includes a candy-like flavor or another flavor the facility knows or should know appeals to children.

3) A kratom processor may not shape a kratom product in any way that appeals to children, including fruit, stars, cartoon renderings, humans, and animals.

4) A kratom product shall be packaged in child-resistant packaging, pursuant to 16 CFR 1700.

**R70-580-8. Inspection and Testing.**

1) The department shall conduct randomized inspection of the kratom product distributed or available for distribution in the state for compliance with this rule.

2) The department shall periodically sample, analyze, and test a kratom product distributed within Utah for compliance with registration and labeling requirements and the certificate of analysis.

a) Each department sample shall include at least ten grams of kratom product.

b) The department may test kratom product for any substance listed in Subsection R70-580-5(1) as well as for any of the following, at the discretion of the department:

i) any pesticide;

ii) any fentanyl derivative;

iii) any of the following cannabinoids with an action level of 0.01% (w/w):

A) delta-9-THC;

B) delta-8-THC;

C) THCA;

D) CBD;

E) CBDA;

F) CBG;

G) CBGA; or

H) any other cannabinoid tested for by the laboratory with an action level of 0.01% (w/w);

iv) cocaine; or

v) any of the following Benzodiazepines:

A) diazepam;

B) alprazolam;

C) triazolam;

D) lorazepam; or

E) clonazepam.

c) Kratom product that is found to contain a prohibited substance shall be considered adulterated in violation of this rule.

3) The department may conduct inspection of any kratom product distributed or available for distribution if there is any reasonable basis to suspect that the kratom product is unsafe or that ingredients violate state law or rules.

4) The test results from the department inspection samples shall be the official sample results.

5) Upon request, a kratom processor shall provide documentation certifying that any batch of kratom raw materials acquired pursuant to a compliant specification purchase that is used to process or manufacture a kratom product is compliant with Section R70-580-5.

**R70-580-9. Retailer Responsibilities.**

1) A retailer shall:

a) ensure that kratom product is labeled correctly; and

b) ensure that kratom product offered for sale is properly registered with the department.

2) A retailer shall provide the identity of the processor of a kratom product sold by the retailer upon request of the department.

3) A retailer shall register a kratom product in lieu of the kratom processor if the product is not registered.

**R70-580-10. Violation.**

1) Each improperly labeled kratom product shall be a separate violation of this rule.

2) A kratom product shall be considered misbranded if it does not meet the labeling requirements of this rule.

3) A kratom product shall be considered adulterated if it is found to contain pathogenic microorganisms, mold, or fungus.

4) It is a violation to distribute or market a kratom product that is not registered with the department.

5) Each unit manufactured or processed from a batch of raw material or on a single retail invoice shall be considered a separate violation of this rule for an unregistered product marketed for sale.

6) It is a violation:

a) to prepare, distribute, sell, or offer for sale a kratom product that violates Subsection 4-45-104 (1);

b) to prepare, distribute, sell, or offer for sale a kratom product that is not in an approved kratom delivery form, including adding or processing kratom into another form of food;

c) to prepare, distribute, sell, or offer for sale a kratom product that would be potentially harmful to consumers;

d) for a kratom processor to fail to register as a food establishment pursuant to Section 4-5-301 or Subsection R70-580-4(2);

e) for a kratom processor to distribute, sell, or offer for sale a kratom product to an individual under 18 years of age; and

f) for a kratom processor to improperly sample, test, falsify a certificate of analysis, or knowingly submits a falsified certificate of analysis for a kratom product.

**KEY: kratom, kratom product registration, kratom processor**  
**Date of Enactment or Last Substantive Amendment: 2021**  
**Authorizing, and Implemented or Interpreted Law: 4-45-107**

**R70-580-11. Penalties.**

Any violation of or failure to comply with any provision of this rule or any specific requirements, may be grounds for issuance of citations, fines, recall of kratom product, revocation of registration, or denial of future registration pursuant to Section 4-2-303 and 4-2-304.

**End of the Notices of Changes in 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.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R51-3	Filing No. 52892

### Agency Information

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Administration	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state, zip:</b>	Salt Lake City, UT 84115	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov

Please address questions regarding information on this notice to the agency.

### General Information

<b>2. Rule catchline:</b>
R51-3. Government Records Access and Management Act
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is promulgated under the authority of the Government Records Access and Management Act,

Section 63G-2-204 as well as Section 63A-12-104, the Public Records Management Act.

### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should continue because it provides guidelines for the Department of Agriculture and Food to comply with the Government Records Access and Management Act and ensure that the public is allowed access to department records when it is not prohibited by law.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	02/05/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R51-4	Filing No. 52894

### Agency Information

<b>1. Department:</b>	Agriculture and Food
<b>Agency:</b>	Administration
<b>Street address:</b>	350 N Redwood Road
<b>City, state, zip:</b>	Salt Lake City, UT 84115
<b>Mailing address:</b>	PO Box 146500

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

<b>City, state, zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R51-4. ADA Complaint Procedure
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is enacted under the authority of Section 63G-2-301 which allows the Department of Agriculture and Food (Department) to make rules adopting and defining standards under which complaints may be filed under Title II of the Americans with Disabilities Act (ADA), pursuant to 28 CFR 35.107.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule should continue because it provides guidelines under which individuals and employees can file ADA claims against the Department and allows for the fair, efficient, and lawful administration of those claims.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	02/05/2021
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<b>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</b>		
<b>Utah Admin. Code Ref (R no.):</b>	R68-7	<b>Filing No. 50152</b>

**Agency Information**

<b>1. Department:</b>	Agriculture and Food
<b>Agency:</b>	Plant Industry

<b>Street address:</b>	350 N Redwood Road	
<b>City, state, zip:</b>	Salt Lake City, UT 84115	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Robert Hougaard	801-982-2305	rhougaard@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R68-7. Utah Pesticide Control Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule was promulgated under the authority of Section 4-14-106 which allows the Department of Agriculture and Food to adopt rules under the Utah Pesticide Control Act.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule should continue because it provides registration, classification, and certification requirements for pesticides and pesticide applicators that help to keep the public safe from products that can be dangerous if used improperly.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	02/03/2021
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<b>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</b>		
<b>Utah Admin. Code Ref (R no.):</b>	R151-2	<b>Filing No. 50225</b>

**Agency Information**

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Administration	
<b>Building:</b>	Heber M. Wells Bldg	
<b>Street address:</b>	160 E 300 S, Second Floor	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	Box 146701	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6701	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Masuda Medcalf	801-530-7663	mmedcalf@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R151-2. Government Records Access and Management Act Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Subsection 63G-2-204(3) requires state agencies to enact rules as to how requests for access to records shall be directed.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule should be continued because it ensures the efficient management of Department of Commerce records.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Margaret W. Busse, Executive Director	<b>Date:</b>	02/11/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	R277-210	<b>Filing No.</b> 52445

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-210. Utah Professional Practices Advisory Commission (UPPAC), Definitions
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and 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.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no written comments received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this rule is to establish definitions for terms in UPPAC activities. Therefore, this rule should be continued.
The definitions contained in this rule apply to Rules R277-210 through R277-217. Any calculation of time called for by these rules shall be governed by Utah R. Civ. P. 6.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of policy	<b>Date:</b>	02/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-211	Filing No. 52446

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-211. Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and 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.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no written comments received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this rule is to provide procedures regarding notifications of alleged educator misconduct; review of notifications by UPPAC; and complaints, consents to discipline, and defaults. Therefore, this rule should be continued.

Title 63G, Chapter 4, Administrative Procedures Act, does not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of policy	<b>Date:</b>	02/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-212	Filing No. 53274

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-212. UPPAC Hearing Procedures and Reports
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and 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.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no written comments received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The purpose of this rule is to establish procedures regarding UPPAC hearings and hearing reports. Therefore, this rule should be continued.

The standards and procedures of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d). Hearings conducted in accordance with this rule are formal adjudicatory proceedings.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of policy	<b>Date:</b>	02/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-215</b>	<b>Filing No. 52449</b>

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-215. Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC

duties and procedures; and 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.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

There were no written comments received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The purpose of this rule is to establish rebuttable presumptions for UPPAC and Board review of UPPAC cases. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of policy	<b>Date:</b>	02/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-216</b>	<b>Filing No. 50395</b>

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-216. Surrender of License with UPPAC Investigation Pending
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and 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.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

There were no written comments received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The purpose of this rule is to establish procedures for Board consideration of an educator request to surrender a license in the face of a UPPAC investigation. Therefore, this rule should be continued.

