

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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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 2021-07

Declaring a State of Emergency Due to Drought Conditions

**WHEREAS**, the state of Utah experienced a record dry and near record hot calendar year in 2020;

**WHEREAS**, the statewide current snowpack is approximately 70% of normal April peak;

**WHEREAS**, current soil moisture is exceptionally low and at levels not previously seen since soil moisture monitoring began in 2006;

**WHEREAS**, low soil moisture will adversely affect the spring runoff;

**WHEREAS**, the state's reservoir storage has decreased 14% over the past year;

**WHEREAS**, all forecasts for spring runoff for the state are below 72% of the state seasonal average;

**WHEREAS**, the United States Department of Agriculture currently has listed 28 primary and one contiguous county in Utah under the Secretarial Disaster Designation for drought;

**WHEREAS**, these extreme drought conditions have adversely and significantly impacted agribusiness and livestock production, as well as wildlife and natural habitats;

**WHEREAS**, increased recreation in dry vegetative conditions has contributed to an increased and prolonged threat of wildfire across the state;

**WHEREAS**, drought conditions that require mitigation are expected to persist;

**WHEREAS**, these conditions create a state of emergency within the intent of the Disaster Response and Recovery Act found in Title 53, Chapter 2a of the Utah Code;

**WHEREAS**, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

**WHEREAS**, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act;

**NOW, THEREFORE**, I, Spencer J. Cox, Governor of the State of Utah, declare a state of emergency due to the aforesaid circumstances requiring aid, assistance, and relief available from State resources and hereby order:

EXECUTIVE DOCUMENTS

1. The state Emergency Operations Plan is activated.
2. The state Drought Response Plan is activated.
3. The state Drought Response Committee is activated and shall:
  - a. review hardships and unmet needs caused by the drought;
  - b. identify and recommend action to meet those needs;
  - c. ensure inter-agency coordination in addressing those needs; and
  - d. recommend when deactivation of the state Drought Response should occur.

I further make the following recommendations:

1. Water suppliers and irrigation companies should:
  - a. where possible, delay the start of the irrigation season or end irrigation early;
  - b. encourage efficient landscape watering; and
  - c. as needed, contact the Division of Water Resources for assistance with developing a drought response plan.
2. Cities and counties should consider developing and implementing water restriction plans for the upcoming irrigation season.
3. Residents should:
  - a. reduce indoor water waste;
  - b. fix irrigation inefficiencies;
  - c. convert unnecessary turf areas to waterwise landscapes;
  - d. consider purchasing a smart-timer controller or low flow toilet (rebates are offered at [utahwatersavers.com](http://utahwatersavers.com)); and
  - e. reduce indoor water use by taking shorter showers, turning off water when not in use, and replacing appliances with water-efficient models where practical.

This Order is effective immediately and shall remain in effect for 30 days unless the Legislature extends the state of emergency.

**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 17th day of March, 2021.

(State Seal)

**Spencer J. Cox**  
Governor

ATTEST:

**Deidre M. Henderson**  
Lieutenant Governor

2021/07/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 March 02, 2021, 12:00 a.m., and March 15, 2021, 11:59 p.m. are included in this, the April 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 May 03, 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 July 30, 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.):	R68-27	Filing No. 53372

**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:</b>	Salt Lake City, UT	
<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
Cody James	801-982-2376	codyjames@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>
R68-27. Cannabis Cultivation
<b>3. Purpose of the new rule or reason for the change:</b>
This change is needed to allow cannabis cultivation licensees to transfer their licenses to another business entity. It is allowed by the rulemaking authority granted to the Department of Agriculture and Food (Department) over the licensing of cannabis production establishments under Subsection 4-41a-201(2)(a)(iii).
<b>4. Summary of the new rule or change:</b>
The changes outline the process under which a cannabis cultivation facility may transfer their license to another business entity and the Department may issue a new license to the transferee.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are no anticipated costs or savings to the state budget. The total number of cannabis cultivation licenses administered by the Department will not change with these changes, nor will the licensing fees charged by the Department.

<b>B) Local governments:</b>
There are no anticipated costs or savings to local governments because they do not regulate or operate as cannabis cultivation licensees.

<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses. The licensing fees and regulatory requirements for cannabis cultivation are not changing.

<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no anticipated costs or savings to non-small businesses. The licensing fees and regulatory requirements for cannabis cultivation are not changing.

<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> ):
There are no anticipated costs or savings to other persons because they do not regulate cannabis cultivation or operate as cultivation licensees.

<b>F) Compliance costs for affected persons:</b>
The compliance costs for affected persons will not change. The regulatory and fee requirements for cannabis cultivation licensees is not changing with these 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.)

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 Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approves the regulatory impact analysis.

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

This rule will not have any fiscal impact on businesses in Utah.

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

Craig W. Buttars, Commissioner

**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 4-41a-201(2)(a) (iii)		
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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:** 05/03/2021

**10. This rule change MAY become effective on:** 05/10/2021

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>	Craig W. Buttars, Commissioner	<b>Date:</b>	03/15/2021
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**R68. Agriculture and Food, Plant Industry.**

**R68-27. Cannabis Cultivation.**

**R68-27-1. Authority and Purpose.**

1) Pursuant to Subsections 4-41a-103(5), 4-41a-204(2)(e), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain a cannabis cultivation facility license.

**R68-27-2. Definitions.**

As used in this rule:

- 1) "Applicant" means any person or business entity who applies for a cannabis cultivation facility license.
- 2a) "Cannabis" means any part of a marijuana plant[?].
- b) "Cannabis" does not mean, for purposes of this rule, industrial hemp.
- 3) "Cannabis cultivation facility" means a person that:
  - a) possesses cannabis;
  - b) grows or intends to grow cannabis; and
  - c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.
- 4) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
  - a) authorizes an individual to act as a cannabis production establishment agent; and
  - b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.
- 5) "Department" means the Utah Department of Agriculture and Food.
- 6) "Indoor cannabis cultivation" means cultivation of cannabis within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.
- 7) "Lot" means the quantity of:
  - a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
  - b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.
- 8) "Outdoor cannabis cultivation" means an open or cleared ground fully enclosed at the perimeter by a securable, sight obscure wall or fence at least eight feet high.

**R68-27-3. Cannabis Cultivation Facility License.**

1) A cannabis cultivation facility license allows the licensee to propagate, cultivate, harvest, trim, dry, cure, and package cannabis into lots for sale or transfer to a cannabis production facility.

NOTICES OF PROPOSED RULES

2) A cannabis cultivation facility may produce and sell cannabis plants, seed, and plant tissue culture to other licensed cannabis cultivation facilities.

3) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

4) Prior to approving an application, the department may contact any applicant and request additional supporting documentation or information.

5) Prior to issuing a cannabis cultivation facility license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

6) The department may conduct face-to-face interviews with an applicant if needed to determine the best qualified applicant for the number of cannabis cultivation facility licenses that will be issued.

7) The cannabis cultivation facility license shall expire on December 31st.

8) A cannabis cultivation facility license may not be sold or transferred except as set forth in Section R68-27-16.

**R68-27-4. Cannabis Cultivation Facility Requirements.**

1) A cannabis cultivation facility operating plan shall contain a blueprint or diagram of the facility containing the following information:

- a) for indoor cannabis cultivation, the square footage of the area where cannabis is to be propagated;
- b) for indoor cannabis cultivation, the square footage of the area where cannabis is to be grown;
- c) the square footage of the area where cannabis is to be harvested;
- d) the area where cannabis is to be dried, trimmed, and cured;
- e) the square footage of the area where cannabis is to be packaged for wholesale;
- f) the total square footage of the cultivation facility;
- g) the square footage and location of areas to be used as a storeroom;
- h) the location of the toilet facilities and hand washing facilities;
- i) the location of a break room and location of personal belonging lockers; and
- j) the location of the area to be used for loading and unloading of cannabis product for transportation.

2) For outdoor cannabis cultivation, the operating plan shall contain a detailed aerial photograph of the area on which the following information is shown:

- a) the area where cannabis to be propagated; and
- b) the area where cannabis is to be grown.

3) A cannabis cultivation facility operating plan shall detail the drying and curing methods to be used by the cannabis cultivation facility.

4) An outdoor cannabis cultivation facility shall outline the measures to be taken to ensure that product is kept from deterioration and contamination.

5) A cannabis cultivation facility shall have written emergency procedures to be followed in case of:

- a) fire;
- b) chemical spill; or
- c) other emergency at the facility.

6) A cannabis cultivation facility operating plan shall include:

- a) a pest management plan;
  - b) a description of when and how fertilizers are to be applied during the production process;
  - c) procedures for water usage and waste water disposal;
- and

d) a waste disposal plan.

7) A cannabis cultivation facility shall have a written plan to handle potential recall and destruction of cannabis because of contamination.

8) A cannabis cultivation facility shall use a standardized scale that is registered with the department when cannabis is:

- a) packaged for sale by weight;
- b) bought and sold by weight; or
- c) weighed for entry into the inventory control system.

9) A cannabis cultivation facility shall ensure that sanitary conditions are maintained on the premises, including ensuring proper and timely removal of litter and waste.

10) A cannabis cultivation facility shall compartmentalize each area in the facility based on function.

11) A cannabis cultivation facility shall limit access to the compartments to appropriate cannabis cultivation facility agents.

**R68-27-5 Indoor and Outdoor Cannabis Cultivation Limitations.**

1) A cannabis cultivation facility that cultivates cannabis only indoors may use no more than 100,000 square feet for cultivation.

2) A cannabis cultivation facility that cultivates cannabis only outdoors may use no more than four acres for cultivation.

3) Pursuant to Subsection 4-41a-204(2)(e), a cannabis cultivation facility that uses a combination of indoor and outdoor cultivation shall be subject to the following formula:

- a) the cannabis cultivation facility may use no more than a total of two acres outdoors and 50,000 square feet indoors for cultivation; or
- b) the cannabis cultivation facility may use less than two acres outdoors or 50,000 square feet indoors for cultivation, but may not exceed the indoor or outdoor limit.

**R68-27-6. Security Requirements.**

1) At a minimum, each cannabis cultivation facility shall have a security alarm system on each perimeter entry point and perimeter window.

2) At a minimum, a licensed cannabis cultivation facility shall have a complete video surveillance system:

- a) with a minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog; and
- b) that retains footage for at least 45 days.

3) Cameras at a cannabis cultivation facility shall ~~be fixed, and record continuously, and placement shall allow for the clear and certain identification of any person or activity in a controlled area, and record continuously.~~

4) Controlled areas include:

- a) each entrance and exit, or ingress and egress vantage point;
- b) each area within an indoor or outdoor room or area where cannabis is propagated, grown, harvested, dried, or trimmed;
- c) each area where cannabis is stored; and

d) each area where cannabis waste is being moved, processed, stored, or destroyed.

5) If a cannabis cultivation facility stores footage locally, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

6) If a cannabis cultivation facility stores footage on a remote server, access shall be restricted to protect from employee tampering.

7) Any gate or entry point must be lighted in low-light conditions.

8) Visitors to a cannabis cultivation facility shall be required to have a properly displayed identification badge issued by the facility while on the premises of the facility.

9) Cannabis cultivation facility visitors shall be escorted by a cannabis cultivation facility agent while in the facility.

10) A cannabis cultivation facility shall keep and maintain a log showing:

- a) the full name of each visitor entering the facility;
- b) the badge number issued;
- c) the time of arrival;
- d) the time of departure, and
- e) the purpose of the visit.

11) The visitor log shall be maintained by the cannabis cultivation facility for a minimum of one year.

12) The cannabis cultivation facility shall make visitor log available to the department upon request.

#### **R68-27-7. Inventory Control.**

1) Each cannabis plant that reaches eight inches in height with a root ball shall be issued a unique identification number in the inventory control system, which follows the plant through the phases of production.

2) Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, test lot, and harvest lot shall be issued a unique identification number in the inventory control system.

3) Unique identification numbers cannot be reused.

4) Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, cannabis product, test lot, harvest lot, and process lot that has been issued a unique identification number shall have a physical tag with the unique identification number.

5) The tag shall be legible and placed in a position that can be clearly read and kept free from dirt and debris.

6) The following shall be reconciled in the inventory control system at the close of business each day:

- a) movement of seedling or clone to the vegetation production area;
- b) when plants are partially or fully harvested or destroyed;
- c) when cannabis is being transported to other facilities;
- d) samples used for testing and the testing results;
- e) a complete inventory of cannabis, cannabis seeds, plant tissue, seedlings, clones, plants, trim or other plant material;
- f) the weight of harvested cannabis plants immediately after harvest;
- g) the weight and disposal of post-harvest waste materials;
- h) the identity of the individual who disposed of the waste and the location of waste receptacle; and
- i) theft or loss, or suspected theft or loss, of cannabis.

7) A receiving cannabis cultivation facility shall document in the inventory tracking system any cannabis received, and any differences between the quantity specified in the transport manifest and the quantities received.

8) For plants under eight inches, the cultivation facility shall keep record of:

- a) the number of cannabis seeds or cuttings planted;
- b) the date they were planted;
- c) the date the plants were moved into the vegetation area and tagged;
- d) the strain of the seeds or cuttings;
- e) the number of plants grown to maturity;
- f) the number of plants disposed of; and
- g) the date of disposal.

#### **R68-27-8. Cannabis Cultivation Facility Agents.**

1) A cannabis cultivation facility shall apply to the department for a cannabis cultivation facility agent registration card on a form provided by the department.

2) An application is not considered complete until the background check has been completed and the facility has paid the fee.

3) The cannabis cultivation facility agent registration card shall contain:

- a) the agent's full name;
- b) the name of the cannabis cultivation ~~establishment~~ facility;
- ~~[c] the type of cannabis production establishment;~~
- ~~[d] c) the job title or position of the agent; and~~
- ~~[e] d) a photograph of the agent.~~

4) A cannabis cultivation facility is responsible to ensure that each cannabis cultivation facility agent has received department approved training pursuant to Section 4-41a-301.

5) A cannabis cultivation facility agent shall have a properly displayed identification badge which has been issued by the department while on the facility premises or while engaged in the transportation of cannabis.

6) Each cannabis cultivation facility agent shall have their state issued identification in their possession to certify the information on their badge is correct.

7) A cannabis cultivation facility agent's identification badge shall be returned to the department immediately upon termination of their employment with the cannabis cultivation facility.

#### **R68-27-9. Pesticide and Fertilizer Use.**

1) A cannabis cultivation facility shall maintain:

- a) the material safety data sheet for any pesticide, fertilizer, or other agricultural chemical used in the production of cannabis which shall be accessible to any cannabis cultivation facility agent;
- b) the original label or a copy thereof for each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis; and
- c) a log of each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis.

2) Pesticides approved by the department may be used in the production, processing, and handling of cannabis.

3) Each pesticide, fertilizer, and other agricultural chemical is to be stored in a separate location apart from cannabis.

4) Pesticides shall be used consistent with the label requirements.

5) Fertilizer registered with the department under Title 4, Chapter 13, the Utah Fertilizer Act, may be used in the production and handling of cannabis.

NOTICES OF PROPOSED RULES

6) Cannabis exposed to unauthorized pesticide, soil amendment, or fertilizer is subject to destruction at the cost of the cannabis cultivation facility.

**R68-27-10. Transportation.**

1) A printed transport manifest shall accompany each transport of cannabis.

2) The manifest shall contain the following information:

a) the cannabis production establishment address and cannabis production establishment license number of the departure location;

b) the physical address and cannabis production establishment license number of the receiving location;

c) the strain name, quantity by weight, and unique identification number of each cannabis material to be transported;

d) the date and time of departure;

e) the estimated date and time of arrival; and

f) the name and signature of each cannabis production establishment agent accompanying the cannabis.

3) The transport manifest may not be voided or changed after departing from the original cannabis cultivation facility.

4) A copy of the transport manifest shall be given to the receiving cannabis production establishment.

5) The receiving cannabis establishment shall ensure that the cannabis material received is as described in the transport manifest and shall record the amount received for each strain into the inventory control system.

6) The receiving cannabis establishment shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

7) During transport a cannabis cultivation facility shall ensure the cannabis is:

a) shielded from the public view;

b) secured; and

c) temperature controlled if perishable.

8) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

9) Only the registered agents of the cannabis cultivation facility may occupy a transporting vehicle.

**R68-27-11. Recall Protocol.**

1) The department may initiate a recall of cannabis or cannabis products if:

a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;

b) evidence exists that residual solvents are present on or in cannabis or cannabis product;

c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or

d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.

2) A cannabis cultivation facility's recall plan shall include, at a minimum:

a) designation of at least one member of the staff who serves as the recall coordinator;

b) procedures for identifying and isolating product to prevent or minimize distribution to patients;

c) procedures to retrieve and destroy product; and

d) a communications plan to notify those affected by the recall.

3) The facility must track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.

4) A cannabis cultivation facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.

5) The department shall periodically check on the progress of the recall until the department declares an end to the recall.

6) A cannabis cultivation facility shall notify the department before initiating a voluntary recall.

**R68-27-12. Minimum Requirements for the Storage and Handling of Cannabis.**

1) Storage areas shall provide adequate lighting, sanitation, temperature, humidity, space, equipment, and security conditions for the storage of cannabis.

2) Stored cannabis shall be at least six inches off the ground.

3) Cannabis shall be stored away from other chemicals, lubricants, pesticides, fertilizers, or other potential contaminants.

4) Cannabis that is outdated, damaged, deteriorated, misbranded, adulterated shall be stored separately until it is destroyed.

**R68-27-13. Cannabis Waste Disposal.**

1) Solid and liquid wastes generated during cannabis cultivation shall be stored, managed, and disposed of in accordance with applicable state laws and regulations.

2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state laws and regulations.

3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.

4) Cannabis waste shall be rendered unusable prior to leaving the cannabis cultivation facility.

5) Cannabis waste not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis plant waste with other ground materials so the resulting mixture is at least fifty percent non-cannabis waste by volume, or by other methods approved by the department before implementation.

6) Materials used to grind with cannabis fall into two categories:

a) compostable; or

b) non-compostable.

7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

a) food waste;

b) yard waste; or

c) vegetable-based grease or oils.

8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

a) paper waste;

b) cardboard waste;

c) plastic waste; or

d) soil.

9) Cannabis waste includes:

a) cannabis plant waste including roots, stalks, leaves, and stems;

- b) excess cannabis or cannabis products from any quality assurance testing;
- c) cannabis or cannabis products that fail to meet testing requirements; and
- d) cannabis or cannabis products subject to a recall.

**R68-27-14. Change in Operation Plans.**

- 1) A cannabis cultivation facility shall submit a notice, on a form provided by the department, prior to making any changes to:
  - a) ownership or financial backing of the facility;
  - b) the facility's name;
  - c) a change in location;
  - d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or
  - e) change in square footage or acreage of cannabis intended to be cultivated.
- 2) A cannabis cultivation facility may not implement changes to the approved operation plan without department approval.
- 3) The department shall respond to the request for changes within 15 business days.
- 4) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.
- 5) The department shall specify the reason for the denial of approval for a change to the operation plan.

**R68-27-15. Renewals.**

- 1) A cannabis cultivation facility shall submit a notice of intent to renew the cannabis cultivation facility license and the licensing fee to the department by December 1st.
- 2) If the cannabis cultivation facility licensing fee and intent to renew the cannabis cultivation facility license are not submitted by December 31st the cannabis cultivation facility licensee may not continue to operate.
- 3) The department may renew a cannabis cultivation facility license unless renewal would lead to a violation of the applicable laws and rules of the state.

