

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

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.

EXECUTIVE ORDER 2021-9

Updating the COVID-19 Vaccination Plan

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

WHEREAS, as of April 14, 2021, 391,177 Utah residents have been infected with COVID-19; 15,838 Utah residents have been hospitalized due to COVID-19; and 2,161 Utah residents have died as a result of COVID-19;

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

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

WHEREAS, Utah is making significant progress in providing vaccines to all adults who want to be vaccinated and as of April 14, 2021, 1,136,477 people in Utah have received at least one dose of a COVID-19 vaccine;

WHEREAS, Utah is receiving regular distributions of vaccines and has sufficient vaccines to provide them to any adult who wants to be vaccinated;

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

1. **Definitions.** As used in this Order:
 - a. "COVID-19" means Novel Coronavirus Disease 2019 caused by Severe Acute Respiratory Syndrome Coronavirus 2, also known as SARS-CoV-2.
 - b. "COVID-19 vaccine" means a COVID-19 vaccine and adjuvant (if applicable) provided to a vaccine provider as part of the CDC COVID-19 Vaccination Program.
 - c. "Prime dose" means the first dose of a two-dose series vaccine, or a single dose of a single-dose vaccine.
 - d. "Vaccine provider" means any person, including a CDC COVID-19 Vaccination Program Provider, that administers a COVID-19 vaccine in the state of Utah.
2. **Vaccine eligibility.** The Utah Department of Health shall, in consultation with the Governor's Office, establish vaccine eligibility criteria and publish the eligibility criteria on coronavirus.utah.gov.
3. **Vaccine provider requirements.** A vaccine provider shall:
 - a. administer each prime dose of a COVID-19 vaccine within seven days of receiving the prime dose; and
 - b. each day by 6:59 a.m.:
 - i. report to the Utah Statewide Immunization Information System COVID-19 vaccines administered during the previous calendar day by the vaccine provider; and

EXECUTIVE DOCUMENTS

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

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

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 15th day of April, 2021.

(State Seal)

Spencer J. Cox
Governor

ATTEST:

Deidre M. Henderson
Lieutenant Governor

2021/09/EO

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between April 02, 2021, 12:00 a.m., and April 15, 2021, 11:59 p.m. are included in this, the May 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 31, 2021. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through August 29, 2021, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R58-24	Filing No. 53409

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	Ambermbrown@utah.gov
Leann Hunting	801-982-2242	leannhunting@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R58-24. Community Spay and Neuter Grants
3. Purpose of the new rule or reason for the change:
The statute authorizing this rule (and program) was repealed in May 2020 under H.B. 248 passed during the 2020 General Session. Therefore, this rule is no longer needed.
4. Summary of the new rule or change:
Due to the passage of H.B. 248 (2020), the Department of Agriculture and Food (Department) no longer has the authority to enforce this rule. This rule was in place to provide guidelines for the Community Spay and Neuter Grant program, but this program will no longer be in effect. This rule is repealed in its entirety.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
With the repeal of this rule and program, the state budget will save approximately \$30,000 per year. The previously awarded grants were paid for largely out of state funds.

B) Local governments:			
There could be some impact to local governments who will no longer be eligible to receive grants under this program. The Department estimates that 20% of grants went to local governments so they could lose approximately \$6,000 per year.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There could be an impact to small businesses that are no longer able to receive grants under this program. The Department estimates that 40% of grants went to small businesses so they could lose approximately \$12,000 per year.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There could be an impact to non-small businesses that are no longer able to receive grants under this program. The Department estimates that 40% of grants went to non-small businesses so they could lose approximately \$12,000 per year.			
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>):			
There would be no fiscal impact to other persons because they do not administer or receive grants under this program.			
F) Compliance costs for affected persons:			
There will be no change in compliance costs for affected persons because the program will no longer exist and did not ever include any fees assessed by the Department.			
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	\$6,000	\$6,000	\$6,000
Small Businesses	\$12,000	\$12,000	\$12,000
Non-Small Businesses	\$12,000	\$12,000	\$12,000
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$30,000	\$30,000	\$30,000
Fiscal Benefits			
State Government	\$30,000	\$30,000	\$30,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$30,000	\$30,000	\$30,000
Net Fiscal Benefits	\$0	\$0	\$0

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:

The repeal of this program has been mandated by the legislature and will have a minimal impact on businesses because they will no longer be eligible for grants.

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 4-40-102(5)(c)		
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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: 05/31/2021

10. This rule change MAY become effective on: 06/07/2021

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

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner	Date:	04/15/2021
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R58. Agriculture and Food, Animal Industry.