The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of policy	<b>Date:</b>	02/10/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-217</b>	<b>Filing No. 52450</b>
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**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

**2. Rule catchline:**

R277-217. Educator Standards and LEA Reporting

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; 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 Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the certification of educators; and Title 53E, Chapter 6, Educator Licensing and Professional Practices Act, which provides all laws related to educator licensing and professional practices.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

There were no written comments received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The purpose of this rule is to establish statewide ethical standards for educators; establish reporting requirements for educators and local education agencies (LEAs); and recognize that educators are professionals and share common professional standards, expectations, and role model responsibilities. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of policy	<b>Date:</b>	02/10/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-716</b>	<b>Filing No. 50536</b>
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**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	

<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-716. Alternative Language Services for Utah Students
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board; Title III; and Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no written comments received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The purpose of this rule is to address the requirements of Title III and implementing regulations and case law; to clearly define the respective responsibilities of the Superintendent and local education agencies (LEAs): in identifying students learning English who are currently enrolled in Utah schools; and in providing evidence-based language instruction educational programs to identified students; and in order to: meet Title III requirements; meet funding eligibility requirements; and appropriately distribute Title III funds for students learning English to LEAs with approved plans in the Utah Grants Management System. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of policy	<b>Date:</b>	02/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	R307-104	<b>Filing No. 50575</b>

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Air Quality	
<b>Room no.:</b>	Fourth Floor	
<b>Building:</b>	Multi Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144820	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4820	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R307-104. Conflict of Interest
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 19-2-104 allows for the Air Quality Board to make rules. This rule was created to meet the requirements set forth in 42 U.S.C. 7428(a)(2), which requires this rule.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There have been no written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule must be continued to meet the conflict of interest requirement of 42 U.S.C. 7428(a)(2) to keep the state in compliance.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Bryce Bird, Director	<b>Date:</b>	01/19/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	R638-1	<b>Filing No. 51537</b>

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Geological Survey	
<b>Room no.:</b>	Suite 3110	
<b>Building:</b>	Utah Department of Natural Resources	
<b>Street address:</b>	1594 W North Temple	
<b>City, state, zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146100	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6100	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Michael Hylland	801-537-3382	mikehylland@utah.gov
Bill Keach	801-537-3301	billkeach@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R638-1. Acceptance and Maintenance of Confidential Information
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized under Subsection 79-3-202(2), enabling the Utah Geological Survey to maintain confidential information. Specifically, the rule provides: 1) guidelines for determining whether or not to accept confidential information, 2) the types of information that will be maintained as confidential, and 3) the process to be used for accepting and maintaining confidential information.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Access to confidential and/or proprietary information is often important for timely scientific analysis, interpretation, and conclusions on the part of the Utah Geological Survey. Therefore, this rule should be continued.
However, the Utah Geological Survey is in the process of making some needed revisions and updates to the rule

(e.g., reference to the Utah Code under "Authority"), and plan to submit an amended rule in the near future.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Michael Hylland, UGS Deputy Director	<b>Date:</b>	02/09/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R661-1</b>	<b>Filing No. 51794</b>
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**Agency Information**

<b>1. Department:</b>	Navajo Trust Fund	
<b>Agency:</b>	Trustees	
<b>Street address:</b>	151 E 500 N	
<b>City, state, zip:</b>	Blanding, UT 84511	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tony Dayish	435-678-1468	tdayish@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R661-1. Utah Navajo Trust Fund Scope
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Federal Act of 1933 and its 1968 amendment designates the -Navajo Trust Fund (UNTF) as the trustee of the Trust Fund, which funds are derived from oil and gas royalties from the Aneth Extension lands; and Title 51, Chapter 10, governs the UNTF Board of Trustees, Dine' Advisory Committee, and UNTF Administration. Subsection 51-10-205(4) authorizes the trust administrator to write rules governing expenditure of monies from the trust fund.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>

UNTF continues to administer the Trust Fund. The U.S. Congress has not designated another entity to be the trustee and the directive to write rules still exists at Subsection 51-10-205(4). Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tony Dayish, Administrator	<b>Date:</b>	12/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	R661-2	<b>Filing No. 51796</b>

**Agency Information**

<b>1. Department:</b>	Navajo Trust Fund	
<b>Agency:</b>	Trustees	
<b>Street address:</b>	151 E 500 N	
<b>City, state, zip:</b>	Blanding, UT 84511	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tony Dayish	435-678-1468	tdayish@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R661-2. Utah Navajo Trust Fund Definitions
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Federal Act of 1933 and its 1968 amendment designates the -Navajo Trust Fund (UNTF) as the trustee of the Trust Fund, which funds are derived from oil and gas royalties from the Aneth Extension lands, and Utah Statute 51-10 governs the UNTF Board of Trustees, Dine' Advisory Committee, and UNTF Administration. Subsection 51-10-205(4) authorizes the trust administrator to write rules governing expenditure of monies from the trust fund.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