**R68-27-16. Cannabis Cultivation Facility License Transfer.**

- 1) "Business entity" for purposes of this section means any person, proprietorship, partnership, corporation, or other commercial organization.
- 2) The department may authorize the transfer of a cannabis cultivation facility license from the holder of the license to another business entity where any transaction will result in the business entity recorded on the existing cannabis cultivation facility license to permanently reorganize, dissolve, lapse or otherwise cease to exist as a legal business entity under the laws of the state.
- 3) A transfer of ownership form, provided by the department, shall be submitted by the existing cannabis cultivation facility licensee to the department prior to the cannabis cultivation facility license transfer.
- 4) Approval of the department shall be received by the existing cannabis cultivation facility licensee prior to any cannabis cultivation facility license transfer.
- 5) The department may deny a cannabis cultivation facility license transfer to any proposed transferee for any of the following reasons:
  - a) the business entity fails to meet the qualifications for a cannabis cultivation facility license; or
  - b) the transfer of the cannabis cultivation facility license would lead to disruption in the supply of cannabis to the market.

6) A business entity may not begin operations until it has received a cannabis cultivation facility license from the department issued in its name.

**R68-27-1[6]7. Violations Categories.**

- 1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations that present a direct threat to public health or safety including:
  - a) use of unapproved pesticide or unapproved agricultural soil amendment;
  - b) cannabis sold to an unlicensed source;
  - c) cannabis purchased from an unlicensed source;
  - d) refusal to allow inspection;
  - e) failure to comply with testing requirements;
  - f) a test result for high pesticide residue in the cannabis produced or cannabis product;
  - g) unauthorized personnel on the premises;
  - h) permitting criminal conduct on the premises; or
  - i) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments.
- 2) Regulatory Violations: \$1,000 - \$5,000 per violation. This category is for violations involving this rule and other applicable state rules:
  - a) failure to maintain alarm and security systems;
  - b) failure to keep and maintain records;
  - c) failure to maintain traceability;
  - d) failure to follow transportation requirements;
  - e) failure to follow the waste and disposal requirements;
  - f) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule; or
  - g) failure to maintain standardized scales.
- 3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including:
  - a) an unauthorized change to the operating plan;
  - b) failure to notify the department of changes to the operating plan;
  - c) failure to notify the department of changes to financial or voting interests of greater than 2%;
  - d) failure to follow the operating plan as approved by the department;
  - e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments; or
  - f) failure to respond to violations.
- 4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.
- 5) The department may consider enhancing or reducing the penalty based on the seriousness of the violation.

**KEY: marijuana, cannabis cultivation facility**  
**Date of Enactment or Last Substantive Amendment: [September 4, 2020]2021**  
**Authorizing, and Implemented or Interpreted Law: 4-41a-404(3); 4-41a-103(5); 4-41a-204(2)(e); 4-41a-302(3)(b)(ii); 4-41a-701(2); 4-41a-405(2)(b)(iv); 4-2-103(1)(i); 4-41a-801(1)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-214	Filing No. 53366

**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>
R277-214. Utah Professional Practices Advisory Commission Criminal Background Review
<b>3. Purpose of the new rule or reason for the change:</b>
The rule is being amended to clarify criminal background procedures.
<b>4. Summary of the new rule or change:</b>
The amendments to this rule: 1) clarify the scope of this rule, 2) clarify the procedures for review of an applicant's background check, 3) establish presumptions for certain offenses, consistent with current Utah Professional Practices Advisory Commission (UPPAC) practice, and 4) clarify hearing procedures for criminal background reviews.

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

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

There are no material compliance costs for affected persons. The rule changes are technical and clarifying 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.)

**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	Subsection 53E-3-401(4)	Section 53E-6-506
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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:** 05/03/2021

**10. This rule change MAY become effective on:** 05/10/2021

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>	03/15/2021
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**R277. Education, Administration.**

~~R277-214. [Utah Professional Practices Advisory Commission]~~  
~~[Criminal Background Review.~~

**R277-214-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constm9itution 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[±
  - ~~—(a)— to establish procedures for [an applicant to proceed toward licensing]evaluation of a licensure applicant's criminal background review[±or~~
  - ~~(b) be denied to continue when an application or recommendation for licensing or renewal identifies offenses in the applicant's criminal background check].~~

- (3) If a licensed educator is charged with a misdemeanor or felony after receiving a license under Rule R277-301, the Executive Secretary shall review the matter with UPPAC in accordance with Rule R277-211 to determine how to proceed.

- ([3]4) 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).

**R277-214-2. Initial Submission and Evaluation of Information.**

- (1) The Executive Secretary shall review all information received as part of a criminal background review.

NOTICES OF PROPOSED RULES

(2) The Executive Secretary may request any of the following information from an educator in determining how to process a criminal background review:

(a) a letter of explanation for each reported offense that details the circumstances, the final disposition, and any explanation for the offense the applicant may want to provide UPPAC, including any advocacy for approving licensing;

(b) official documentation regarding each offense, including court records and police reports for each offense, or if both court records and police reports are not available, a letter on official police or court stationery from the appropriate court or police department involved, explaining why the records are not available; and

(c) any other information that the Executive Secretary considers relevant under the circumstances in a criminal background review.

(3)(a) The Executive Secretary may only process a criminal background review after receipt of all letters of explanation and documentation requested in good faith by the Executive Secretary.

(b) The Executive Secretary shall provide timely notice if the information provided by an applicant is incomplete.

(4) If an applicant is under court supervision of any kind, including parole, informal or formal probation, or plea in abeyance, the Executive Secretary may not process the background check review until the Executive Secretary receives proof that court supervision has terminated.

(5) It is the applicant's sole responsibility to provide any requested material to the Executive Secretary.

(6) The Executive Secretary shall process criminal background reviews subject to the following criteria:

(a) the Executive Secretary may clear a criminal background review without further action if the arrest, citation, or charge resulted in a dismissal, unless the dismissal resulted from a plea in abeyance agreement;

(b) the Executive Secretary shall forward a recommendation to clear the following criminal background reviews directly to the Board:

(i) singular offenses committed by an applicant, excluding offenses identified in Subsection(6)(c), if the ~~arrest~~ offense occurred more than two years prior to the date of submission to UPPAC for review;

(ii) ~~more than~~ two offenses committed by ~~the~~an applicant, excluding offenses identified in Subsection(6)(c), if ~~at least one arrest occurred more than five years~~ both offenses occurred more than two years prior to the date of submission to UPPAC for review; or

(iii) more than two offenses committed by the applicant, excluding offenses identified in Subsection(6)(c), if all ~~arrests for the~~ offenses occurred more than ~~40~~five years prior to the date of submission to UPPAC for review;

(c) the Executive Secretary shall forward the following criminal background reviews to UPPAC, which shall make a recommendation to the Board for final action:

(i) ~~convictions or pleas in abeyance for~~any offense where the offense date occurred less than two years prior to the date of submission to UPPAC;

(ii) ~~convictions or pleas in abeyance for multiple~~more than two offenses where ~~all offenses~~at least one offense occurred less than five years prior to the date of submission to UPPAC;

(iii) ~~convictions or pleas in abeyance for felonies~~any felony;

(vi) ~~arrests, convictions, or pleas in abeyance for~~any sex-related or lewdness offense[s];

(v) ~~convictions or pleas in abeyance for~~any alcohol-related offense[s] or drug-related offense[s] where the offense date was less than five years prior to the date of submission to UPPAC;

(vi) ~~convictions or pleas in abeyance~~any offense involving children in any way; and

(vii) ~~convictions or pleas in abeyance involving~~any other matter which in the Executive Secretary's [determines, in his] discretion, warrants review by UPPAC [and the] before consideration by the Board; and

(d) If ~~the~~a criminal background review involves a conviction for an offense ~~requiring mandatory revocation under Subsection 53E-6-604(5)(b)]~~identified in Subsection 53E-6-603(2) or an applicant meeting the definition of sex offender under Subsection 77-41-102(17), the Executive Secretary shall forward a recommendation [directly] to the Board that clearance be denied.

(7) If, as a result of a criminal background review, it is discovered that an applicant has been convicted of a misdemeanor offense, there is a rebuttable presumption that the following shall apply:

(a) for a single conviction, the individual shall be denied clearance for a period of one year from the date of the conduct giving rise to the charge;

(b) for two convictions:

(i) the individual shall be denied clearance for a period of two years from the date of the conduct giving rise to the most recent charge; and

(ii) if both offenses are alcohol-related offenses or drug-related offenses, the applicant shall present documentation of clinical assessment and recommended treatment before being considered for clearance; and

(c) for three convictions:

(i) the applicant shall be denied clearance for a period of five years from the date of the conduct giving rise to the most recent charge; and

(ii) if two or more of the offenses are alcohol-related offense or drug-related offenses, the applicant shall present documentation of clinical assessment and recommended treatment before being considered for clearance.

(8) UPPAC or the Board may deviate from the presumptions specified in Subsection (7) if aggravating or mitigating circumstances apply, as set forth in Section R277-215-3.

([7]9) The Executive Secretary shall use reasonable discretion to interpret the information received from the Bureau of Criminal Identification to comply with the provisions of this rule.

(10) If a criminal background review arises as a result of conduct that was cleared in a prior criminal background review by the Executive Secretary, UPPAC, or the Board, the prior action shall be deemed final, and the Executive Secretary shall clear the criminal background review.

**R277-214-3. Board Review and Appeals.**

([8]1) In Board [review]consideration of recommendations of the Executive Secretary and UPPAC for a criminal background [checks]review, the following shall apply:

(a) the Board shall consider a criminal background review in accordance with the standards described in Section 53E-6-603;

(b) the Board may uphold [any]the recommendation of the Executive Secretary or UPPAC[, which action shall be the final agency action of USOE]; or

(c) the Board may substitute its own judgment in lieu of the recommendation of the Executive Secretary or UPPAC [~~which action shall be the final agency action of USOE; and~~

~~(d) if the Board chooses to substitute its own judgment in a criminal background review, the Board shall adopt findings articulating its reasoning].~~

~~[(9) If a criminal background review arises as a result of conduct that was cleared in a prior criminal background review by the Executive Secretary, UPPAC, or the Board, the prior action shall be deemed final, and the Executive Secretary shall clear the criminal background review.]~~

~~[(10)2] If a criminal background review results in an applicant's denial, [the applicant may request to be heard, and to have the matter reconsidered by the Board, consistent with the requirements of Subsection 53E-6-603(4).]the Executive Secretary shall provide notice as required by Subsection 53E-6-603(4)(a).~~

~~(3) If an applicant requests a hearing in accordance with Subsection 53E-6-603(4)(b), the Executive Secretary shall schedule a hearing within 90 days.~~

~~(4) During a hearing on a criminal background review a hearing panel, composed in the same manner as provided for expedited hearings in Subsection R277-210-2(21) shall hear the evidence.~~

~~(5) the applicant, or applicant's attorney, and a UPPAC attorney, may present evidence at a hearing, including:~~

~~(a) documents submitted to the Executive Secretary in accordance with Subsection R277-214-2(2); and~~

~~(b) relevant evidence or witnesses related to:~~

~~(i) the facts surrounding the criminal offenses at issue; and~~

~~(ii) the applicant's character and conduct since the time of the offense.~~

~~(6) The applicant shall have the burden of persuasion by a preponderance of evidence that the applicant is fit for licensure as an educator.~~

~~(7) Following the hearing, the hearing officer, with the assistance of the hearing panel, shall prepare a hearing report within 20 days setting forth findings of fact and recommendations in accordance with Subsection 53E-6-603(1).~~

~~(8)(a) The Executive Secretary shall submit the matter to UPPAC at the next available meeting following preparation of the report.~~

~~(b) UPPAC may:~~

~~(i) approve the hearing report; or~~

~~(ii) direct the Executive Secretary to prepare an addendum modifying the hearing recommendation and specifying the evidence supporting the modification.~~

~~(9) Following UPPAC's recommendation under Subsection (6), the Executive Secretary shall forward the hearing report to the Board.~~

~~(10) The Board shall consider the recommendation submitted under Subsection (7) and within a reasonable time shall:~~

~~(a) adopt the UPPAC recommendation; 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 UPPAC recommendation.~~

~~**[R277-214-3. Alcohol and Drug Related Offenses of an Individual Who Does Not Hold Licensure.**~~

~~(1)(a) If as a result of a background check, it is discovered that an applicant has been convicted of an alcohol related offense or a drug related offense within five years of the date of the background~~

~~check, the minimum conditions described in this Subsection (1) shall apply.~~

~~(b) One conviction the individual shall be denied clearance for a period of one year from the date of the conduct giving rise to the charge.~~

~~(c) Two convictions the individual shall be denied clearance for a period of two years from the date of the conduct giving rise to the most recent charge and the applicant shall present documentation of clinical assessment and recommended treatment before clearance shall be considered.~~

~~(d) Three convictions the individual shall be denied clearance for a period of five years from the date of the conduct giving rise to the most recent charge, and the applicant shall present documentation of clinical assessment and recommended treatment before clearance shall be considered.~~

~~(2) UPPAC or the Board may take action in excess of the minimum conditions specified in Subsection (1) if aggravating circumstances exist as set forth in Subsection R277-215-2(9).]~~

**KEY: educator licenses, background reviews, background checks**

**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.):	R277-419	Filing No. 53367

**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>
R277-419. Pupil Accounting
<b>3. Purpose of the new rule or reason for the change:</b>
The Board approved the current version of Rule R277-419 only for the 2020-2021 school year (SY). As schools set

calendars and schedules for next school year, they need to know if the Board will continue to apply the changes approved for the 2020-21 SY moving forward.

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

This amendment continues the 2020-2021 version of Rule R277-419, strikes the 990-hour requirement and makes other clarifying and conforming changes.

**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. Most local education agencies (LEAs) received waivers from the 990-hour requirement in SY 2020-2021. Additionally, there may be some minor systems and process updates required for LEAs to report whether a student's status is attendance validated or learner validated, but these impacts should be small.

**B) Local governments:**

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. Most LEAs received waivers from the 990-hour requirement in SY 2020-2021. Additionally, there may be some minor systems and process updates required for LEAs to report whether a student's status is attendance validated or learner validated, but these impacts should be small.

**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. Most LEAs received waivers from the 990-hour requirement in SY 2020-2021. Additionally, there may be some minor systems and process updates required for LEAs to report whether a student's status is attendance validated or learner validated, but these impacts should be small.

**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. Most LEAs received waivers from the 990-hour requirement in SY 2020-2021. Additionally, there may be some minor systems and process updates required for LEAs to report whether a student's status is attendance validated or learner validated, but these impacts should be small.

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

There are no significant compliance costs for affected persons. Most LEAs received waivers from the 990-hour requirement in SY 2020-2021. Additionally, there may be some minor systems and process updates required for LEAs to report whether a student's status is attendance validated or learner validated, but these impacts should be small.

**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 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	Subsection 53E-3-602(2)	Subsection 53G-5-404(4)
Subsection 53E-3-501(1)(e)	Subsection 53E-3-301(3)(d)	Subsection 53E-3-401(4)
Section 53G-4-404		

**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>	05/03/2021
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<b>10. This rule change MAY become effective on:</b>	05/10/2021
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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>	03/15/2021
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**R277. Education, Administration.**

**R277-419. Pupil Accounting.**

**R277-419-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
  - (c) Subsection 53E-3-501(1)(e), which directs the Board to establish rules and standards regarding:
    - (i) cost-effectiveness;
    - (ii) school budget formats; and
    - (iii) financial, statistical, and student accounting requirements;
  - (d) Subsection 53E-3-602(2), which requires a local school board's auditing standards to include financial accounting and student accounting;
  - (e) Subsection 53E-3-301(3)(d), which requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs;
  - (f) Section 53G-4-404, which requires annual financial reports from all school districts; and
  - (g) Subsection 53G-5-404(4), which requires charter schools to make the same annual reports required of other public schools.
- (2) The purpose of this rule is to specify pupil accounting procedures used in apportioning and distributing state funds for education.

**R277-419-2. Definitions.**

- (1) "Aggregate Membership" means the sum of all days in membership during a school year for eligible students enrolled in a public school.
- (2) "Approved CTE course" means a course approved by the Board within the Career and Technical Education (CTE) Pathway areas of study.
- (3) "Attendance validated program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.
- (4) "Blended learning program" means a formal education program under the direction of an LEA in which a student learns through an integrated experience that is in part:

## NOTICES OF PROPOSED RULES

(a) through online learning, with some element of student control over time, place, path, or pace; and  
(b) in a supervised brick-and-mortar school away from home.

(5) "Brick and mortar school" means a school where classes are conducted in a physical school building.

(6) "Competency based learning program" means an education program that provides instruction through competency-based education as defined in Section 53F-5-501.

(7) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

(8) "Early graduation student" means a student who has an early graduation student education plan as described in Section R277-703-4.

(9) "Educational services" means providing learning opportunities and services designed to support a student to be prepared to succeed and lead by having the knowledge and skills to learn, engage civically, and lead meaningful lives, including by providing:

- (a) high quality instruction for each student;
- (b) personalized learning supports for each student; and
- (c) implementation of evidence-based student health and wellness practices.

(10) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Section R277-419-7.

(11) "Enrollment verification data" includes:

- (a) a student's birth certificate or other verification of age;
- (b) verification of immunization or exemption from immunization form;
- (c) proof of Utah public school residency;
- (d) family income verification; or
- (e) special education program information, including:
  - (i) an individualized education program;
  - (ii) a Section 504 accommodation plan; or
  - (iii) an English learner plan.

(12)(a) "Home school" means the formal instruction of children in their homes instead of in an LEA.

(b) "Home school" ~~does not include public school instruction provided in a home, including when:~~The differences between a home school student and an online student include:

(i) an online student ~~may~~ receives instruction at home, but the student is enrolled in a public school that follows state Core Standards;

(ii) an online student is:

(A) subject to laws and rules governing state and federal mandated tests; and

(B) included in accountability measures; or

(iii) an online student receives instruction under the direction of a highly qualified, licensed teacher who is subject to the licensure requirements of ~~[R277-502]~~R277-301 and fingerprint and background checks consistent with R277-214 and ~~[R277-520];~~R277-309.

~~[(iv) instruction delivered in a home school course is not eligible to be claimed in membership of an LEA and does not qualify for funding under the Minimum School Program in Title 53F, Chapter 2, Minimum School Program Act.]~~

(13) "Home school course" means instruction:

(a) delivered in a home school environment where the curriculum and instruction methods, evaluation of student progress

or mastery, and reporting, are provided or administered by the parent, guardian, custodian, or other group of individuals; and

(b) not supervised or directed by an LEA.

(14)(a) "Influenza pandemic" or "pandemic" means a global outbreak of serious illness in people.

(b) "Influenza pandemic" or "pandemic" may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

(15) "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.

(16) "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.

(17) "Learner validated enrollment measurement" means a methodology used to establish a student's membership or enrollment status for purposes of generating membership days.

(18) "Learner validated program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through:

- (a) an online learning program;
- (b) a blended learning program; or
- (c) a personalized, competency based learning program.

(19)(a) "Membership" means a public school student is on the current roll of a public school class or public school as of a given date.

(b) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

(c) Removal from the roll does not mean that an LEA should delete the student's record, only that the student should no longer be counted in membership.

(20) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

(21) "Online learning program" means a program:

(a) that is under the direction of an LEA; and  
(b) in which students receive educational services primarily over the internet.

(22) "Private school" means an educational institution that:

(a) is not an LEA;  
(b) is owned or operated by a private person, firm, association, organization, or corporation; and  
(c) is not subject to governance by the Board consistent with the Utah Constitution.

(23) "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

(24) "Qualifying school age" means:

(a) a person who is at least five years old and no more than 18 years old on or before September 1;

(b) with respect to special education, a person who is at least three years old and no more than 21 years old on or before July 1;

(c) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.

(25) "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.

(26) "Retained senior" means a student beyond the general compulsory school age who is authorized at the discretion of an LEA

to remain in enrollment as a high school senior in the year(s) after the student's cohort has graduated due to:

- (a) sickness;
- (b) hospitalization;
- (c) pending court investigation or action; or
- (d) other extenuating circumstances beyond the control of the student.

(27) "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.

(28) "S2" means the record maintained by the Superintendent containing individual student data related to participation in a special education program in a Data Clearinghouse file.

(29) "S3" means the record maintained by the Superintendent containing individual student data related to participation in a YIC program in a Data Clearinghouse file.

(30) "School" means an educational entity governed by an LEA that:

- (a) is supported with public funds;
- (b) includes enrolled or prospectively enrolled full-time students;
- (c) employs licensed educators as instructors that provide instruction consistent with Section [R277-502]R277-301;
- (d) has one or more assigned administrators;
- (e) is accredited consistent with Section R277-410-3; and
- (f) administers required statewide assessments to the school's students.

(31) "School day" means a day where an LEA provides educational services to students subject to the requirements described in Section R277-419-5.

(32) "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

(33) "School of enrollment" means:

- (a) a student's school of record; and
- (b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

(34) "School reopening requirements template" means the template LEAs are required to submit to Superintendent as an assurance that the LEA has addressed state requirements for reopening schools for in person learning for the 2020-21 school year.

(35) "School year" means the 12 month period from July 1 through June 30.

(36) "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.

(37) "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

(38) "SSID" means Statewide Student Identifier.

(39) "Unexcused absence" means an absence charged to a student when:

- (a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-[7(4)]11(5); and
- (b) the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53G-6-201.

(40) "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.

(41) "Youth in custody (YIC)" means a person under the age of 21 who is:

- (a) in the custody of the Department of Human Services;
- (b) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or
- (c) being held in a juvenile detention facility.

**R277-419-3. Incorporation by Reference of Continuity of Education Plan Form and School Reopening Requirements Template.**

(1) This rule incorporates by reference:

(a) the Continuity of Education Plan form created by the Superintendent, which requires planning for services in the event of a school closure, including:

- (i) e-learning;
- (ii) special education services;
- (iii) student meals;
- (iv) event planning; and
- (v) staffing.

(b) the School Reopening Requirements Template created by the Superintendent and based on the K-12 School Reopening Requirements and Recommendations approved by the Board, which an LEA is required to submit to the Superintendent as an assurance that the LEA has addressed state requirements for safely reopening schools for the 2020-21 school year.

(2) A copy of the Continuity of Education Plan[~~the~~] form is located at:

(a) <http://schools.utah.gov/administrativerules/documentsincorporated/>; and

(b) the Utah State Board of Education.

(3) A copy of the School Reopening Requirements template is located at:

- (a) <https://www.schools.utah.gov/>; and
- (b) the Utah State Board of Education.

**R277-419-4. Schools and Programs.**

(1)(a) The Superintendent shall provide a list to each school detailing the required accountability reports and other state-mandated reports for the school type and grade range.

(b) All schools shall submit a Clearinghouse report to the Superintendent.

(c) All schools shall employ at least one licensed educator and one administrator.

(2)(a) A student who is enrolled in a program is considered a member of a public school.

(b) The Superintendent may not require programs to receive separate accountability and other state-mandated reports.

(c) A student reported under an LEA's program shall be included in the LEA's WPU and student enrollment calculations of the LEA's school of enrollment.

(d) A course taught at a program shall be credited to the appropriate school of enrollment.

(3) A private school or program may not be required to submit data to the Superintendent.

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(4) A private school or program may not receive annual accountability reports.

**R277-419-5. Minimum School Days.**

(1)(a) Except as provided in Subsection (1)(b), Section R277-419-6, and Subsection 53F-2-102(4), an LEA shall ~~conduct school for at least 990 hours of~~ provide educational services over a minimum of 180 school days each school year.

(b) an LEA may seek an exception to the number of school days described in Subsection (1)(a):

(i) except as provided in Subsection (1)(b)(ii), for a whole school or LEA as described in R277-121;

(ii) for a school closure due to snow, inclement weather, or other emergency as described in Section R277-121-5; or

(iii) for an individual student as described in Section R277-419-~~14~~14.

(2) An LEA may offer the required school days~~[-and hours]~~ described in Subsection (1)(a) at any time during the school year, consistent with the law.

(3) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.

(4) Minimum standards apply to all public schools in all settings unless Utah law or this rule provides for a specific exception.

(5) An LEA's governing board shall provide adequate contingency school days~~[-and hours]~~ in the LEA's yearly calendar to avoid the necessity of requesting a waiver except in the most extreme circumstances.

~~[(6)(a) In addition to the allowance to use up to 32 hours of educational services or four school days for professional learning described in Subsection 53F-2-102(4), to provide planning and professional development time for staff, an LEA may hold school longer some days of the week and shorter other days so long as minimum school day requirements, as provided for in this Section R277-419-5, are satisfied.]~~

~~[(b)](6)(a)~~ A school may conduct parent-teacher and student Plan for College and Career Readiness conferences during the school day.

~~[(c)](b)~~ Parent-teacher and college and career readiness conferences may only be held for a total of the equivalent of three full school days~~[-or a maximum of 16.5 hours]~~ for the school year.

~~[(d)](c)~~ Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.

~~[(e)](d)~~ An LEA may designate no more than a total of 12 educational service days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.

~~[(f)](e)~~ If educational service days are designated for kindergarten assessment:

(i) an LEA shall designate the days in an open meeting;

(ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;

(iii) qualified school employees shall conduct the assessment consistent with Section 53G-7-205; and

(iv) assessment time per student shall be adequate to justify the forfeited instruction time.

~~[(g)](f)~~ The final decision and approval regarding planning time, parent-teacher and SEP conferences rests with an LEA, consistent with Utah ~~law~~ Code and Board administrative rules.

~~[(h)](g)~~ Total instructional time and school calendars shall be approved by an LEA in an open meeting.

**R277-419-6. Waiver of the 990 Hour Requirement For the 2020-21 School Year.**

Notwithstanding the requirements of Section R277-419-5, for the 2020-21 school year, an LEA is not subject to the requirement to conduct school for at least 990 hours of educational services if, by August 1, 2020, the LEA includes in the LEA's reopening requirements template, how the LEA will ensure continuity of teaching and learning by providing high quality instruction that includes blended learning and formative assessment strategies.

**R277-419-7. Student Membership Eligibility and Learner Validated Enrollment Measurements.**

(1) A student may enroll in two or more LEAs at the discretion of the LEAs.

(2) A kindergarten student may only enroll in one LEA at a time.

(3) In order to generate membership for funding through the Minimum School Program on any school day, an LEA shall ensure that a student being counted by the LEA in membership:

(a) has not previously earned a basic high school diploma or certificate of completion;

(b) has not been enrolled in a YIC program with a YIC time code other than ISI-1 or ISI-2;

(c) does not have unexcused absences, which are determined using one of the learner validated enrollment measurements described in Subsection (4);

(d) is a resident of Utah as defined under Section 53G-6-302;

(e) is of qualifying school age or is a retained senior;

(f)(i) is expected to attend a regular learning facility operated or recognized by an LEA on each regularly scheduled school day, if enrolled in an attendance validated program;

(ii) has direct instructional contact with a licensed educator provided by an LEA at:

(A) an LEA-sponsored center for tutorial assistance; or

(B) the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended period of time, due to:

(I) injury;

(II) illness;

(III) surgery;

(IV) suspension;

(V) pregnancy;

(VI) pending court investigation or action; or

(VII) an LEA determination that home instruction is necessary;

(iii) is enrolled in an approved CTE course(s) on the campus of another state funded institution where such a course is:

(A) not offered at the student's school of membership;

(B) being used to meet Board-approved CTE graduation requirements under Subsection R277-700-6(14); and

(C) a course consistent with the student's SEOP/Plan for College and Career Readiness; or

(iv) is enrolled in a learner validated program under the direction of an LEA that:

(A) is consistent with the student's SEOP/Plan for College and Career Readiness;

(B) has been approved by the student's counselor; and

(C) includes regular instruction or facilitation by a designated employee of an LEA.



(4) An LEA shall use one of the following learner validated enrollment measures:

(a) For a student primarily enrolled in an attendance validated program, the LEA may not count a student as an eligible student if the eligible student has unexcused absences during all of the prior ten consecutive school days.

(b) For a student enrolled in a learner validated program, an LEA shall:

(i) adopt a written policy that designates a learner validated enrollment measurement to document the learner validated membership or enrollment status for each student enrolled in the learner validated program consistent with Subsection (3)(c);

(ii) document each student's continued enrollment status in compliance with the learner validated enrollment policy at least once every ten consecutive school days; and

(iii) appropriately adjust and update student membership records in the student information system for students that did not meet the learner validated enrollment measurement, consistent with Subsection (3)(c).

(c) For a student enrolled in an learner validated program, the LEA may not count a student as an eligible student if the LEA has not personally engaged with the student during the prior ten consecutive school days.

(5) The learner validated enrollment measurement described in Subsection (4)(b) may include some or all of the following components, in addition to other components, as determined by an LEA:

(a) a minimum student login or teacher contact requirement;

(b) required periodic contact with a licensed educator;

(c) a minimum hourly requirement, per day or week, when students are engaged in course work; or

(d) required timelines for a student to provide or demonstrate completed assignments, coursework or progress toward academic goals.

(6)(a) Beginning with the 2021-22 school year, an LEA shall submit each student's attendance validated or learner validated enrollment status through the UTREx/Data Clearinghouse.

(b) For a student who participates in both attendance validated, and learner validated programs, the LEA shall designate the student's status as learner validated enrollment.

~~(6)~~(7)(a) An LEA desiring to generate membership for student enrollment in courses outlined in Subsection (3)(f)(iii), or to seek a waiver from a requirement(s) in Subsection (3)(f)(iii), shall submit an application for course approval by April 1 of the year prior to which the membership will be counted.

(b) An LEA shall be notified within 30 days of the application deadline if courses have been approved.

#### **R277-419-8. Student Membership Calculations.**

(1)(a) Except as provided in Subsection (1)(b) or (1)(c), a student enrolled in only one LEA during a school year is eligible for no more than 180 days of regular membership per school year.

(b) An early graduation student may be counted for more than 180 days of regular membership in accordance with the student's early graduation student education plan.

(c) A student transferring within an LEA to or from a year-round school is eligible for no more than 205 days of regular membership per school year.

(2)(a) Except as provided in Subsection (2)(b), (2)(c), or (2)(d), a student enrolled in two or more LEAs during a school year

is eligible for no more than 180 days of regular membership per school year.

(b) A student transferring to or from an LEA with a schedule approved under Subsection R277-419-5(1)(b) is eligible for no more than 220 days of regular membership per school year.

(c) A student transferring to or from an LEA where the student attended or will attend a year-round school is eligible for no more than 205 days of regular membership per school year.

(d) If the exceptions in Subsections (2)(b) and (2)(c) do not apply but a student transfers from one LEA to another at least one time during the school year, the student is eligible for regular membership in an amount not to exceed the sum of:

(i) 170 days; plus

(ii) 10 days multiplied by the number of LEAs the student attended during the school year.

(3) If a student is enrolled in two or more LEAs during a school year and the aggregate regular membership generated for the student between all LEAs exceeds the amount allowed under Subsection (2), the Superintendent shall apportion the days of regular membership allowed between the LEAs.

(4) If a student was enrolled for only part of the school day or only part of the school year, an LEA shall prorate the student's membership according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled~~[-F]~~, for example:

(a) ~~[H]~~if the student was enrolled for 4 periods each day in a 7 period school day for all 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days~~[-]; or~~

(b) ~~[H]~~if the student was enrolled for 7 periods each day in a 7 period school day for 103 school days, the student's membership would also be 103 days.

(5)(a) An LEA shall calculate the days in membership for all students using a method equivalent to the following: total clock hours of educational services for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day.

(b) For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be  $(900/990) \times 180$ , and the LEA would report 164 days.

(6) The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.

(7) The sum of regular and resource special education membership days may not exceed 360 days.

(8) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

(9) An LEA may also count a student in membership for the equivalent in hours of up to:

(a) one period each school day, if the student has been:

(i) released by the school, upon a parent or guardian's request, during the school day for religious instruction or individual learning activity consistent with the student's SEOP/Plan for College and Career Readiness; or

(ii) participating in one or more extracurricular activities under Rule R277-438, but has otherwise been exempted from school attendance under Section 53G-6-204 for home schooling;

(b) two periods each school day per student for time spent in bus travel during the regular school day to and from another state-funded institution, if the student is enrolled in CTE instruction consistent with the student's SEOP/Plan for College and Career Readiness;

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(c) all periods each school day, if the student is enrolled in:  
(i) a concurrent enrollment program that satisfies all the criteria of Rule R277-713;

(ii) a private school without religious affiliation under a contract initiated by an LEA to provide special education services which directs that the instruction be paid by public funds if the contract with the private school is approved by an LEA board in an open meeting;

(iii) a foreign exchange student program under Subsection 53G-6-707(7); or

(iv) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP provided that:

(A) the student may only be counted in S1 membership and may not have an S2 record; and

(B) the S2 record for the student is submitted by the Utah Schools for the Deaf and the Blind.

(10)(a) Except as provided in Subsection (10)(b), a student receiving instruction delivered in a home school course or by a private school is not eligible to be claimed in an LEA's membership and does not qualify for funding under the Minimum School Program in Title 53F, Chapter 2, Minimum School Program Act.

(b) Subsection (10)(a) does not apply to public school instruction provided by an LEA to a home school or private school student participating in dual enrollment as described in Section 53G-6-702.

**R277-419-9. Student Membership Calculation During the 2020 Covid-19 Pandemic.**

Notwithstanding the requirements of Sections R277-419-7 and R277-419-8, the Superintendent shall calculate an LEA's membership for days of instruction from March 16, 2020 to June 30, 2020, based on the LEA's average rate of membership between July 1, 2019 and March 13, 2020 if:

(1) the LEA has submitted a continuity of education plan on or before June 1, 2020; and

(2) the LEA provides educational services through the end of the LEA's regular school year calendar.

**R277-419-10. Calculations for a First Year Charter School.**

(1) For the first operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on October 1 counts.

(2) For the second operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on Section 53F-2-302.

**R277-419-11. Reporting Requirements, LEA Records, and Agreed-Upon Procedures Engagements.**

(1) An LEA shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership is calculated in days of membership.

(3) To determine student membership, an LEA shall ensure that records of daily student attendance or student engagement are maintained in each school which clearly and accurately show for each student the:

- (a) entry date;
- (b) exit date;
- (c) exit or high school completion status;

(d) whether or not an absence was excused;  
(e) disability status (resource or self-contained, if applicable); and

(f) YIC status (ISI-1, ISI-2 or self-contained, if applicable).

(4) An LEA shall ensure that:

(a) computerized or manually produced records for CTE programs are kept by teacher, class, and classification of instructional program (CIP) code; and

(b) the records described in Subsection (4)(a) clearly and accurately show for each student in a CTE class the:

- (i) entry date;
- (ii) exit date; and
- (iii) excused or unexcused status of absence.

(5) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.

(6) Due to school activities requiring schedule and program modification during the first days and last days of the school year:

(a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;

(b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and

(c) schools shall continue educational service activities throughout required calendared days.

(7) An LEA shall employ an independent auditor, under contract, to:

(a) perform an annual agreed-upon procedures engagement; and

(b) report any findings of the engagement to:

- (i) the LEA board; and
- (ii) the Financial Operations Section of the Board.

(8) Reporting dates, forms, and procedures are found in the Guide for Agreed-Upon Procedures Engagements for Local Education Agencies, published by the Office of the State Auditor, in collaboration with the Superintendent.

(9) The Superintendent:

(a) shall review each LEA's student membership and fall enrollment reports as they relate to the allocation of state funds; and

(b) may periodically or for cause review LEA records and practices for compliance with Federal and State laws and this rule.

**R277-419-12. High School Completion Status.**

(1) An LEA shall account for the final status of all students who enter high school (grades 9-12) whether they graduate or leave high school for other reasons, using the following decision rules to indicate the high school completion or exit status of each student who leaves the Utah public education system:

(a) graduates are students who earn a basic high school diploma by satisfying one of the options consistent with Subsection R277-705-4(2) or out-of-school youths of school age who complete adult education secondary diploma requirements consistent with R277-733;

(b) completers are students who have not satisfied Utah's requirements for graduation but who:

(i) are in membership in twelfth grade on the last day of the school year; and

(ii)(A) meet any additional criteria established by an LEA consistent with its authority under Section R277-705-4;

(B) meet any criteria established for special education students under Utah State Board of Education Special Education Rules, Revised, June 2016, and available at: <http://www.schools.utah.gov/sars/Laws.aspx> and the Utah State Board of Education;

(C) meet any criteria established for special education students under Subsection R277-700-8(5); or

(D) pass a General Educational Development (GED) test with a designated score;

(c) continuing students are students who:

(i) transfer to higher education, without first obtaining a diploma;

(ii) transfer to the Utah Center for Assistive Technology without first obtaining a diploma; or

(iii) age out of special education;

(d) dropouts are students who:

(i) leave school with no legitimate reason for departure or absence;

(ii) withdraw due to a situation so serious that educational services cannot be continued even under the conditions of Subsection R277-419-7(3)(f)(ii);

(iii) are expelled and do not re-enroll in another public education institution; or

(iv) transfer to adult education;

(e) an LEA shall exclude a student from the cohort calculation if the student:

(i) transfers out of state, out of the country, to a private school, or to home schooling;

(ii) is a U.S. citizen who enrolls in another country as a foreign exchange student;

(iii) is a non-U.S. citizen who enrolls in a Utah public school as a foreign exchange student under Section 53G-6-707 in which case the student shall be identified by resident status (J for those with a J-1 visa, F for all others), not by an exit code;

(iv) dies; or

(v) beginning with the 2015-2016 school year, is attending an LEA that is not the student's school of enrollment.

(2)(a) An LEA shall report the high school completion status or exit code of each student to the Superintendent as specified in Data Clearinghouse documentation.

(b) High School completion status or exit codes for each student are due to the Superintendent by year end upload for review related to the Agreed-Upon Procedures Engagement.

(c) Except as provided in Subsection (2)(d), an LEA shall submit any further updates of completion status or exit codes by October 1 following the end of a student's graduating cohort pursuant to Section R277-484-3.

(d) An LEA with an alternative school year schedule where all of the students have an extended break in a season other than summer, shall submit the LEA's data by the next complete data submission update, following the LEA's extended break, as defined in Section R277-484-3.

(3)(a) The Superintendent shall report a graduation rate for each school, LEA, and the state.

(b) The Superintendent shall calculate the graduation rates in accordance with applicable federal law.

(c) The Superintendent shall include a student in a school's graduation rate if:

(i) the school was the last school the student attended before the student's expected graduation date; and

(ii) the student does not meet any exclusion rules as stated in Subsection (1)(e).

(d) The last school a student attended will be determined by the student's exit dates as reported to the Data Clearinghouse.

(e) A student's graduation status will be attributed to the school attended in ~~their~~ the student's final cohort year.

(f) If a student attended two or more schools during the student's final cohort year, a tie-breaking logic to select the single school will be used in the following hierarchical order of sequence:

(i) school with an attached graduation status for the final cohort year;

(ii) school with the latest exit date;

(iii) school with the earliest entry date;

(iv) school with the highest total membership;

(v) school of choice;

(vi) school with highest attendance; or

(vii) school with highest cumulative GPA.