UNTF continues to administer the Trust Fund. The U.S. Congress has not designated another entity to be the trustee and the directive to write rules still exists at Subsection 51-10-205(4). Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tony Dayish, Administrator	<b>Date:</b>	12/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	R661-3	<b>Filing No. 51787</b>

**Agency Information**

<b>1. Department:</b>	Navajo Trust Fund	
<b>Agency:</b>	Trustees	
<b>Street address:</b>	151 E 500 N	
<b>City, state, zip:</b>	Blanding, UT 84511	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tony Dayish	435-678-1468	tdayish@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R661-3. Utah Navajo Trust Fund Residency Policy
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Federal Act of 1933 and its 1968 amendment designates the -Navajo Trust Fund (UNTF) as the trustee of the Trust Fund, which funds are derived from oil and gas royalties from the Aneth Extension lands; and Title 51, Chapter 10, governs the UNTF Board of Trustees, Dine' Advisory Committee, and UNTF Administration. Subsection 51-10-205(4) authorizes the trust administrator to write rules governing expenditure of monies from the trust fund.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

UNTF continues to administer the Trust Fund. The U.S. Congress has not designated another entity to be the trustee and the directive to write rules still exists at Subsection 51-10-205(4). Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tony Dayish, Administrator	<b>Date:</b>	12/08/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R661-4</b>	<b>Filing No. 51786</b>
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**Agency Information**

<b>1. Department:</b>	Navajo Trust Fund	
<b>Agency:</b>	Trustees	
<b>Street address:</b>	151 E 500 N	
<b>City, state, zip:</b>	Blanding, UT 84511	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tony Dayish	435-678-1468	tdayish@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R661-4. Utah Navajo Trust Fund Chapter Projects

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

The Federal Act of 1933 and its 1968 amendment designates the -Navajo Trust Fund (UNTF) as the trustee of the Trust Fund, which funds are derived from oil and gas royalties from the Aneth Extension lands; and Title 51, Chapter 10, governs the UNTF Board of Trustees, Dine' Advisory Committee, and UNTF Administration. Subsection 51-10-205(4) authorizes the trust administrator

to write rules governing expenditure of monies from the trust fund.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

UNTF continues to administer the Trust Fund. The U.S. Congress has not designated another entity to be the trustee and the directive to write rules still exists at Subsection 51-10-205(4). Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tony Dayish, Administrator	<b>Date:</b>	12/09/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R661-5</b>	<b>Filing No. 51788</b>
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**Agency Information**

<b>1. Department:</b>	Navajo Trust Fund	
<b>Agency:</b>	Trustees	
<b>Street address:</b>	151 E 500 N	
<b>City, state, zip:</b>	Blanding, UT 84511	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tony Dayish	435-678-1468	tdayish@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R661-5. Utah Navajo Trust Fund Blue Mountain Dine' Community

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

The Federal Act of 1933 and its 1968 amendment designates the -Navajo Trust Fund (UNTF) as the trustee of the Trust Fund, which funds are derived from oil and gas royalties from the Aneth Extension lands; and Title 51,

Chapter 10, governs the UNTF Board of Trustees, Dine' Advisory Committee, and UNTF Administration. Subsection 51-10-205(4) authorizes the trust administrator to write rules governing expenditure of monies from the trust fund.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

UNTF continues to administer the Trust Fund. The U.S. Congress has not designated another entity to be the trustee and the directive to write rules still exists at Subsection 51-10-205(4). Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tony Dayish, Administrator	<b>Date:</b>	12/09/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R661-8</b>	<b>Filing No. 51801</b>
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**Agency Information**

<b>1. Department:</b>	Navajo Trust Fund	
<b>Agency:</b>	Trustees	
<b>Street address:</b>	151 E 500 N	
<b>City, state, zip:</b>	Blanding, UT 84511	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tony Dayish	435-678-1468	tdayish@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

**2. Rule catchline:**

R661-8. Utah Navajo Trust Fund Power Lines and House Wiring Program

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

The Federal Act of 1933 and its 1968 amendment designates the -Navajo Trust Fund (UNTF) as the trustee of the Trust Fund, which funds are derived from oil and gas royalties from the Aneth Extension lands; and Title 51, Chapter 10, governs the UNTF Board of Trustees, Dine' Advisory Committee, and UNTF Administration. Subsection 51-10-205(4) authorizes the trust administrator to write rules governing expenditure of monies from the trust fund.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

UNTF continues to administer the Trust Fund. The U.S. Congress has not designated another entity to be the trustee and the directive to write rules still exists at Subsection 51-10-205(4). Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tony Dayish, Administrator	<b>Date:</b>	12/09/2020
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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

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Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