(g) The Superintendent shall report the four-year cohort rate on the annual state reports.

### **R277-419-13. Student Identification and Tracking.**

(1)(a) Pursuant to Section 53E-4-308, an LEA shall:

(i) use the SSID system maintained by the Superintendent to assign every student enrolled in a program under the direction of the Board or in a program or a school that is supported by public school funding a unique student identifier; and

(ii) display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.

(b) The unique student identifier:

(i) shall be assigned to a student upon enrollment into a public school program or a public school-funded program;

(ii) may not be the student's social security number or contain any personally identifiable information about the student.

(2)(a) An LEA shall require all students to provide their legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.

~~(a)~~(b) A school shall transcribe the names from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53G-6-603;

~~(b)~~(c) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and

~~(c)~~(d) An LEA may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the Superintendent.

(3) The Superintendent and LEAs shall track students and maintain data using students' legal names.

(4) If there is a compelling need to protect a student by using an alias, an LEA should exercise discretion in recording the name of the student.

(5) An LEA is responsible to verify the accuracy and validity of enrollment verification data, prior to enrolling students in the LEA, and provide students and their parents with notification of enrollment in a public school.

(6) An LEA shall ensure enrollment verification data is collected, transmitted, and stored consistent with sound data policies, established by the LEA as required in Rule R277-487.

NOTICES OF PROPOSED RULES

**R277-419-14. Exceptions.**

(1)(a) An LEA may, at its discretion, make an exception for school attendance for a public school student, in the length of the school day or year, for a student with compelling circumstances.

(b) The time an excepted student is required to attend school shall be established by the student's IEP or Plan for College and Career Readiness.

(2) A school using a modified 45-day/15-day year round schedule initiated prior to July 1, 1995 shall be considered to be in compliance with this rule if the school's schedule includes a minimum of 990 hours of time the LEA will provide educational services over a minimum of 172 days.

**R277-419-15. Effective Date.**

[This rule is effective for the 2020-21 school year.] This rule is effective for the 2021-22 school year.

**KEY: education finance, school enrollment, pupil accounting**  
**Date of Enactment or Last Substantive Amendment:**  
**2021** [September 25, 2020]  
**Notice of Continuation: August 14, 2017**  
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**  
**53E-3-401(4); 53F-2-102(7); 53E-3-501(1)(e); 53E-3-602(2); 53E-**  
**3-301(3)(d); 53G-4-404**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-504	Filing No. 53368

**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>
R277-504. Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure

<b>3. Purpose of the new rule or reason for the change:</b>
This Board rule sunset by its own language on June 30, 2020.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed because the rule sunset by its own language on June 30, 2020.

**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. Repealing this rule should not have a significant impact because these areas are covered by other Utah State Board of Education (USBE) rules and this rule sunset on June 30, 2020.
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on June 30, 2020.
<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. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on June 30, 2020.
<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 (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 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 agency):</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. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on June 30, 2020.

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

There are no material compliance costs for affected persons. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on June 30, 2020.

**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 rule 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 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	Subsection 53E-3-401(4)	Subsection 53E-3-501(1)(a)
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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:** 05/03/2021

**10. This rule change MAY become effective on:** 05/10/2021

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>	03/15/2021
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**R277. Education, Administration.**

**[R277-504. Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth Age 5) Licensure.**

**R277-504.1. Authority and Purpose.**

- \_\_\_\_\_ (1) This rule is authorized by:
  - \_\_\_\_\_ (a) Utah Constitution Article X, Section 3, which vests the general control and supervision of the public schools in the State Board of Education;
  - \_\_\_\_\_ (b) Subsection 53E-3-501(1)(a), which directs the Board to make rules regarding the licensing of educators; 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:
  - \_\_\_\_\_ (a) specify the requirements for Early Childhood (K-3), Elementary (K-6), Elementary (1-8), Secondary (6-12), Special Education (K-12), and Preschool Special Education (Birth Age 5) licensing; and
  - \_\_\_\_\_ (b) specify the standards which the Board expects a teacher preparation institution to meet in specific areas for the institution to receive Board approval of the program.

**R277-504.2. Definitions.**

- \_\_\_\_\_ (1)(a) "Council for Exceptional Children" or "CEC" is an international professional organization dedicated to improving the educational success of both individuals with disabilities and individuals with gifts and talents.
- \_\_\_\_\_ (b) CEC advocates for appropriate governmental policies; sets professional standards; provides professional development; advocates for individuals with exceptionalities; and helps professionals obtain conditions and resources necessary for effective professional practice.
- \_\_\_\_\_ (2)(a) "Early Childhood license area of concentration" means an Early Childhood Education teaching license required for teaching kindergarten and permitting assignment in kindergarten through grade three.
- \_\_\_\_\_ (b) An early childhood license area of concentration is recommended for those teaching in formal public school programs below kindergarten level.
- \_\_\_\_\_ (3)(a) "Early intervention credential" is the highest qualified personnel standard established by the Department of Health that persons shall meet to be able to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings.
- \_\_\_\_\_ (b) In order to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings, an individual shall have an Early Intervention Credential or a Preschool Special Education (Birth Age 5) license.
- \_\_\_\_\_ (4) "Elementary (1-8) license area of concentration" means an elementary teaching license required for teaching grades one through eight.
- \_\_\_\_\_ (5) "Elementary (K-6) license area of concentration" means an elementary teaching license required for teaching grades kindergarten through six.

- \_\_\_\_\_ (6) "Endorsement" means a specialty field or area listed on the teaching license which indicates the specific qualification of the holder.
- \_\_\_\_\_ (7) "Highest requirements in the State applicable to a specific profession or discipline" means the highest entry level academic degree needed for any State approved or State recognized certification, license, registration, or other comparable requirement that applies to that profession or discipline.
- \_\_\_\_\_ (8)(a) "Internship" means the placement of a teacher education student in an advanced stage of preparation, as a culminating experience, in employment in a school setting for a period of up to one school year during which the intern shall receive salary proportionate to the service rendered as determined by the LEA.
- \_\_\_\_\_ (b) An intern is supervised primarily by the school system but with a continuing relationship with college personnel and following a planned program designed to produce a demonstrably competent professional.
- \_\_\_\_\_ (9) "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 applicants who have also met all ancillary requirements established by law or rule.
- \_\_\_\_\_ (10) "Level 2 license" means a Utah professional educator license issued by the Board after satisfaction of:
  - \_\_\_\_\_ (a) all requirements for a Level 1 license;
  - \_\_\_\_\_ (b) satisfaction of requirements under R277-522 for teachers whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;
  - \_\_\_\_\_ (c) at least three years of successful education experience in a Utah public LEA or accredited private school or one year of successful education experience in a Utah public LEA or accredited private school and at least three years of successful education experience in a public LEA or accredited private school outside of Utah; and
  - \_\_\_\_\_ (d) additional requirements established by law or rule.
- \_\_\_\_\_ (11) "Preschool Special Education (Birth Age 5) license area of concentration" means a teaching license required for teaching preschool students with disabilities.
- \_\_\_\_\_ (12)(a) "Secondary license area of concentration" means a secondary teaching license required for teaching grades six through twelve.
  - \_\_\_\_\_ (b) Secondary license areas carry endorsements for the areas in which the holder is qualified to provide instruction.
- \_\_\_\_\_ (13)(a) "Special Education license area of concentration (K-12)" means a special education teaching license required for teaching students with disabilities in kindergarten through grade twelve.
  - \_\_\_\_\_ (b) Special Education areas of concentration carry endorsements in at least one of the following areas:
    - \_\_\_\_\_ (i) Mild/Moderate Endorsement, which indicates that the holder's preparation focused on teaching students with mild/moderate learning and behavior problems;
    - \_\_\_\_\_ (ii) Severe Endorsement, which indicates that the holder's preparation focused on teaching students with severe learning and behavior problems;
    - \_\_\_\_\_ (iii) Deaf and Hard of Hearing Endorsement, which indicates that the holder's preparation focused on teaching students who are deaf or other hearing impaired;

~~(iv) Blind and Visually Impaired Endorsement, which indicates that the holder's preparation focused on teaching students who are blind or other visually impaired; and~~

~~(v) Deafblind Endorsement, which indicates that the holder's preparation focused on teaching students who are both blind or other visually impaired and deaf or other hearing impaired.~~

~~(14) "Student teaching" means the placement of a teacher education student in an advanced stage of preparation for a period of guided teaching in a school setting during which the student assumes increasing responsibility for directing the learning of a group or groups of students over a period of time.~~

**R277 504 3. General Standards for Approval of Programs for the Preparation of Teachers.**

~~(1) The Board may approve the educator preparation program of an institution if the institution:~~

~~(a) prepares candidates to meet the Utah Effective Teaching Standards in R277 530;~~

~~(b) prepares candidates to teach the Utah Core Standards, the Utah Early Childhood Core Standards, and the Essential Elements as appropriate to the area of licensure as established by the Board;~~

~~(c) requires candidates to maintain a cumulative university GPA of 3.0 and receive a C or better in all education related courses and major required content courses;~~

~~(d) requires the study of:~~

~~(i) content and content specific pedagogy appropriate for the area of licensure;~~

~~(ii) knowledge and skills designed to assist in the identification of students with disabilities and to meet the needs of students with disabilities in the regular classroom. Knowledge and skills shall include the following domains:~~

~~(A) knowledge of disabilities under IDEA and Section 504 of the Rehabilitation Act;~~

~~(B) knowledge of the role of non-special education teachers in the education of students with disabilities;~~

~~(C) skills in providing tier one instruction on the Utah Core Standards and positive behavior supports to students with disabilities within a multi-tiered system of supports including:~~

~~(I) assessing and monitoring the education needs and progress of students with disabilities;~~

~~(II) implementing and assessing the results of interventions; and~~

~~(III) skills in the implementation of an educational program with accommodations and modifications established by an IEP or 504 plan for students with disabilities in the regular classroom; and~~

~~(iii) knowledge and skills designed to meet the needs of diverse student populations in the regular classroom. These skills for diverse student populations shall include the skills to:~~

~~(A) allow teachers to create an environment using a teaching model that is sensitive to multiple experiences and diversity;~~

~~(B) design, adapt, and deliver instruction to address each student's diverse learning strengths and needs; and~~

~~(C) incorporate tools of language development into planning and instruction for English language learners and support development of English proficiency; and~~

~~(e) requires a student teaching culminating experience that:~~

~~(i) requires a minimum of 400 clock hours with at least 200 clock hours in a single placement;~~

~~(ii) requires that student teachers meet the same contract hours as licensed teachers in the same LEA;~~

~~(iii) requires that the student teacher not be employed in any capacity by the LEA where he is placed except as provided in R277 504 7(3);~~

~~(iv) includes placement in all content or licensure areas in which the candidate shall be licensed unless:~~

~~(A) no viable student teaching placement in one or more of the candidate's endorsement areas is available; or~~

~~(B) the candidate is seeking a license in Elementary (1-8) and is completing an elementary student teaching placement, but has also completed the USOE course requirements for an endorsement;~~

~~(v) includes intermittent supervision and evaluation by institution personnel;~~

~~(vi) includes direct supervision of the candidate by a classroom teacher that:~~

~~(A) has been jointly selected by the institution student teaching placement officer and the LEA designated authority over student teaching placement;~~

~~(B) has been deemed effective by an evaluation system meeting the standards of R277 531 or the LEA's equivalent; and~~

~~(C) has received training from the institution on the role and responsibilities of a classroom mentor teacher for student teachers, including the standards of R277 515;~~

~~(vii) include meaningful self reflection with review and feedback from both the classroom mentor teacher and institution personnel; or~~

~~(f) Requires an internship culminating experience that:~~

~~(i) consists of full-time employment as an educator for one school year with a minimum of 1260 clock hours at a single school site;~~

~~(ii) requires that interns meet the same contract teaching hours as licensed teachers in the same LEA;~~

~~(iii) includes placement in the major content or licensure area in which the candidate shall be licensed;~~

~~(iv) where possible, includes placement in all content or licensure areas in which the candidate shall be licensed unless:~~

~~(A) no viable internship in one or more of the candidate's non-major endorsement areas could be found; or~~

~~(B) the candidate is seeking licensure in Elementary (1-8) and is completing an elementary internship, but has also completed the USOE course requirements for an endorsement;~~

~~(v) includes intermittent supervision and evaluation by institution personnel;~~

~~(vi) includes an LEA assigned mentor that:~~

~~(A) has been jointly selected by the institution internship placement officer and the LEA designated authority over internship placement;~~

~~(B) has been deemed effective by an evaluation system meeting the standards of R277 531 or the LEA's equivalent; and~~

~~(C) provides direct support and supervision to the intern during the regular school day in addition to the standard LEA supports of new teachers.~~

~~(vii) includes meaningful self reflection with review and feedback from both the assigned mentor and institution personnel;~~

~~(2) The Board may accept the following for an individual candidate as completely or partially satisfying the student teaching/internship requirement:~~

~~(a) one year of full-time contract teaching experience in a teaching position in a public or accredited private school in the candidate's proposed licensure content areas may completely satisfy the requirement;~~

~~(b) teaching in a preschool or Headstart program may be accepted for up to one-half of the student teaching requirement;~~

~~(c) teaching experience in business or industry may be accepted for up to one-half of the student teaching requirement; and~~  
~~(d) other experience accepted by the Board and designated as totally or partially fulfilling the requirement.~~

**R277-504-4. Early Childhood Education (K-3) and Elementary (K-6) License Areas.**

~~(1) The Board may approve the Early Childhood Education (K-3), Elementary (K-6), or Elementary (1-8) teacher preparation program of an institution if the program:~~

~~(a) is aligned with:~~  
~~(i) the 2010 National Association for the Education of Young Children Standards for Initial and Advanced Early Childhood Professional Preparation Programs; or~~  
~~(ii) the 2007 Association for Childhood Education International Standards for Elementary Level Teacher Preparation, as appropriate;~~

~~(b) requires study and experiences which provide appropriate content knowledge needed to teach:~~

- ~~(i) literacy including listening, speaking, writing, and reading;~~
- ~~(ii) mathematics;~~
- ~~(iii) physical and life science;~~
- ~~(iv) health and physical education;~~
- ~~(v) social studies; and~~
- ~~(vi) fine arts; and~~

~~(c) includes coursework specifically designed to prepare teachers:~~

- ~~(i) in the science of reading instruction including phonemic awareness, phonics, fluency, vocabulary and comprehension;~~
- ~~(ii) in the science of mathematics instruction including quantitative reasoning, problem solving, representation, and numeracy;~~
- ~~(iii) with the technical skills to utilize common education technology;~~
- ~~(iv) to integrate technology to support and meaningfully supplement the learning of students;~~
- ~~(v) to facilitate student use of software for personalized learning;~~
- ~~(vi) to teach effectively in traditional, online-only, and blended classrooms;~~
- ~~(vii) to design, administer, and review educational assessments in a meaningful and ethical manner;~~
- ~~(viii) in early childhood development and learning, if it is an Early Childhood Education (K-3), or Elementary (K-6); and~~
- ~~(ix) in a specific content area resulting in an endorsement added to the license area, if it is an Elementary (1-8) program.~~

~~(2) The program shall apply the standards to the specific age group or grade level for which the program of preparation is designed.~~

~~(a) An Early Childhood Education (K-3) program shall focus primarily on early childhood development and learning.~~

~~(b) An Elementary (K-6) program shall include both early childhood development and learning and elementary content and pedagogy.~~

~~(c) An Elementary (1-8) program shall focus primarily on elementary content and pedagogy.~~

~~(3) A teacher holding an Elementary (1-8) license area may earn an Early Childhood (K-3) license area by completing specific coursework requirements established by the Superintendent.~~

~~(4) An Elementary (1-8) license permits the teacher to teach in any academic area in self-contained classes in grades 1-8.~~

~~(5) An Elementary (1-8) license permits the teacher to teach specific content courses at the 7th or 8th grade level only if the teacher's license includes the appropriate endorsement.~~

**R277-504-5. Secondary (6-12) License Area.**

~~(1) A Secondary (6-12) license area with an endorsement is valid in grades six through twelve.~~

~~(2) A Secondary (6-12) license area requires a major or major equivalent in a content area, but the teacher cannot teach in an elementary self-contained class.~~

~~(3) The Board may approve the secondary educator preparation program of an institution if the program:~~

~~(a) is an undergraduate level program and requires candidates to have completed:~~

- ~~(i) an approved content area or teaching major consistent with subjects taught in Utah secondary schools; and~~
- ~~(ii) content coursework reasonably equivalent to that required for individuals completing a non-teaching degree in the subject; or~~

~~(b) Is a graduate level program and requires candidates to have completed:~~

- ~~(i) a bachelor's degree or higher from an accredited university; and~~
- ~~(ii) coursework equivalent to the minimum requirements for an endorsement as established by the Superintendent, including the appropriate content knowledge assessment; and~~

~~(c) includes coursework specifically designed to prepare candidates:~~

- ~~(i) with the technical skills necessary to utilize common education technology;~~
- ~~(ii) to integrate technology to support and meaningfully supplement the learning of students;~~
- ~~(iii) to facilitate student use of software for personalized learning;~~
- ~~(iv) to teach effectively in traditional, online-only, and blended classrooms;~~
- ~~(v) to design, administer, and review educational assessments in a meaningful and ethical manner; and~~
- ~~(vi) to include literacy and quantitative learning objectives in content specific classes in alignment with the Utah Core Standards.~~

~~(4) After completing a Board-approved Secondary (6-12) educator preparation program, the license area shall be endorsed for all subjects in which the candidate has met the course requirements for an endorsement as established by the Superintendent.~~

~~(5) A content area or teaching major require not fewer than 30 semester hours of credit in one content area.~~

~~(6) An endorsement requires not fewer than 16 semester hours of credit in one content area.~~

**R277-504-6. Special Education (K-12+) and Preschool Special Education (Birth-Age 5) License Areas.**

~~(1) The Board may approve an institution's special education teacher preparation program if the program is aligned with the 2011 Council for Exceptional Children Special Education Standards for Professional Practice and is focused in one or more of the following special education areas:~~

- ~~(a) Mild/Moderate Disabilities~~
- ~~(b) Severe Disabilities~~
- ~~(c) Deaf and Hard of Hearing;~~
- ~~(d) Blind and Visually Impaired;~~
- ~~(e) Deafblind; or~~
- ~~(f) Preschool Special Education (Birth-Age 5).~~



~~(2) The Board may issue additional endorsements to teachers who hold Special Education (K-12+) license areas if all endorsement requirements are met.~~

~~(3) A teacher who holds only a Special Education (K-12+) license area may only be assigned as a teacher of record of students with disabilities.~~

~~(4) The Board may approve a special education preparation program of an institution if the program includes coursework specifically designed to train candidates to:~~

~~(a) understand the legal and ethical issues surrounding special education;~~

~~(b) comply with IDEA and Utah State Board of Education Special Education Rules;~~

~~(c) work with other school personnel to implement and evaluate academic and positive behavior supports and interventions for students with disabilities within a multi-tiered system of supports;~~

~~(d) train and monitor education teachers, related service providers, and paraeducators in providing services and supports to students with disabilities;~~

~~(e) provide the necessary specialized instruction, as per IEPs, to students with disabilities, including:~~

~~(i) core content from the Utah Early Childhood Core Standards, the Essential Elements, and content specific pedagogy;~~

~~(ii) skills in assessing and addressing the educational needs and progress of students with disabilities;~~

~~(iii) skills in implementing and assessing the results of research and evidence-based interventions for students with disabilities; and~~

~~(iv) skills in the implementation of an educational program with accommodations and modifications established by an IEP for students with disabilities.~~

~~(5) The Board may issue Blind and Visually Impaired/Deaf and Hard of Hearing endorsements required under this rule to meet the highest requirements in the State applicable to a specific profession or discipline required by the IDEA.~~

~~(6) Preschool Special Education (Birth Age 5) license holders who teach children who are hearing impaired (Birth Age 5) or vision impaired (Birth Age 5), or both, in self-contained, categorical classrooms shall hold an endorsement for Deaf and Hard of Hearing (Birth Age 5) or Blind and Visually Impaired (Birth Age 5), or both.~~

**R277-504 7. Miscellaneous.**

~~(1) An LEA that employs intern teachers shall have a policy that includes the following:~~

~~(a) the maximum number of interns that may be supported by each LEA assigned mentor; and~~

~~(b) a specific resource commitment to significant and quality LEA support services to interns.~~

~~(2)(a) A Middle Level license (5-9) continues to be valid~~

~~(b) A Middle Level license (5-9) is no longer required of teachers or issued to teachers assigned to a middle school.~~

~~(3) Consistent with LEA and university policy and R277-508 4(4), a student teacher may work as a paid substitute in the classroom of the student teacher's classroom mentor teacher for no more than five days and no more than three consecutive days per university semester.~~

~~(4) On the days a student teacher is working as a substitute teacher, the candidate's legal status as a substitute teacher/district employee will take precedence over the legal status as a teacher candidate.~~

~~(5) A student teaching placement may be changed to an internship placement upon agreement of the student teacher, the university program, and the LEA.~~

**R277-504 8. Sunset Clause.**

~~(1) This rule will sunset on June 30, 2020.~~

~~(2) An individual enrolled in an approved preparation program prior to January 1, 2020 may receive a professional license by completing the program approved in accordance with this rule.~~

**KEY: accreditation, teacher licensing, professional education**

**Date of Enactment or Last Substantive Amendment: October 8, 2019**

**Notice of Continuation: August 6, 2019**

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-509	Filing No. 53369

**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>
R277-509. Licensure of Student Teachers and Interns
<b>3. Purpose of the new rule or reason for the change:</b>
This rule sunset by its own language on July 1, 2020.
<b>4. Summary of the new rule or change:</b>
The rule is being repealed because it sunset by its own language on July 1, 2020.