**EXTENSIONS** are governed by Subsection 63G-3-305(6).

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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R277-505	Filing No. 50464

### Agency Information

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule catchline:</b>
R277-505. Education Leadership License Areas of Concentration and Programs
<b>3. Reason for requesting the extension and the new deadline date:</b>
The repeal for Rule R277-505 is under Filing No. 53324 in this issue, March 1, 2021, of the Bulletin. Rule R277-505 will expire on 03/30/2021; however, the first possible effective date of the repeal is 04/07/2021. Therefore, an extension is requested so this rule can stay in place and so it can go through the repeal process. The new deadline date for the five-year review of this rule is 07/28/2021.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	02/16/2021
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**End of the Notices of Five-Year Review Extensions Section**



## NOTICES OF RULE EFFECTIVE DATES

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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.

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### Administrative Services

#### Finance

No. 53269 (Amendment) R25-7: Reimbursement for Transportation  
Published: 01/15/2021  
Effective: 02/23/2021

No. 53254 (New Rule) R277-627: Early Warning Program  
Published: 01/01/2021  
Effective: 02/09/2021

No. 53250 (Amendment) R277-929: State Council on Military Children  
Published: 01/01/2021  
Effective: 02/09/2021

### Agriculture and Food

#### Plant Industry

No. 53237 (Amendment) R68-6: Utah Nursery Act  
Published: 01/01/2021  
Effective: 02/08/2021

### Environmental Quality

#### Administration

No. 53259 (New Rule) R305-10: Local Health Department Minimum Performance Standards  
Published: 01/15/2021  
Effective: 02/23/2021

No. 53241 (Amendment) R68-30: Independent Cannabis Testing Laboratory  
Published: 01/01/2021  
Effective: 02/08/2021

### Education

#### Administration

No. 53246 (Amendment) R277-116: Audit Procedure  
Published: 01/01/2021  
Effective: 02/09/2021

### Health

#### Family Health and Preparedness, Children with Special Health Care Needs

No. 53264 (New Rule) R398-15: Adult Autism Treatment Program  
Published: 01/01/2021  
Effective: 02/10/2021

No. 53247 (Amendment) R277-550: Charter Schools - Definitions  
Published: 01/01/2021  
Effective: 02/09/2021

### Human Services

Administration, Administrative Services, Licensing  
No. 53226 (Amendment) R501-14: Human Service Program Background Screening  
Published: 12/15/2020  
Effective: 02/16/2021

No. 53248 (Amendment) R277-552: Charter School Timelines and Approval Processes  
Published: 01/01/2021  
Effective: 02/09/2021

### Recovery Services

No. 53260 (Amendment) R527-35: Non-IV-A Fee Schedule  
Published: 01/15/2021  
Effective: 02/24/2021

No. 53253 (Amendment) R277-625: Mental Health Screening Program  
Published: 01/01/2021  
Effective: 02/09/2021

NOTICES OF RULE EFFECTIVE DATES

No. 53223 (Amendment) R527-300: Income Withholding  
Published: 01/01/2021  
Effective: 02/10/2021

Insurance

Administration

No. 53272 (Amendment) R590-238: Fee Schedule. Initial  
Application. Renewal  
Published: 01/15/2021  
Effective: 02/23/2021

No. 53245 (Amendment) R590-284: Corporate  
Governance Annual Disclosure Rule  
Published: 01/01/2021  
Effective: 02/09/2021

No. 53179 (New Rule) R590-285: Limited Long-Term Care  
Insurance  
Published: 11/15/2020  
Effective: 02/23/2021

No. 53179 (Change in Proposed Rule) R590-285: Limited  
Long-Term Care Insurance  
Published: 01/15/2021  
Effective: 02/23/2021

Natural Resources

Wildlife Resources

No. 53242 (Amendment) R657-9: Taking Waterfowl,  
Wilson's Snipe and Coot  
Published: 01/15/2021  
Effective: 02/23/2021

No. 53243 (Amendment) R657-38: Dedicated Hunter  
Program  
Published: 01/15/2021  
Effective: 02/23/2021

Regents (Board of)

Administration

No. 53159 (New Rule) R765-165: Concurrent Enrollment  
Published: 12/15/2020  
Effective: 01/28/2021

No. 53165 (New Rule) R765-571a: Procurement  
Published: 12/01/2020  
Effective: 01/28/2021

University of Utah, Commuter Services

No. 52918 (Amendment) R810-11: Appealing Parking  
Tickets  
Published: 12/15/2020  
Effective: 02/05/2021

**End of the Notices of Rule Effective Dates Section**