**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. Repealing this rule should not have a significant impact because these areas are covered by other Utah State Board of Education (USBE) rules and this rule sunset on July 1, 2020.

**B) Local governments:**

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on July 1, 2020.

**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. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on July 1, 2020.

**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 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. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on July 1, 2020.

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

There are no compliance costs for affected persons. Repealing this rule should not have a significant impact

because these areas are covered by other USBE rules and this rule sunset on July 1, 2020.

**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 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 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	Subsection 53E-6-402(1)	Subsection 53E-3-401(4)
Subsection 53E-6-201(1)		

**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:** 05/03/2021

**10. This rule change MAY become effective on:** 05/10/2021

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>	03/15/2021
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**R277. Education, Administration.**

~~**R277-509. Licensure of Student Teachers and Interns.**~~

~~**R277-509-1. 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(1), which permits the Board to issue licenses for educators; and~~

~~(d) Subsection 53E-6-402(1), which directs the Board to establish a procedure for obtaining and evaluating relevant information about license applicants.~~

~~(2) The purpose of this rule is to specify the procedure under which the Board issues licenses to student teachers and interns.~~

~~**R277-509-2. Definitions.**~~

~~(1) "Cooperating teacher" means a licensed teacher employed by an LEA who is qualified to directly supervise a student teacher or intern during the period the student teacher or intern is assigned to the LEA.~~

~~(2)(a) "Intern" means a teacher education student, who, in an advanced stage of preparation, usually as a culminating experience, may be employed in a school setting for a period of up to one year and receive salary proportionate to the service rendered.~~

~~(b) An intern is supervised primarily by the school system while maintaining a continuing relationship with college personnel as part of a planned program designed to produce a demonstrably competent professional.~~

~~(3) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~

~~(4) "Student teacher" means a college student preparing to teach who is assigned a period of guided teaching during which the student assumes increasing responsibility for directing the learning of a group or groups of students over a period of time.~~

~~**R277-509-3. Issuing Licenses.**~~

~~(1) The Superintendent shall recommend applicants enrolled in teacher preparation programs for student teacher or intern licenses.~~

~~(2) The Utah Professional Practices Advisory Commission shall review background check information and make recommendations to the Board regarding student teacher and intern license applicants in accordance with Rule R277-214.~~

~~(3)(a) An LEA may not give a student teacher or intern an unsupervised classroom assignment prior to issuance of a license in accordance with this Rule R277-509.~~

~~(b) If an LEA assigns a student teacher or intern to a position in violation of Subsection (3)(a), the Superintendent shall not recognize the service as fulfilling the student teacher's or intern's requirements for Level 1 licensure.~~

~~(c) An LEA is responsible to verify with the Board that a student teacher or intern has appropriate licensure.~~

~~(4) A teacher preparation programs may allow an unlicensed student teacher or intern to complete student teaching or intern hours only if the university provides a constant supervisor for the student teacher's or intern's work in the public schools.~~

~~(5)(a) The Superintendent may only recommend for licensure a student teacher or intern assigned to elementary, middle, or secondary schools under cooperating teachers for part of their preparation program.~~

~~(b) A supervising administrator must be permanently assigned to the building to which an intern is assigned.~~

~~(6) A student teacher or intern license is valid only for the period of time indicated on the license.~~

NOTICES OF PROPOSED RULES

~~R277-509-4. Effective Dates.~~

- ~~(1) This rule shall be effective through June 30, 2020.~~
- ~~(2) This rule shall sunset on July 1, 2020.~~

~~KEY: student teachers, interns, teacher preparation programs  
 Date of Enactment or Last Substantive Amendment: January 9, 2019  
 Notice of Continuation: September 13, 2017  
 Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-201; 53E-3-401; 53E-6-402]~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-511	Filing No. 53370

**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>
R277-511. Academic Pathway to Teaching (APT) Level 1 License
<b>3. Purpose of the new rule or reason for the change:</b>
This rule sunset according to its language on June 30, 2020
<b>4. Summary of the new rule or change:</b>
The rule is being repealed because the rule sunset by its own terms on June 30, 2020 in Section R277-511-8.

**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. Repealing this rule should not have a

significant impact because these areas are covered by other Utah State Board of Education (USBE) rules and this rule sunset on June 30, 2020.

**B) Local governments:**

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on June 30, 2020.

**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. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on June 30, 2020.

**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 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. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on June 30, 2020.

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

There are no compliance costs for affected persons. Repealing this rule should not have a significant impact because these areas are covered by other USBE rules and this rule sunset on June 30, 2020.

**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>
<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 rule 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 repeal has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.			

<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Sydnee Dickson, State Superintendent

**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>		
Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-6-201(2)(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>	05/03/2021

<b>10. This rule change MAY become effective on:</b>	05/10/2021
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>	03/15/2021
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**R277. Education, Administration.**  
~~[R277-511. Academic Pathway to Teaching (APT) Level I License.~~  
**R277-511-1. 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-6-201(2)(a), which allows the board by rule, to rank, endorse, or otherwise to:~~  
 \_\_\_\_\_ (i) ~~classify licenses; and~~  
 \_\_\_\_\_ (ii) ~~establish the criteria for an educator to obtain or retain a license; and~~

NOTICES OF PROPOSED RULES

~~(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 provide standards and procedures:~~

~~(a) for an applicant to obtain an Academic Pathway to Teaching (APT) level 1 license; and~~

~~(b) for an APT level 1 license holder to obtain a level 2 license.~~

**R277-511-2. Definitions.**

~~(1)(a) "APT level 1 license" means a license obtained through the academic path to teaching process as described in this rule.~~

~~(b) "APT level 1 license" includes:~~

~~(i) an APT level 1 license with an Elementary (K-6) Concentration; and~~

~~(ii) an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement.~~

~~(2) "LEA administrator" means a school building principal or LEA administrator who:~~

~~(i) supervises an APT level 1 licensee; and~~

~~(ii) may recommend the APT level 1 licensee for Level 2 licensure to the Superintendent as described in Section R277-511-7.~~

~~(3) "Teacher leader" means a teacher designated as a teacher leader as described in R277-513.~~

**R277-511-3. Superintendent Responsibilities.**

~~(1) The Superintendent shall create an application for an APT level 1 license and publish the application on the Board's website.~~

~~(2) The Superintendent shall approve an application for an APT level 1 license if the applicant meets all of the requirements of Section R277-511-4 or Section R277-511-5.~~

**R277-511-4. Requirements for an APT Level 1 License with an Elementary (K-6) Concentration.**

~~(1) To qualify for an APT level 1 license with an Elementary (K-6) Concentration, an applicant shall:~~

~~(a) complete the application described in Subsection R277-511-3(1);~~

~~(b) have completed a bachelor's degree or higher;~~

~~(c) submit postsecondary transcripts to the Superintendent;~~

~~(d) receive a passing score on the Elementary Education: Multiple Subjects Praxis Assessment;~~

~~(e) complete the educator ethics review on the Board's website;~~

~~(f) successfully pass a background check as described in R277-516; and~~

~~(g) pay the applicable licensing fee.~~

~~(2) An APT level 1 license with an Elementary (K-6) Concentration is:~~

~~(a) equivalent to the Level 1 license as described in R277-500 and R277-502 as to length and professional development expectations; and~~

~~(b) subject to the same renewal procedures.~~

**R277-511-5. Requirements for an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement.**

~~(1) To qualify for an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement, an applicant shall:~~

~~(a) complete the application described in Subsection R277-511-3(1);~~

~~(b) have completed a bachelor's degree or higher;~~

~~(c) submit postsecondary transcripts to the Superintendent;~~

~~(d) receive a passing score on one of the following that is related to the subject, field, or area to which they are seeking an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement:~~

~~(i) a Praxis II Subject Assessment; or~~

~~(ii) another Board-approved content knowledge assessment;~~

~~(e) complete the educator ethics review on the Board's website;~~

~~(f) successfully pass a background check as described in R277-516; and~~

~~(g) pay the applicable licensing fee.~~

~~(2) Except as provided in Subsection (3), an APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement is:~~

~~(a) equivalent to the Level 1 license as described in R277-500 and R277-502 as to length and professional development expectations; and~~

~~(b) subject to the same renewal procedures.~~

~~(3) An APT Level 1 License with a Secondary (6-12) Concentration and an Endorsement holder may only seek an additional endorsement after the APT Level 1 License with a Secondary (6-12) Concentration holder obtains a level 2 license.~~

**R277-511-6. Requirements for an LEA that Employs an APT Level 1 License Holder.**

~~If an LEA employs an APT level 1 license holder, the LEA shall:~~

~~(1) assign a teacher leader to serve as a mentor to the APT level 1 license holder;~~

~~(2) prepare the APT level 1 license holder to meet the Utah Effective Educator Standards described in R277-530-5;~~

~~(3) prepare a mentoring plan for each APT Level 1 license holder; and~~

~~(4) provide an APT Level 1 license holder's mentoring plan to the Superintendent upon request.~~

**R277-511-7. Requirements for an APT Level 1 License Holder to Gain a Level 2 License.**

~~(1) To receive a Level 2 license, an APT level 1 license holder shall:~~

~~(a)(i) complete three years of teaching full time in one LEA under supervision of the teacher leader mentor and LEA administrator; or~~

~~(ii) complete four years of at least 0.4 FTE teaching in one LEA under the supervision of a teacher leader mentor and the LEA administrator;~~

~~(b) satisfy all Entry Years Enhancement for Quality Teaching requirements designated in R277-522;~~

~~(c) complete the requirements of the APT Level 1 license holder's mentoring plan;~~

~~(d) complete any additional requirements of the recommending LEA, including coursework and professional learning that the recommending LEA requires;~~

~~(e) complete the educator ethics review on the Board's website;~~

~~(f) renew the educator's background check as required in R277-516; and~~

~~(g) obtain a recommendation from the LEA administrator; and~~

~~(h) pay applicable licensing fees.~~

~~(2)(a) An APT level 1 license holder seeking a level 2 license may request a one year extension of the APT level 1 license at the~~

recommendation of the LEA Administrator up to a maximum of two one-year extensions:

(b) Unless required by the recommending LEA, the years of teaching in Subsection (1)(a) do not need to be consecutive.

**R277-511-8. Sunset Clause:**

- (1) This rule will sunset on June 30, 2020.
- (2) Notwithstanding Subsection (1), the Superintendent shall convert the license of an educator with an APT Level 1 License prior to June 30, 2020, with a current teaching position in a Utah LEA, to an Associate Educator license.
- (3) An educator with a converted license under Subsection (2) may receive a Professional Educator license by completing the requirements of Section R277-511-7.
- (4)(a) The Superintendent may not accept new applications for APT licenses after September 1, 2019.
- (b) Notwithstanding Subsection (4)(a), the Superintendent may accept an application for an APT license, for an applicant with a position in a Utah LEA through November 1, 2019.

**KEY: Academic Pathway to Teaching, educator licensure**  
**Date of Enactment or Last Substantive Amendment: July 2, 2019**  
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-201; 53E-3-401(4)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-617	Filing No. 53371

**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>
R277-617. Smart School Technology Program
<b>3. Purpose of the new rule or reason for the change:</b>
The rule is being amended to correct a typo in Subsection R277-617-5(5) and correct language that aligns with the Rulewriting Manual.

<b>4. Summary of the new rule or change:</b>
In Subsection R277-617-5(5), the changes correct the word "evaluatinf" to "evaluation"; and adds the word "shall".

**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 is clarifying and technical in nature.
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The amendment is clarifying and technical in nature.
<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 amendment is clarifying and technical in nature.
<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 <i>agency</i>):</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 amendment is clarifying and technical in nature.
<b>F) Compliance costs for affected persons:</b>
There are no compliance costs for affected persons. The amendment is clarifying 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

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)	Subsection 53F-6-202(8)(d)
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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:** 05/03/2021

**10. This rule change MAY become effective on:** 05/10/2021

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>	03/15/2021
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**R277. Education, Administration.**

**R277-617. Smart School Technology Program.**

**R277-617-1. 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 to execute the Board's duties and responsibilities under the Utah Constitution and state law; and



(c) Subsection 53F-6-202(8)(d), which directs the Board to make rules specifying procedures and criteria to be used for selecting schools that may participate in the Smart School Technology Program.

(2) The purpose of this rule is to provide criteria and procedures for the Board to select schools to participate in the Smart School Technology Program.

**R277-617-2. Definitions.**

(1) "Independent Evaluating Committee" means the committee established under Subsection 53F-6-202(5).

(2) "Smart School Technology Program" or "Program" means a three-year program developed by a selected technology provider for a customized whole-school technology deployment plan individualized for each school selected by the Board.

(3) "Technology", means components provided as examples under Subsection 53F-6-202(7) or other components approved by the independent evaluating committee.

**R277-617-3. School Selection Criteria.**

(1) A public school that includes any combination of grades K-12 shall be eligible for the Program

(2) An applicant school shall provide a technology implementation plan with its application, which shall, at a minimum:

(a) identify technologies that the school will employ;

(b) estimate numbers of technology devices needed based on numbers of students expected to be in the school for identified school years;

(c) provide a supported explanation about how technology will support the improvement of student achievement with respect to the core curriculum;

(d) explain how technology will improve students' skill using technology;

(e) explain what filtering devices or protections will be used by the school to protect students from inappropriate technology use and sites;

(f) agree that the school will provide all data and information required by the Superintendent for evaluation purposes;

(g) explain the current technology capabilities and equipment available at the applicant school; and

(h) provide additional information requested by the Superintendent on the application.

**R277-617-4. Required Matching Funds.**

(1) The Superintendent shall provide an application form, which will require specific information about the level or amount of matching funds or resources that the school must provide and when the matching funds must be available.

(2) An application shall explain how the school or LEA will provide matching funds to satisfy the requirement of Subsection 53F-6-202(8)(d)(ii) for matching funds.

(3) An application shall include assurance that a school or LEA will meet the requirement for matching local funds through the duration of the Program or may be obligated to repay the state funds to the Board.

**R277-617-5. School Selection and Evaluation.**

(1) The Superintendent shall set application and funding deadlines based on funding availability.

(2) The Superintendent shall screen all applications for compliance with all state laws, this Rule R277-617, and application requirements.

(3) The Superintendent shall seek the participation and advice of the independent evaluating committee in selecting final applications to recommend for funding.

(4) The Board shall make final school selections.

(5) To the extent possible, the independent evaluation<sup>[f]</sup> committee shall recommend schools, which represent geographic, economic and demographic diversity, in addition to other criteria provided in the application.

(6) The Board and the education technology provider shall evaluate the program consistent with Subsection 53F-6-202(9).

**KEY: schools, technology**

**Date of Enactment or Last Substantive Amendment: 2021[August 7, 2018]**

**Notice of Continuation: June 7, 2018**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-6-202**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R357-2	Filing No. 53365

**Agency Information**

<b>1. Department:</b>	Governor	
<b>Agency:</b>	Economic Development	
<b>Building:</b>	World Trade Center	
<b>Street address:</b>	60 E South Temple	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	60 E South Temple	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dane Ishihara	801-538-8864	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R357-2. Targeted Business Tax Credit
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this rule filing is to repeal this rule because the Targeted Business Tax Credit Rule is now located under Rule R357-15a.
<b>4. Summary of the new rule or change:</b>
The rule is being repealed due to the enactment of Rule R357-15a. 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 enactment of Rule R357-15a renders this Rule R357-2 obsolete. Therefore, Rule R357-2 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 enactment of Rule R357-15a renders this Rule R357-2 obsolete. Therefore, Rule R357-2 is being repealed.			
<b>C) Small businesses</b> ("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 enactment of Rule R357-15a renders this Rule R357-2 obsolete. Therefore, Rule R357-2 is being repealed.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There is no regulatory impact creating financial cost to non-small businesses. The enactment of Rule R357-15a renders this Rule R357-2 obsolete. Therefore, Rule R357-2 is being repealed.			
<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> ):			
There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The enactment of Rule R357-15a renders this Rule R357-2 obsolete. Therefore, Rule R357-2 is being repealed.			
<b>F) Compliance costs for affected persons:</b>			
There are no compliance costs for affected persons. The enactment of R357-15a renders this Rule R357-2 obsolete. Therefore, Rule R357-2 is being repealed.			
<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>FY2020</b>	<b>FY2021</b>	<b>FY2022</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 Executive Director of the Governor's Office of Economic Development, Dan Hemmert, 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>			
This rule will have no impact on businesses. This rule is being repealed and the current Targeted Business Tax Credit rule is located under Rule R357-15a.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Dan Hemmert, 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 63N-3-303(7)		

**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>	05/03/2021
--------------------------------------------	------------

<b>10. This rule change MAY become effective on:</b>	05/10/2021
------------------------------------------------------	------------

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>	Dan Hemmert, Executive Director	<b>Date:</b>	03/12/2021
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**R357. Governor, Economic Development.**

**~~R357-2. Targeted Business Tax Credit.~~**

**~~R357-2-1. Purpose.~~**

~~The purpose of this rule is to define what constitutes substantial new employment, new capital development, a project, and to establish a general formula for determining the allocated cap amount for each business applicant.~~

**~~R357-2-2. Authority.~~**

~~UCA 63N-2-302 requires the office make rules establishing the manner by which the allocation cap amount is determined and what constitutes substantial new employment, new capital development, and a project.~~

**~~R357-2-3. Definitions.~~**

- ~~(1) As used in this Rule;~~
- ~~(a) "Available Tax Credit" means the unencumbered amount of the annual \$300,000 tax credit provided for in 63N-2-302(2).~~
- ~~(b) "Executive Committee" means the Executive Committee of the Governor's Rural Partnership Board provided for in UCA 63C-10-102(5).~~
- ~~(c) "Full Time Equivalent Employee" means an individual full time employee of the business applicant's Utah Business that is a Utah Resident and employed at least 30 hours per week (excluding lunch) during each week.~~
- ~~(d) "New Capital Development" means any new~~
  - ~~(i) facility with construction costs of \$100,000 or more, which includes additions to existing facilities and the enclosure of space that was not previously fully enclosed;~~

- ~~(ii) remodeling, site, or utility project with costs of \$100,000 or more; or~~
- ~~(iii) purchase of real property.~~
- ~~(e) "Project" means the plan as described in the application submitted to The Office of Rural Development by the business applicant including the projects objectives, projections, and scope.~~
- ~~(f) "Substantial New Employment" means new full time equivalent employees the Business Applicant will add in the following three tax year(s) as specified in the application and where substantial is measured and determined by the Executive Committee of the Governor's Rural Partnership Board in relation to:~~
  - ~~(i) The economic impact on the community in which the project will occur, including:~~
    - ~~(A) salary and wages of the new full time equivalent employees in comparison to the county average wage;~~
    - ~~(B) whether or not health and other benefits will be provided to all the new full time equivalent employees in addition to the salary and wages;~~
    - ~~(C) the business applicant's declared number of projected new full time equivalent employees in comparison to the overall county employment numbers provided by the Department of Work Force Services;~~
    - ~~(D) the amount of new full time equivalent employees in comparison to the business applicant's current number of full time equivalent employees; and~~
    - ~~(E) any other factors that the Executive Committee considers as substantial new employment.~~
  - ~~(2) For all other relevant terms not defined in this rule, the definitions set forth in UCA 63N-2-301 shall apply.~~

**~~R357-2-4. Application Procedure.~~**

~~Applications will be reviewed in January and February of each calendar year, and all applications should be submitted by January 31. The Office of Rural Development may consider applications submitted between January 31 and June 1 of the calendar year if approved by a majority vote of the Executive Committee of the Governor's Rural Partnership Board. No applications will be considered between June 1 and December 31st of the calendar year.~~

**~~R357-2-5. Formula for Allocation Cap Amount for Each Business Applicant.~~**

- ~~(1) Each business applicant's application will be reviewed, scored, and ranked by the Executive Committee, as follows:~~
  - ~~(a) A weighted score will be given to each application in the following subcategories:~~
    - ~~(i) project;~~
    - ~~(ii) projected new capital development; and~~
    - ~~(iii) projected substantial new employment~~
  - ~~(2) The scoring criteria will be provided to business applicants via the targeted business tax credit application.~~
  - ~~(3) The Executive Committee shall award a targeted business income tax credits to the top ranking projects in descending order, based on the available tax credit and until the cap is reached as set forth in UCM 63N-2-304(2).~~
    - ~~(4) Awards shall be given over a three year period.~~
    - ~~(5) Awards may be allocated as follows:~~
      - ~~(a) \$50,000 tax credit for one year of the award, and \$25,000 tax credit for two of the three years; or~~
      - ~~(b) The Executive Committee may elect to award available tax credit in a proportionate amount based upon the scores of each application during the solicitation period; or~~

NOTICES OF PROPOSED RULES

~~(c) The Executive Committee may elect to award available tax credits in an equal amount to each business applicant during the solicitation period~~

~~(2) No business applicant shall receive an award that is in excess of the available tax credit.~~

~~KEY: rural business, tax credits~~

~~Date of Enactment or Last Substantive Amendment: November 8, 2014~~

~~Notice of Continuation: November 7, 2019~~

~~Authorizing, and Implemented or Interpreted Law: 63N-2-302~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R357-15a	Filing No. 53364

**Agency Information**

<b>1. Department:</b>	Governor	
<b>Agency:</b>	Economic Development	
<b>Building:</b>	World Trade Center	
<b>Street address:</b>	60 E South Temple	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dane Ishihara	801-538-8864	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R357-15a. Non-Profit Enterprise Zone Program
<b>3. Purpose of the new rule or reason for the change:</b>
Due to an administrative error, there were two rules filed under R357-15a. The purpose of this rule filing is to remove language regarding the Non-Profit Enterprise Zone Program. The Non-Profit Enterprise Zone Program was repealed during the 2020 General Session under S.B. 95 and is no longer needed.
<b>4. Summary of the new rule or change:</b>
Sections of the rule related to the Non-Profit Enterprise Zone Program are removed and sections related to the Target Business Tax Credit are renumbered.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
-----------------------------------------------------

<b>A) State budget:</b>																
There is no aggregate anticipated cost or savings to the state budget. The change is merely correcting a filing error.																
<b>B) Local governments:</b>																
There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.																
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>																
There is no aggregate anticipated cost or savings to small businesses because this proposed rule filing does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation.																
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>																
There is no regulatory impact creating financial cost to non-small businesses. The change is merely correcting a filing error.																
<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>																
There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule change does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.																
<b>F) Compliance costs for affected persons:</b>																
There are no compliance costs for affected persons because the change is merely correcting a filing error.																
<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.)																
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Fiscal Cost	FY2020	FY2021	FY2022													
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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 Executive Director of the Governor's Office of Economic Development, Dan Hemmert, 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>			
This rule amendment will have no new impact on businesses. The purpose of this rule filing is to correct a filling error and remove unnecessary language.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Dan Hemmert, 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 63N-3-303(7)		

**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.
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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>	05/03/2021

<b>10. This rule change MAY become effective on:</b>	05/10/2021
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>	Dan Hemmert, Executive Director	<b>Date:</b>	03/12/2021
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**R357. Governor, Economic Development.**

~~R357 15a. Non-Profit Enterprise Zone Program.~~

~~R357 15a 101. Title.~~

~~This rule is known as the "Non Profit Enterprise Zone Rule."~~

~~R357 15a 102. Authority.~~

~~(1) Subsection 63N 2 213.5 (14) requires the office to make rules for administration of the program.~~

~~R357 15a 103. Content of Application.~~

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

- ~~(a) entity name;~~
- ~~(b) contact information including:~~
  - ~~(i) contact name;~~
  - ~~(ii) email address;~~
  - ~~(iii) telephone number;~~
  - ~~(iv) title; and~~
  - ~~(v) mailing address.~~
- ~~(c) description of the primary use of funds, including:~~
  - ~~(i) how the project will impact the enterprise zone;~~
- ~~(2) Supporting documentation including:~~
  - ~~(a) IRS designation letter;~~
  - ~~(b) non-profit organization W-9;~~
  - ~~(c) charitable solicitation permit;~~
  - ~~(d) certificate of good standing;~~
  - ~~(e) articles of incorporation;~~
  - ~~(f) by laws;~~
  - ~~(g) list of board members;~~
  - ~~(h) evidence the legislative body of the county or municipality has approved the project; and~~
  - ~~(i) project budget, including maps, drawings or renderings.~~

~~R357 15a 104. Tax Credit Procedure.~~

~~(1) A nonprofit corporation associated with an approved project shall submit, at minimum, submit the following upon completion of the approve project:~~

NOTICES OF PROPOSED RULES

~~(a) complete donor list;~~  
~~(b) verified project expenses on a format approved by the office.~~  
 (2) Claimants shall submit, at minimum, the following documentation for reimbursement and after completion of the approved project:  
~~(a) a complete request form provided by the office;~~  
~~(b) receipt from the non-profit for the donation; and~~  
~~(c) donation documentation, which may include:~~  
~~(i) canceled checks;~~  
~~(ii) credit card statements;~~  
~~(iii) bank statements; and~~  
~~(iv) other financial instruments verifying payment had occurred.~~  
 (3) The office may deny a tax credit for claimants who were the recipient of funding for an approved project.

**R357-15a-~~200~~. Targeted Business Tax Credit.**

~~Second version.~~

**R357-15a-~~2~~101. Title.**

This rule is known as the "Targeted Business Tax Credit Rule."

**R357-15a-~~2~~102. Definitions.**

In addition to the terms defined under Section 63N-2-302, the following terms are defined as follows:

(1) "Benchmarks" as used in Subsection 63N-2-303 (3), means the minimum amount of significant new employment and significant new capital development that a business applicant and the office agree to in writing that a business applicant shall generate prior to being awarded a targeted business income tax credit eligibility certificate~~[-];[-]~~

(2) "New employment" means newly created positions in addition to the baseline jobs, defined under Section 63N-1-102, filled by an employee:

- (a) working at least 30 hours per week; and
- (b) is paid at least 1~~4~~00% of the county average wage of the county in which the position exists~~[-];[-]~~

(3) "Significant new capital development" means costs of at least \$100,000 for:

- (a) improvement to real property;
- (b) purchase of real property; or
- (c) purchase of depreciable equipment~~[-]; and~~

(4) "Significant new employment" means the projected number of new employment positions in comparison to the:

- (a) business baseline count of full time equivalent employees; and
- (b) overall county employment numbers provided by the Department of Work~~[E]~~force Services.

**R357-15a-~~2~~103. Authority.**

This rule is adopted by the office under the authority of Subsection 63N-3-303 (7).

**R357-15a-~~2~~104. Form and Content of Application for a Targeted Business Income Tax Credit Eligibility.**

~~(1)~~In addition to the plan developed by the business applicant outlined in Subsection 63N-2-304 (2), the following content is required:

- ~~(a)~~1) company name;
- ~~(b)~~2) contact information including:

- ~~(i)~~a) applicant's physical address;
- ~~(ii)~~b) telephone number; and
- ~~(iii)~~c) email address~~[-];~~
- ~~(e)~~3) the anticipated years the business applicant is seeking to claim the targeted business income tax credit~~[-]~~
- ~~(f)~~4) the benchmarks of the community investment project and how they will be measured, tracked and reported;
- ~~(e)~~5) list of all entities associated with the community investment project and their anticipated roles;
- ~~(f)~~6) letters of support from all entities associated with the community investment project;
- ~~(g)~~7) timeline of the community investment project;
- ~~(h)~~8) detailed budget of the community investment project; and
- ~~(i)~~9) an employee list in a form prescribed by the office.  
]

**R357-15a-~~2~~105. Documentation to Receive a Targeted Business Income Tax Credit Eligibility Certificate.**

~~(1)~~The following supporting documents shall, at a minimum, accompany each request to receive a targeted business income tax credit eligibility certificate:

- ~~(a)~~1) written summary explaining how all benchmarks have been satisfied;
- ~~(b)~~2) all receipts showing expenses for the approved community investment project;
- ~~(e)~~3) an employee list in a form prescribed by the office; and~~[-]~~
- ~~(f)~~4) any other items as outlined in a written agreement with the office.

**KEY: economic development, tax credit, tax credit eligibility, enterprise zone, rural development**

**Date of Enactment or Last Substantive Amendment: 2021~~March 30, 2020~~**

**Authorizing, and Implemented or Interpreted Law: 63N-3-303(7); 63N-2-213.5(14)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-60-5	Filing No. 53359

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

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

**General Information**

**2. Rule or section catchline:**

R414-60-5. Limitations

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

The purpose of this change is to implement provisions in this rule to be consistent with current Medicaid pharmacy policy for stimulant medications to treat attention-deficit/hyperactivity disorder (ADHD).

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

This amendment implements limits on age, month, and quantity for ADHD stimulant medications. It also implements a new policy to address the cross-class utilization of ADHD stimulant medications.

**Fiscal Information**

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

**A) State budget:**

The Department of Health (Department) expects only de minimis impact to the state budget as this amendment simply updates and clarifies current policy for the Pharmacy Program.

**B) Local governments:**

There is no impact on local governments because they neither fund nor provide services under the Pharmacy Program.

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

The Department expects only de minimis impact on small businesses as this amendment simply updates and clarifies current policy for the Pharmacy Program.

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

The Department expects only de minimis impact on non-small businesses as this amendment simply updates and clarifies current policy for the Pharmacy Program.

**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*):**

The Department expects only de minimis impact on Medicaid providers and Medicaid members as this amendment simply updates and clarifies current policy for the Pharmacy Program.

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

The Department expects only de minimis compliance costs to a single Medicaid provider or Medicaid member as this amendment simply updates and clarifies current policy for the Pharmacy Program.

**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 Executive Director of the Department of Health, Richard G. Saunders, has reviewed and approved this fiscal analysis.

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

Businesses should see neither revenue nor costs as this amendment simply updates current Medicaid policy.

<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Richard G. Saunders, 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>		
Section 26-1-5	Section 26-18-3	

**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>	05/03/2021

<b>10. This rule change MAY become effective on:</b>	05/10/2021
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>	Richard G. Saunders, Executive Director	<b>Date:</b>	03/10/2021
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-60. Medicaid Policy for Pharmacy Program.**

**R414-60-5. Limitations.**

(1) Medicaid may place limitations on drugs in accordance with 42 U.S.C. 1396r-8 or in consultation with the Drug Utilization Review (DUR) Board. Medicaid includes these limitations in the Pharmacy Services Provider Manual and its attachments. These limitations are incorporated by reference in Section R414-1-5 and may include the following:

- (a) quantity limits or cumulative limits for a drug or drug class for a specified period of time;
- (b) therapeutic duplication limits may be placed on drugs within the same or similar therapeutic categories;
- (c) step therapy, including documentation of therapeutic failure with one drug before another drug may be used; or

- (d) prior authorization.
- (2) A pharmacy may dispense a covered outpatient drug that requires prior authorization for up to a 72-hour supply without obtaining prior authorization during a medical emergency.
- (3) Drugs listed as non-preferred on the Preferred Drug List (PDL) may require prior authorization as authorized by Section 26-18-2.4.
- (4) Drugs may be restricted and are reimbursable only when dispensed by an individual pharmacy or pharmacies.
- (5) Medicaid does not cover drugs not eligible for Federal Medical Assistance Percentages funds.
- (6) Medicaid does not cover outpatient drugs included in the Medicare Prescription Drug Benefit-Part D for full-benefit dual eligible beneficiaries.
- (7) Medicaid does not cover drugs provided to a member during an inpatient hospital stay, neither as an outpatient pharmacy benefit nor separately payable from the Medicaid payment for the inpatient hospital services.
- (8) Medicaid covers prescription cough and cold preparations meeting the definition of a covered outpatient drug.
- (9) Medicaid will pay for no more than a one-month supply of a covered outpatient drug per dispensing, except for the following:
  - (a) Medicaid may cover medications on the Utah Medicaid Three-Month Supply Medication List, attachment to the Pharmacy Services Provider Manual, for up to a three-month supply per dispensing;
  - (b) Medicaid may cover prenatal vitamins for a pregnant woman, multiple vitamins with or without fluoride for a child who is zero through five years of age, and fluoride supplements for up to a three-month supply per dispensing;
  - (c) Medicaid may cover contraceptives for up to a three-month supply per dispensing; and
  - (d) Medicaid may cover long-acting injectable antipsychotic drugs in accordance with Section R414-60-12 for up to a three-month supply per dispensing.
- (10) Medicaid will pay for a prescription refill only when 80% of the previous prescription has been exhausted, with the exception of controlled substances. Medicaid will pay for a prescription refill for controlled substances after 85% of the previous prescription has been exhausted.
- (11) Medicaid does not cover the following drugs:
  - (a) drugs for weight loss;
  - (b) drugs to promote fertility;
  - (c) drugs for the treatment of sexual dysfunction;
  - (d) drugs for cosmetic purposes;
  - (e) vitamins; except for prenatal vitamins for a pregnant woman, vitamin drops for a child who is zero through five years of age, and fluoride supplements;
  - (f) over-the-counter drugs (OTC) not included on the Utah Medicaid PDL and Resources attachment to the Pharmacy Services Provider Manual;
  - (g) drugs for which the manufacturer requires, as a condition of sale, that associated tests and monitoring services are purchased exclusively from the manufacturer or its designee;
  - (h) drugs given by a hospital to a patient at discharge;
  - (i) breast milk, breast milk substitutes, baby food, or medical foods. Prescription metabolic products for congenital errors of metabolism are covered through the Durable Medical Equipment benefit; and
  - (j) drugs available only through single-source distribution programs, unless the distributor is enrolled with Medicaid as a pharmacy provider.



(12) Claims for opioids~~[Opioid claims]~~ used for the treatment of non-cancer pain are subject to the following limitations or restrictions set forth by the Division of Medicaid and Health Financing (DMHF):

- (a) initial fill limits;
- (b) monthly limits;
- (c) quantity limits;
- (d) additional limits for a child or pregnant woman;
- (e) morphine milligram equivalents (MME) and cumulative morphine equivalents daily (MED) limits;
- (f) concurrent use of opioids with high-risk drugs as defined by DMHF; or
- (g) concurrent use of opioid medications in members who also receive medication-assisted treatment (MAT) for opioid use disorder.

(13) Antipsychotic medications prescribed to a Medicaid member who is 19 years of age or younger are limited as follows:

- (a) no use of multiple antipsychotic drugs;
- (b) no off-label use;
- (c) no use outside established age guidelines; and
- (d) no doses higher than FDA recommendations.

(14) Exceptions may be granted as appropriate through the prior authorization process.

(15) Attention-deficit/hyperactivity disorder (ADHD) stimulant medications are subject to the following limitations or restrictions set forth by DMHF for Medicaid members:

- (a) age limits;
- (b) monthly limits;
- (c) quantity limits;
- (d) cross-class limitations for concurrent use of an amphetamine class with methylphenidate class in children less than 18 years of age; or
- (e) the use of no more than two ADHD stimulants by a member of any age.

(16) Medicaid evaluates exceptions to ADHD stimulant policy for medical necessity on a case-by-case basis.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~January 12, 2021~~

**Notice of Continuation:** April 28, 2017

**Authorizing, and Implemented or Interpreted Law:** 26-18-3; 26-1-5

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-510	Filing No. 53360

**Agency Information**

<b>1. Department:</b>	Health
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>Mailing address:</b>	PO Box 143102
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102

Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-510. Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program and Education
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to provide individuals concerned with the Coronavirus (COVID-19) Pandemic a length-of-stay exemption at intermediate care facilities (ICFs), to help them qualify for services within the Community Supports Waiver (CSW) while the COVID-19 public health emergency continues.
<b>4. Summary of the new rule or change:</b>
This amendment allows individuals to request an exception to the minimum length-of-stay requirement in ICFs during the COVID-19 public health emergency. It also sets forth criteria for these requests and for the Department of Health (Department) to make a final determination. Other technical changes are for consistency reasons only.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The Department does not anticipate any impact to the state budget as waiver services fall within appropriations set forth by the Legislature. Further, there is no method to estimate additional costs of individuals who might avail themselves of the opportunity to receive this exemption.
<b>B) Local governments:</b>
There is no impact on local governments because they neither fund nor provide waiver services under the Medicaid program.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons)
The Department does not anticipate any impact to small businesses as waiver services fall within appropriations set forth by the Legislature. Further, there is no method to estimate additional costs or revenue through individuals who might avail themselves of the opportunity to receive this exemption.

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

The Department does not anticipate any impact to non-small businesses as waiver services fall within appropriations set forth by the Legislature. Further, there is no method to estimate additional costs or revenue through individuals who might avail themselves of the opportunity to receive this exemption.

**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**):

The Department does not anticipate any impact to Medicaid providers as waiver services fall within appropriations set forth by the Legislature. Further, there is no method to estimate additional costs or revenue to providers, or possible savings to individuals who might avail themselves of the opportunity to receive this exemption.

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

The Department does not anticipate any costs to a single Medicaid provider as waiver services fall within appropriations set forth by the Legislature. Further, there is no method to estimate the additional cost of an individual who might avail himself of the opportunity to receive this exemption.

**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>	<b>\$0</b>	<b>\$0</b>	<b>\$0</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 Executive Director of the Department of Health, Richard G. Saunders, has reviewed and approved this fiscal analysis.

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

Businesses should see neither revenue nor costs as waiver services fall within appropriations set forth by the Legislature. Other possible additional costs or revenues are incalculable.

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

Richard G. Saunders, 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):**

Section 26-1-5	Section 26-18-3	
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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:** 05/03/2021

**10. This rule change MAY become effective on:** 05/10/2021

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>	Richard G. Saunders, Executive Director	<b>Date:</b>	03/10/2021
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-510. Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program and Education.**

**R414-510-2. Definitions.**

(1) "Departments" means the ~~[Utah]~~ Department of Health and the ~~[Utah]~~ Department of Human Services.

(2) "Division of Services for People with Disabilities (DSPD)" means the entity within the Department of Human Services that has responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities in accordance with Section 62a-5-102.

(3) "Guardian" means an individual~~[;]~~ who is legally authorized to make decisions on an individual's behalf.

(4) "Interested individual" means an individual who meets eligibility requirements and expresses interest, either directly or through a guardian, in participating in the Transition Program.

(5) "Intermediate Care Facilities" means privately~~[-]~~ owned intermediate care facilities for individuals with intellectual disabilities.

(6) "Length of stay" means the length of time an individual has continuously resided in ICFs in the state. The Departments consider a continuous stay to include a stay in which an individual has a temporary break in stay of no more than 31 days. Breaks in stay due to inpatient hospitalization, admission to a nursing facility, or a temporary leave of absence, if due to health concerns related to Coronavirus (COVID-19), will not be considered a break in stay when evaluating Subsection R414-510-3~~([5]1)(e)~~.

(7) "Representative" means an individual, who is not a guardian, and does not have decision-making authority, but is identified as an individual who assists a potential Transition Program participant.

(8) "State staff" means employees of the Division of Medicaid and Health Financing or ~~[the Division of Services for People with Disabilities]~~ DSPD.

(9) "Transition Program" means the Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program.

(10) "Waiver" means the Community Supports Waiver for Individuals with Intellectual Disabilities and Other Related Conditions (CSW).

**R414-510-3. Eligibility Requirements for the Transition Program.**

(1) Waiver services are potentially available to an individual who:

~~(1)~~ ~~a~~ receives ICF benefits under the Medicaid State Plan;

~~(2)~~ ~~b~~ has been diagnosed with an intellectual disability or a related condition;

~~(3)~~ ~~c~~ meets ICF level~~[-]~~of~~[-]~~care criteria defined in Section R414-502-8;

~~(4)~~ ~~d~~ meets state funding eligibility criteria for ~~[the Division of Services for People with Disabilities]~~ DSPD found in Subsection 62A-5-102(4); and

~~(5)~~ ~~e~~ has at least a 12-month length of stay in any Medicaid-certified, privately~~[-]~~owned ICF located in Utah.

(2) The Department of Health may consider a length-of-stay exemption to Subsection (1)(e) when an individual, or representative, requests an exception to the minimum length-of-stay requirement during the COVID-19 public health emergency declared by the federal government or the state.

(3) To make a request for a length-of-stay exemption, an individual or representative, must submit a written request to the Department of Health and include the rationale for the request, including the anticipated risk if the individual remains in the intermediate care facility.

(4) Before deciding upon a request, the Department of Health:

(a) may consult with its healthcare-associated infections and antibiotic resistance program;

(b) shall consult with DSPD; and

(c) shall determine whether an alternative placement option is available.

(5) The Department of Health shall deny a request for exemption if funding is not available.

(6) Other eligibility and access requirements in this rule remain in effect.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~2021~~ ~~September 22, 2020~~

**Notice of Continuation:** October 12, 2016

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-18-3

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R444-14	Filing No. 53363

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Laboratory Improvement	
<b>Building:</b>	Utah Public Health Lab	
<b>Street address:</b>	4431 S 2700 W	
<b>City, state:</b>	Taylorsville, UT 84129	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kristin Brown	801-695-2540	kristinbrown@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R444-14. Rule for the Certification of Environmental Laboratories
<b>3. Purpose of the new rule or reason for the change:</b>
This rule was amended in 2011 to change to reference the TNI Standard other than the National Environmental Laboratory Accreditation Conference (NELAC) standard. With this change, language was inadvertently removed by reference. This rule has been updated to include that language.
<b>4. Summary of the new rule or change:</b>
In Section R444-14-1, language has been updated to include reference to the Utah Department of Health in addition to the Department of Environmental Quality.
In Section R444-14-2, definitions have been added.
In Section R444-14-3, subsections have been updated and added to include language previously included in past standards and inadvertently removed.
In Section R444-14-7, clarifies from TNI to NELAP recognition.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
It is not likely the revised standard will have any impact on the state budget. No changes to program operation is predicted.
<b>B) Local governments:</b>
It is not likely the revised standard will have any impact on local governments, but any impact would be minimal. No significant changes to enforcement practices is predicted.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
It is not likely the revised standard will have any impact. No significant change to current enforcement practices is predicted.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
It is not likely the revised standard will have any impact. No significant change to current enforcement practices is predicted.
<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**):

No other specific persons will be affected by this rule. There are no compliance costs associated with this rule change for any other specific persons.

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

It is not likely the revised standard will have any impact. There are no compliance costs associated with this rule change for any other specific 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 Executive Director of the Department of Health, Richard G. Saunders, 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 is no fiscal impact to businesses because there will be no change to current enforcement practices.
<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Richard G. Saunders, 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>
Section 26-1-30

**Incorporations by Reference Information**

<b>8. A) This rule adds, updates, or removes the following title of materials incorporated by references:</b>	
	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	TNI Standard Volume 1 "Management and Technical Requirements for Laboratories Performing Environmental Analysis"
<b>Publisher</b>	The Nelac Institute
<b>Date Issued</b>	January 30, 2019
<b>Issue, or version</b>	2016, 2.1

**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>	05/03/2021

<b>10. This rule change MAY become effective on:</b>	05/10/2021
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>	Richard G. Saunders, Executive Director	<b>Date:</b>	03/12/2021
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**R444. Health, Disease Control and Prevention, Laboratory Improvement.**

**R444-14. Rule for the Certification of Environmental Laboratories.**

**R444-14-1. Introduction.**

(1) This rule is authorized by [~~Utah Code~~]Section 26-1-30[~~(2)(m)~~].

(2) This rule applies to laboratories that analyze samples for compliance with [~~Federal~~]the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq., [~~Federal~~]Clean Water Act, 33 U.S.C. Section 1251 et seq., and [~~the Federal~~]Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.

(3) A laboratory that analyzes samples for compliance with rules established by the [~~Utah~~]Department of Environmental Quality, Department of Health, and Department of Agriculture that require that the analysis be conducted by a certified laboratory, must become certified under this rule and comply with its provisions.

(4) A laboratory that, under subcontract with another laboratory, analyzes samples for compliance with rules established by the [~~Utah~~]Department of Environmental Quality, Department of Health and Department of Agriculture that require that the analysis be conducted by a certified laboratory, must become certified under this rule and comply with its provisions.

(5) A laboratory certified under this rule to analyze samples for compliance with rules established by the [~~Utah~~]Department of Environmental Quality, Department of Health, and Department of Agriculture that require that the analysis be conducted by a certified laboratory must also obtain approval under this rule for each analyte analyzed by a specific method.

**R444-14-2. Definitions.**

(1) [~~"Analyte" means the substance or thing for which a sample is analyzed to determine its presence or quantity."~~]"Analyte" means a substance, organism, physical parameter, property, or chemical constituent for which an environmental sample is being analyzed.

(2) "Approved" means the determination by the [~~department~~]program that a certified laboratory may analyze for an analyte under this rule.

[~~\_\_\_\_\_ (3) "Clean Water Act" means U.S. Public Law 92-500, as amended, governing water pollution control programs.~~]

[~~\_\_\_\_\_ (4) "Department" means the Utah Department of Health.~~]

[~~\_\_\_\_\_ (5) "Revoke" means to withdraw a certified laboratory's certification or the approval for a certified laboratory to perform one or more specified methods.~~]

[~~\_\_\_\_\_ (3) "Certification" means scope and certificate issued by the accreditation body to a laboratory.~~]

[~~\_\_\_\_\_ (4) "Laboratory" means an organization and facility established for testing samples.~~]

[~~\_\_\_\_\_ (5) "Method" means a body of procedures and techniques for performing an activity, systematically presented in the order in which they are to be executed within a laboratory setting.~~]

[~~\_\_\_\_\_ (6) "NELAP" means National Environmental Laboratory Accreditation Program.~~]

[~~\_\_\_\_\_ (7) "Program" means Utah Environmental Certification Program as administered by the Department of Health.~~]

[~~\_\_\_\_\_ (6) "Resource Conservation and Recovery Act" means U.S. Public Law 94-580, as amended, governing solid and hazardous waste programs.~~]

NOTICES OF PROPOSED RULES

- ~~(7) "Safe Drinking Water Act" means U.S. Public Law 93-523 94 580, as amended, governing drinking water programs.~~
- ~~(8) "TNI" means The NELAC Institute.~~

**R444-14-3. Laboratory Certification.**

~~(1) A laboratory is the organization and facilities established for testing samples.~~

~~(1)(2) A laboratory that conducts tests that are required by Department of Environmental Quality[~~rules~~], Department of Health, and Department of Agriculture to be conducted by a [certified] laboratory must be certified under this rule.~~

~~(2)(3) To become certified, to renew certification, or to become recertified under this rule, a laboratory must adhere to the requirements found in Volume 1 "Management and Technical Requirements for Laboratories Performing Environmental Analysis" of the TNI Standard [adopted September 8, 2009]effective January 30, 2019, which are incorporated by reference. The laboratory must also adhere requirements imposed by the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq., Clean Water Act, 33 U.S.C. Section 1251 et seq., and Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., for which they are seeking certification. Each Utah laboratory seeking certification must apply for certification through the program.~~

~~(3) The laboratory seeking certification must supply the program with any documentation requested for the application of the laboratory. Each requested document is classified a protected record under Subsections 63G-2-305(1), (2), (7), (10) and (36). Such records shall be treated as confidential.~~

~~(4) The laboratory must notify the program within 30 calendar days of any changes relevant to certification and in any aspect on its status or relating to:~~

- ~~(a) legal, commercial, ownership, or organizations status;~~
- ~~(b) changes in top management, key personnel and main policies;~~
- ~~(c) change of location;~~
- ~~(d) change of scope and accreditation; and~~
- ~~(e) other such matters that may affect the ability of the laboratory's certification requirements.~~

**R444-14-4. Analytical Methods.**

(1) The [department]program may only approve a certified laboratory to analyze an analyte by a specific method. The [department] program may approve a certified laboratory for an analyte using methods described in [the July 1, 1992 through 2010, editions of]40 CFR Parts 141, 142, and 143[~~(Safe Drinking Water Act)~~]; 40 CFR Parts 136 and 503.8[~~(Clean Water Act)~~]; 40 CFR Parts 260 and 261[~~(Resource Conservation and Recovery Act)~~], or other method required by a certified laboratory's client.

(2) In analyzing a sample for compliance with the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq., [the]Clean Water Act, 33 U.S.C. Section 1251 et seq., or [the]Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., a certified laboratory must

follow the method that it [reports]indicates on its final report[~~to have used~~].

**R444-14-5. Proficiency Testing.**

For a certified laboratory to become approved and to maintain approval for an analyte by a specific method, the certified laboratory must, at its own expense, meet the proficiency testing requirements of this rule. A certified laboratory must adhere to the requirements found in Volume 1 Module 1 "Proficiency Testing" of the TNI Standard [adopted September 8, 2009]effective January 30, 2019, which are incorporated by reference.

**R444-14-6. Quality System.**

~~(1)~~—A certified laboratory must adhere to the requirements found in Volume 1 Modules 2, 3, 4, 5, 6, 7 "Quality [s]Systems" of the TNI Standard [adopted September 8, 2009]effective January 30, 2019, which are incorporated by reference.

**R444-14-7. Recognition of [TNI]NELAP Accreditation.**

The [department]program may certify a laboratory that is [TNI]NELAP accredited. A laboratory seeking certification because of its [TNI]NELAP accreditation must provide evidence of its accreditation and apply for a laboratory certification on that basis. A laboratory certified on the basis of [TNI]NELAP accreditation must obtain approval from the [department]program for each analyte and meet the approval requirements of this rule. The program may request additional information to show that the laboratory is in compliance with the requirements of this rule.

**R444-14-8. Penalties.**

A laboratory violates this rule and is subject to the penalties provided in Title 26, Chapter 23, Enforcement Provision and Penalties, including both administrative and civil penalties if [it]the laboratory:

- (1) without being certified under this rule, holds itself out as one capable of testing samples for compliance with [Federal]the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq., [Federal]Clean Water Act, 33 U.S.C. Section 1251 et seq., or [Federal]Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq; or
- (2) without being approved [to analyze for the analyte], analyzes samples for [the]an analyte [for]of compliance with rules established by the [Utah]Department of Environmental Quality, Department of Health and Department of Agriculture that require that the analysis be conducted by a certified laboratory.

**KEY: laboratories**

**Date of Enactment or Last Substantive Amendment: 2021|October 12, 2011|**

**Notice of Continuation: July 26, 2016**

**Authorizing, and Implemented or Interpreted Law: 26-1-30|(2)(m)|**

**End of the Notices of Proposed Rules Section**

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R70-330	Filing No. 52820

### 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 catchline:</b>
R70-330. Raw Milk for Retail
<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 Section 4-3-201 which allows the Department of Agriculture and Food to adopt rules administering the provisions of the Utah Dairy 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 and standards that govern the sale of raw milk to consumers in Utah that are necessary to keep the public safe and prevent foodborne illnesses.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	03/15/2021
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R70-370	Filing No. 50165
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### 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

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
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 catchline:</b>
R70-370. Butter
<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 Section 4-3-201 which allows the Department of Agriculture and Food to make and enforce rules to carry out the Utah Dairy 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 adopts federal standards for Grades of Butter outlined in 7 CFR Chapter 1, Sections 58.305 through 58.309 and provides that butter is produced in a sanitary manner, consistent with Title 4, Chapter 3, and Rule R70-320.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	03/13/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	R70-380	<b>Filing No.</b>	50164
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**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 catchline:</b>
R70-380. Grade A Condensed and Dry Milk Products and Condensed and Dry Whey
<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 Section 4-3-201, which allows the Department of Agriculture and Food (Department) to make rules administering the Utah Dairy 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 is needed because it incorporates the federal Grade A Pasteurized Milk Ordinance and allows for the Department to review condensed and dry milk regulations from the Food and Drug Administration. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	03/13/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-213	Filing No. 52448

**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.uta.h.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-213. Request for Licensure Reinstatement and Reinstatement Procedures
<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: a) the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the State Board of Education (Board); b) Section 53E-6-506, which directs the Board to adopt rules regarding Utah Professional Practices Advisory Commission (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.
<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 procedures regarding educator license reinstatement. 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). Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	03/15/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

Utah Admin. Code Ref (R no.):	R277-214	Filing No. 50397
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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.uta.h.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-214. Utah Professional Practices Advisory Commission Criminal Background Review
<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: a) the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the State Board of Education (Board); b) Section 53E-6-506, which directs the Board to adopt rules regarding Utah Professional Practices Advisory Commission (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.
<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 procedures for an applicant to proceed toward licensing or be denied to continue when an application or recommendation for licensing or renewal identifies offenses in the applicant's criminal background check. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	03/15/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R311-600</b>	<b>Filing No. 50710</b>

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Environmental Response and Remediation	
<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 144840	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4840	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Bill Rees	801-536-4167	brees@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
R311-600. Hazardous Substances Mitigation Act: Enforceable Written Assurances

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Rule R311-600 is enacted in accordance with Section 19-6-326. Section 19-6-326 states: a) based upon risk to human health or the environment from potential exposure to hazardous substances or materials, the executive director, or the executive director's designee, may issue enforceable written assurances to a bona fide prospective purchaser, contiguous property owner, or innocent landowner of real property that no enforcement action under this part may be initiated regarding that real property against the person to whom the assurances are issued;

and b) an assurance, granted under Subsection 19-6-326(1), grants the person to whom the assurance is issued protection from imposition of any state law cost recovery and contribution actions under this part.

The Executive Director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the administration of this section.

**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:**

The Department of Environmental Quality (Department) received no written comments from persons supporting or opposing this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Amendments to the Hazardous Substances Mitigation Act to authorize the issuance of an Enforceable Written Assurance were initiated and subsequently supported by the private sector and the legal community to help quantify a prospective purchaser's pre-purchase liability. This can help foster economic development of Brownfields and other potentially impacted properties. In addition, the Department views that compliance with the conditions of the requirements for a bona fide prospective purchaser (e.g., all appropriate inquiries, notice, care/reasonable steps, cooperation, and compliance with institutional controls), which must be met to issue an Enforceable Written Assurance, will generally ensure there is no unacceptable risk to human health or the environment.

Based on the above paragraph and the fact that the Department has received no written comments from persons opposing this rule, the Department recommends continuation of Rule R311-600.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Bill Rees, Environmental Program Manager	<b>Date:</b>	03/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R357-5</b>	<b>Filing No. 50845</b>

**Agency Information**

<b>1. Department:</b>	Governor
<b>Agency:</b>	Economic Development
<b>Building:</b>	World Trade Center
<b>Street address:</b>	60 E South Temple
<b>City, state, zip:</b>	Salt Lake City, UT 84111

Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

2. Rule catchline:
R357-5. Motion Picture Incentive
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 63N-8-104 requires the Governor's Office of Economic Development to enact rules to administer the Motion Picture Incentive.
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 comments have been 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 is authorized and mandated by state law. Therefore, this rule should be continued.

**Agency Authorization Information**

Agency head or designee, and title:	Dane Ishihara, Research Analyst	Date:	03/11/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION			
Utah Admin. Code Ref (R no.):	R357-6	Filing No.	50849

**Agency Information**

1. Department:	Governor	
Agency:	Economic Development	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov

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

**General Information**

2. Rule catchline:
R357-6. Technology and Life Science Economic Development and Related Tax Credits
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 63N-2-807 requires the Governor's Office of Economic Development to enact rules to administer Technology and Life Science Economic Development Tax Credits.
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 have been 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 is authorized and mandated by state law. Therefore, this rule should be continued.

**Agency Authorization Information**

Agency head or designee, and title:	Dane Ishihara, Research Analyst	Date:	03/11/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION			
Utah Admin. Code Ref (R no.):	R357-13	Filing No.	50855

**Agency Information**

1. Department:	Governor	
Agency:	Economic Development	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

**General Information**

<b>2. Rule catchline:</b>
R357-13. Hotel Convention Center Incentive
<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 63N-2-509 authorizes the Governor's Office of Economic Development to enact rules to administer the New Convention Facility Development Incentive.
<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 is authorized and mandated by state law. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Dane Ishihara, Research Analyst	<b>Date:</b>	03/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R357-15</b>	<b>Filing No. 50862</b>

**Agency Information**

<b>1. Department:</b>	Governor	
<b>Agency:</b>	Economic Development	
<b>Building:</b>	World Trade Center	
<b>Street address:</b>	60 E South Temple	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R357-15. Enterprise Zone Tax Credit

<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 63N-2-213 requires the Governor's Office of Economic Development to enact rules to administer the Enterprise Zone Tax Credit.
<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 is authorized and mandated by state law. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Dane Ishihara, Research Analyst	<b>Date:</b>	03/11/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R357-16</b>	<b>Filing No. 50866</b>

**Agency Information**

<b>1. Department:</b>	Governor	
<b>Agency:</b>	Economic Development	
<b>Building:</b>	World Trade Center	
<b>Street address:</b>	60 E. South Temple	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R357-16. Utah Outdoor Recreation Infrastructure Grant
<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 63N-9-203 requires the Governor's Office of Economic Development to enact rules to administer the Utah Outdoor Recreation Infrastructure Grant.
<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 is authorized and mandated by state law. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Dane Ishihara, Research Analyst	<b>Date:</b>	03/11/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	R357-17	<b>Filing No. 50857</b>

**Agency Information**

<b>1. Department:</b>	Governor	
<b>Agency:</b>	Economic Development	
<b>Building:</b>	World Trade Center	
<b>Street address:</b>	60 E South Temple	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R357-17. Air Quality Incentive
<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 63N-1-402 allows the Governor's Office of Economic Development to enact rules for the purpose of conducting business.

<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 is authorized by state law. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Dane Ishihara, Research Analyst	<b>Date:</b>	03/11/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	R386-702	<b>Filing No. 52934</b>

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Epidemiology	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142104	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2104	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Cindy Burnett	801-538-6692	cburnett@utah.gov
Rachelle Boulton	801-538-6185	rboulton@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R386-702. Communicable Disease 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>
The Communicable Disease Rule is adopted under authority of Sections 26-1-30 (Powers and Duties of Department) and 26-6-3 (Communicable Disease Control

Act); and Title 26, Chapter 23b, (Detection of Public Health Emergencies Act). These provisions require the Department of Health (Department) to promote and protect public health by identifying, investigating, and controlling diseases that would be detrimental to the community, including those that are naturally occurring, and those that may indicate an act of bioterrorism. The Communicable Disease Rule defines the conditions that are reportable; specifies who is required to report diseases and how; and explains other specific details as to how the Department is authorized to deal with these types of conditions.

**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:**

This rule has been updated several times since the last review (typically it is updated annually), and comments are always solicited from partners including local health department staff (e.g. local health officers, nursing directors, epidemiology staff), hospital Infection control practitioners, laboratories, and community physicians; all questions regarding changes to this rule have been appropriately addressed, typically prior to the rule's public comment period starting.

Between November 16 - 24, 2020, close to 100 identical signed petitions were received from the public requesting two changes to Subsection R386-702-11(2).

The first request was that the Department put the wording "Prevention of the Spread of Disease From a Case" back into Subsection R386-702-11(2)(d). This wording was removed as part of a Department rule amendment in August 2020. The petitioners asserted that removal of the phrase gave the Department broader power to exceed what the Department can statutorily do.

No other comments have been received that indicate opposition to this rule.

**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 Communicable Disease Rule must be continued to enable the Department to continue to promote and protect public health as described in Box 3 above, and as required by statute. This rule is essential to ensure that the state is able to track and respond to communicable disease threats to Utah residents. This rule also outlines a multidisciplinary approach to communicable and infectious disease control and emphasizes reporting, surveillance, isolation, treatment, and epidemiological investigation to identify and control preventable causes of infectious diseases. Reporting requirements and authorizations are specified for communicable and infectious diseases, outbreaks, and unusual occurrence of any disease. Each section has been adopted with the intent of reducing disease morbidity and mortality through the rapid implementation of established practices and procedures.

Robust communicable disease surveillance and public health response have dramatically reduced the risk of epidemics and early loss of life due to infectious agents. However, the emergence of diseases such as West Nile Virus, Zika, Ebola, and COVID-19 and their rapid spread across the world, highlight the continuing threat to health from infectious diseases and the need for constant vigilance and aggressive and rapid response to emerging threats. Continual attention to these threats and cooperation among all health care providers, government agencies, and other entities that are partners in protecting the public's health are crucial to maintain and improve the health of the citizens of Utah.

The response to the petitions received in November 2020 was coordinated with the assistance of the attorney general's attorney assigned to the Department. They provided the following assessment:

1) The first request was that the Department put the wording "Prevention of the Spread of Disease From a Case" back into Subsection R386-702-11(2)(d). This wording was removed as directed by the Utah Office of Administrative Rules. The language was an unnecessary subsection heading and as such it did not meet the Office of Administrative Rules formatting requirements. The removal of the heading was a nonsubstantive change as it was only a title with no impact on the meaning and application of the substantive regulatory language that followed. Reincluding the heading as requested would have had no substantive purpose and would not conform to Utah rulemaking format requirements. As a result, this request was denied.

2) The second request was to add limiting language to Subsection R386-702-11(2)(e)(ii). Section R386-702, was promulgated under the authority of Section 26-6-3. Subsection 26-6-3(1), mandates that the Department "shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections". Section 26-6-4's provisions on restriction, isolation and quarantine provide only part of the measures the Department can take in its statutory duty to respond to "communicable diseases and epidemic infections". The requested changes would limit the Department from meeting the statutory duties it must comply with that go beyond Section 26-6-4. The terms "suppression and control" do have boundaries as provided in Section 26-6-3. This request was also denied.

After legal review, it was determined that the petitions to change the two parts of Subsection R386-702-11(2), both expressed a concern that this rule as written did not have sufficient boundaries to restrain agency actions in responding to a pandemic. However, the Department cannot exceed the statutory authority under which this rule was promulgated. Further, agencies have other boundaries including constitutional boundaries in enforcing regulations in a reasonable supportable manner within its statutory authority.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard G. Saunders, Executive Director	<b>Date:</b>	03/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R392-110</b>	<b>Filing No. 50917</b>

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Environmental Services	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2104	
<b>Mailing address:</b>	PO Box 142104	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2104	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Karl Hartman	801-538-6191	khartman@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R392-110. Food Service Sanitation in Residential Care Facilities
<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>
Rule R392-110 is authorized under Sections 26-15-2, 26-1-5, 26-7-1, and Subsections 26-1-30(9), 26-1-30(23), and 26-39-301(1). These sections authorize the Utah Department of Health to establish uniform food service inspection standards for residence-based group care facilities.
<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 comments received in support or opposition to the continuation of Rule R392-110. The last substantive amendment was enacted on July 16, 2019.
<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>

Subsection R430-50-4(1) requires the local health department to conduct a kitchen inspection of a residence-based group care facility as a pre-qualification for facility licensure, and Rule R392-110 establishes the uniform food service inspection standards for the local health departments to follow. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Richard G. Saunders, Executive Director	<b>Date:</b>	03/11/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R527-5</b>	<b>Filing No. 51272</b>

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Recovery Services	
<b>Street address:</b>	515 E 100 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84102-4211	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state, zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Scott Weight	801-741-7435	sweigh2@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R527-5. Release of 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>
Section 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. The terms and authority for the Government Records Access and Management Act (GRAMA) are outline in Title 63G, Chapter 2, as well as the classification of the different types of records and the procedures for submitting an appeal, when needed. Section 62A-11-304.4 allows ORS

to, upon written request, provide location information in its files on a custodial or noncustodial parent to the other party or the other party's legal counsel.

**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 have been no comments received since the last five-year review of this rule.

**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 be continued because ORS is required to allow access to properly classified agency records pursuant to Title 63G, Chapter 2, and this rule establishes the procedures for how ORS records may be accessed under Title 63G, Chapter 2.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Liesa Stockdale, ORS Director	<b>Date:</b>	03/01/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R527-201</b>	<b>Filing No. 51285</b>

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Recovery Services	
<b>Street address:</b>	515 E 100 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84102-4211	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state, zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Scott Weight	801-741-7435	sweigh2@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
R527-201. Medical Support Services

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Pursuant to Section 62A-11-107, the Office of Recovery Services (ORS) is authorized to adopt rules that are necessary to carry out the provisions of Title 62A, Chapter 11. Sections 62A-11-326, 62A-11-326.1, 62A-11-326.2, 62A-11-326.3, and 78B-12-212 contain provisions requiring ORS to establish and enforce medical support orders. These statutes require the parents to provide verification of insurance coverage and notification of medical expenses to the other party. These same statutes also address the issues surrounding the parent's responsibility for insurance premium payments and receiving a child support credit for medical expenses paid. In addition, these statutes outline the conditions upon which ORS may issue notice to employers to enroll dependent children in health insurance plans. This rule incorporates by reference 45 CFR Parts 303.30, 303.31 and 303.32, which outline the basic mandates for state IV-D agencies to establish, modify, and enforce orders requiring obligated parents to obtain and maintain medical insurance coverage for their children. This rule provides information on how ORS carries out the medical support duties outlined in these statutes.

**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 have been no comments received since the last five-year review of this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

45 CFR Part 303.30, 303.31, and 303.32, as well as state statutes found in Sections 62A-11-326, 62A-11-326.1, 62A-11-326.2, 62A-11-326.3, and 78B-12-212 are still in effect. This rule provides necessary details on how ORS carries out the medical support duties outlined in these statutes. It defines the agency's limits in providing medical support services, reiterates the condition under which medical support services are provided to non-Temporary Assistance for Needy Families (TANF) Medicaid recipients, explains how medical support orders are secured by the agency, describes the availability of credit based on the children's portion of the premiums paid, details enforcement remedies, and addresses the issue of the medical support obligation of parents who are receiving or have received Medicaid. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Liesa Stockdale, ORS Director	<b>Date:</b>	03/01/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R592-17	Filing No. 51470

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Title and Escrow Commission	
<b>Room no.:</b>	3110	
<b>Building:</b>	State Office Building	
<b>Street address:</b>	450 N State St.	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-538-3803	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R592-17. Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits
<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 31A-2-201(1) authorizes the Insurance Commissioner to write rules to enforce the provisions of Title 31A, Insurance Code. Subsection 31A-2-404(2) authorizes the Title and Escrow Commission to write rules pertaining to title insurance matters. Subsection 31A-23a-409(2)(b) authorizes the Insurance Commissioner to require that money deposited in a trust account provide safety comparable to a federally insured trust account.
<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>
The Department of Insurance has received no written comments regarding this rule during the past five years.
<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 specifies the characteristics of a trust account used by a title insurance agency to hold money for parties to a real estate transaction. This rule must be continued because it contains provisions that are critical for keeping a consumer's money safe during such a transaction. The

Title and Escrow Commission voted to continue this rule by a vote of 4 to 0.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	03/11/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R616-2	Filing No. 51507

**Agency Information**

<b>1. Department:</b>	Labor Commission	
<b>Agency:</b>	Boiler, Elevator and Coal Mine Safety	
<b>Room no.:</b>	3rd Floor	
<b>Building:</b>	Heber M. Wells	
<b>Street address:</b>	160 E 300 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 146600	
<b>City, state, zip:</b>	Salt Lake City UT 84114-6600	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chris Hill		chill@utah.gov
Pete Hackford		phackford@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R616-2. Boiler and Pressure Vessel Rules
<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>
Subsections 34A-7-103(6) and (7) give the Labor Commission (Commission) authority to establish inspection and safety standards for boilers and pressure vessels to prevent a "menace to the public safety."
<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 during or since the last five-year review.
<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>

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule remains necessary in light of the Commission's continuing responsibility to administer Title 34A, Chapter 7, Part 1, "boilers and Pressure Vessels," and the statutory directive contained in Subsections 34-7-103(6) and (7) to adopt standards for inspection and safe operation of boilers and pressure vessels. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Jacson R. Maughan, Commissioner	<b>Date:</b>	03/02/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R616-3</b>	<b>Filing No. 52612</b>
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**Agency Information**

<b>1. Department:</b>	Labor Commission	
<b>Agency:</b>	Boiler, Elevator and Coal Mine Safety	
<b>Room no.:</b>	3rd Floor	
<b>Building:</b>	Heber M. Wells	
<b>Street address:</b>	160 E 300 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 146600	
<b>City, state, zip:</b>	Salt Lake City UT 84114-6600	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chris Hill		chill@utah.gov
Pete Hackford		phackford@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R616-3. Elevator Rules
<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 34A-7-203(6) directs the Labor Commission (Commission) to enact rules adopting "nationally recognized standards or other safety codes" to be used in inspecting elevators or escalators.
<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 during or since the last five-year review.

**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 remains necessary in light of the Commission's continuing responsibility to administer Title 34A, Chapter 7, Part 2, the "elevator and Escalator Safety Act," and the statutory directive contained in Subsection 34-7-203(6) to adopt national safety standards or other safety codes to be used in inspecting elevators and escalators. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Jacson R. Maughan, Commissioner	<b>Date:</b>	03/02/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R746-409</b>	<b>Filing No. 52459</b>
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**Agency Information**

<b>1. Department:</b>	Public Service Commission	
<b>Agency:</b>	Administration	
<b>Building:</b>	Heber M Wells Building	
<b>Street address:</b>	160 E 300 S, 4th Floor	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 4558	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4558	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Hammer	801-530-6729	michaelhammer@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R746-409. Pipeline Safety
<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 54-13-2 requires the Public Service Commission (PSC) to establish safety standards and practices for intrastate pipeline transportation and to make and enforce

rules that federal law requires, specifically rules required under the Natural Gas Pipeline Safety Act (codified at 49 U.S.C. Section 60101, et seq.). Accordingly, this rule adopts pertinent provisions of the Code of Federal Regulations and provides for mechanisms to enforce those federal safety standards.

**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:**

The PSC has received no written comments since the last five-year review in 2016.

**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 justification for continuing this rule is that it is patently required pursuant to Section 54-13-2 and pertinent provisions of federal law.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Thad LeVar, PSC Chair	<b>Date:</b>	03/10/2021
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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF FIVE-YEAR EXPIRATIONS

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). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. 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 EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

NOTICE OF EXPIRED RULE		
Utah Admin. Code Ref (R no.):	R661-6	Filing No. 52699

### 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>
Nancy Lancaster	801-957-7102	rulesonline@utah.gov

### General Information

<b>2. Title of rule (catchline):</b>	
R661-6. Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program	
<b>3. Effective Date:</b>	03/02/2021
<b>4. Summary:</b>	
The statement of continuation was not filed by the deadline of 03/01/2021, so this rule has expired and will be removed from the Administrative Code.	

NOTICE OF EXPIRED RULE		
Utah Admin. Code Ref (R no.):	R661-7	Filing No. 52700

### 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>
Nancy Lancaster	801-957-7102	rulesonline@utah.gov

### General Information

<b>2. Title of rule (catchline):</b>	
R661-7. Utah Navajo Trust Fund Housing Projects Program	
<b>3. Effective Date:</b>	03/02/2021
<b>4. Summary:</b>	
The statement of continuation was not filed by the deadline of 03/01/2021, so this rule has expired and will be removed from the Administrative Code.	

**End of the Notices of Notices of Five Year Expirations 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

#### Debt Collection

No. 53310 (Amendment) R21-1. Transfer of Collection Responsibility of State Agencies  
Published: 02/15/2021  
Effective: 03/25/2021

### Commerce

#### Occupational and Professional Licensing

No. 53292 (Amendment) R156-1. General Rule of the Division of Occupational and Professional Licensing  
Published: 02/15/2021  
Effective: 03/25/2021

No. 53284 (Amendment) R156-17b. Pharmacy Practice Act Rule

Published: 02/01/2021  
Effective: 03/11/2021

No. 53288 (Amendment) R156-46b. Division Utah Administrative Procedures Act Rule

Published: 02/15/2021  
Effective: 03/25/2021

No. 53287 (Amendment) R156-72. Acupuncture Licensing Act Rule

Published: 02/15/2021  
Effective: 03/25/2021

### Education

#### Administration

No. 53280 (Amendment) R277-752. Special Education Intensive Services Fund  
Published: 02/01/2021  
Effective: 03/11/2021

No. 53281 (Amendment) R277-800. Utah Schools for the Deaf and the Blind

Published: 02/01/2021  
Effective: 03/11/2021

No. 53282 (Amendment) R277-923. American Indian and Alaskan Native Education State Plan Pilot Programs

Published: 02/01/2021  
Effective: 03/11/2021

No. 53283 (Amendment) R277-926. Certification of Residential Treatment Center Special Education Program

Published: 02/01/2021  
Effective: 03/11/2021

### Health

#### Child Care Center Licensing Committee

No. 53236 (New Rule) R381-40. Commercial Preschool Programs

Published: 01/01/2021  
Effective: 03/22/2021

#### Health Care Financing, Coverage and Reimbursement Policy

No. 53296 (Amendment) R414-60. Limitations

Published: 02/15/2021  
Effective: 03/26/2021

No. 53307 (Amendment) R414-303. Presumptive Eligibility for Medicaid

Published: 02/15/2021  
Effective: 03/26/2021

No. 53270 (Amendment) R414-505: Intergovernmental Transfer (IGT) Certification

Published: 01/15/2021  
Effective: 02/25/2021

NOTICES OF RULE EFFECTIVE DATES

Center for Health Data, Health Care Statistics  
No. 53300 (Amendment) R428-1. Health Data Plan and  
Incorporated Documents  
Published: 02/15/2021  
Effective: 03/25/2021

Family Health and Preparedness, Licensing  
No. 53262 (Amendment) R432-550. Birthing Center  
Published: 01/15/2021  
Effective: 03/10/2021

Human Services

Administration  
No. 53267 (Repeal) R495-862: Communicable Disease  
Control Act  
Published: 01/15/2021  
Effective: 02/24/2021

Substance Abuse and Mental Health  
No. 53225 (Amendment) R523-2: Local Mental Health  
Authorities and Local Substance Abuse Authorities  
Published: 01/01/2021  
Effective: 02/26/2021

Recovery Services  
No. 53260 (Amendment) R527-35: Non-IV-A Fee Schedule  
Published: 01/15/2021  
Effective: 02/24/2021

Insurance

Administration  
No. 53217 (Amendment) R590-85. Accident and Health  
Insurance and Medicare Supplement Rates  
Published: 12/01/2020  
Effective: 03/11/2021

No. 53217 (Change in Proposed Rule) R590-85. Accident  
and Health Insurance and Medicare Supplement Rates  
Published: 02/01/2021  
Effective: 03/11/2021

No. 53285 (Amendment) R590-238-16. Acquisition of  
Control of or Merger with Domestic Company  
Published: 02/01/2021  
Effective: 03/11/2021

No. 53219 (New Rule) R590-286. Minimum Standards for  
Short-Term Limited Duration Health Insurance  
Published: 12/01/2020  
Effective: 03/11/2021

No. 53219 (Change in Proposed Rule) R590-286.  
Minimum Standards for Short-Term Limited Duration Health  
Insurance  
Published: 02/01/2021  
Effective: 03/11/2021

Natural Resources

Wildlife Resources  
No. 53276 (Amendment) R657-58. Fishing Contests and  
Clinics  
Published: 02/01/2021  
Effective: 03/11/2021

School and Institutional Trust Lands

Administration  
No. 53308 (New Rule) R850-12. Prohibited and Restricted  
Use of Trust Lands  
Published: 02/15/2021  
Effective: 04/01/2021

No. 53309 (Repeal and Reenact) R850-41. Rights of Entry  
Published: 02/15/2021  
Effective: 04/01/2021

Transportation

Operations, Traffic and Safety  
No. 53232 (New Rule) R920-60. Amusement Ride Safety  
Published: 12/15/2020  
Effective: 03/19/2021

Preconstruction

No. 53184 (Amendment) R930-5. Maintenance  
Published: 12/01/2020  
Effective: 03/25/2021

**End of the Notices of Rule Effective Dates Section**