~~**R58-24. Community Spay and Neuter Grants.**~~

~~**R58-24-1. Authority and Purpose.**~~

~~(1) This rule provides the requirements and procedures for community spay and neuter grants established by Title 4, Chapter 40 and defines what constitutes a person having low income for purposes of that statute.~~

~~(2) It is authorized by Section 4-40-102(5)(e).~~

~~**R58-24-2. Definitions.**~~

~~The definitions as they appear in Section 4-40-102(4) apply. In addition, "Department" means the Utah Department of Agriculture and Food.~~

~~**R58-24-3. Grant Application.**~~

~~An applicant responding to a request for grant application under this program shall submit its application as directed in the grant application guidance issued by the Department.~~

~~(1) An applicant with an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code shall submit an annual report for the organization as a whole which shall provide for the most current year end:~~

~~(a) IRS form 990 for non-profit corporation qualified under I.R.C. Section 501(c)(3);~~

~~(b) a statement of assets, liabilities and fund balance;~~

~~(c) a statement of operations showing by summary, sources of revenue and expenditures;~~

~~(d) a statement of mission or purpose and how the organization has met its objectives; and~~

~~(e) a list of directors and key administrators who are in control of the organization.~~

~~(2) An applicant which operates as a city or county animal shelter shall submit:~~

~~(a) a statement of mission or purpose and how the organization has met its objectives; and~~

~~(b) a list of directors and key administrators who are in control of the organization.~~

~~**R58-24-4. Criteria for Awarding Grants.**~~

~~In awarding grants, the Department shall consider the extent to which the applicant:~~

NOTICES OF PROPOSED RULES

- _____ (1) demonstrates that it meets organization criteria in Section 4-40-102(4);
- _____ (2) demonstrates that it will provide spay and neuter services for cats and dogs belonging to a low-income person as required in Section 4-40-102(4);
- _____ (3) provides:
 - _____ (a) information that requirements established in Section 4-40-102(5) are met;
 - _____ (b) an organization operation plan with a statement of specific measurable objectives and methods to be used to assess the achievement of those objectives;
 - _____ (c) a schedule of fees the voucher shall cover; and
 - _____ (d) the number of estimated animal procedures to be provided with the grant award.

R58-24-5. Qualified Service Recipient.

- _____ (1) A low-income person qualifies under poverty standards established by the applicant organization using the 200 percent of federal poverty level standard. Acceptable proof may be any of the following:
 - _____ (a) Medicaid enrollment documentation;
 - _____ (b) CHIP enrollment documentation;
 - _____ (c) Food Stamps eligibility documentation;
 - _____ (d) WIC enrollment documentation;
 - _____ (e) Social Security Disability (SSD);
 - _____ (f) HUD Section 8 eligibility documentation; or
 - _____ (g) prior year's income tax return.
- _____ (2) The grantee must assure that each individual to whom it provides service under the grant awarded under this rule meets the requirements of this rule and Section 4-40-102(5).
- _____ (3) No funds shall be used for administration costs.

R58-24-6. Quarterly Payments.

_____ Reimbursement of vouchers will occur quarterly.

R58-24-7. Annual Report Requirements.

- _____ (1) The grant recipient shall provide an annual report as provided in R58-24-3 above.
- _____ (2) The recipient organization shall provide supplementary information related to the spay and neuter services described in the grant application, including a break-down of:
 - _____ (a) the number of cats neutered or spayed and an estimated cost per animal; and
 - _____ (b) the number of dogs neutered or spayed and an estimated cost per animal.
- _____ (3) An organization that receives state funds under Section 4-40-102 must submit to the Department of Agriculture and Food, Animal Industry, an annual accounting of the grant funds including:
 - _____ (a) the number of vouchers distributed to pet owners for spay and neuter services;
 - _____ (b) the number of vouchers redeemed for services;
 - _____ (c) a summary of total cost of voucher services provided; and
 - _____ (d) an average total procedure cost per animal.

R58-24-8. Audit Provisions.

_____ An organization that receives state funds under Section 4-40-102 must submit, upon request, to a Department audit of the recipients' compliance with the terms of the grant.

KEY: spay, neuter, pets, grants

Date of Enactment or Last Substantive Amendment: August 26, 2011

Notice of Continuation: August 2, 2016

Authorizing, and Implemented or Interpreted Law: 4-40-102(5)(e)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R162-2f	Filing No. 53376

Agency Information

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

General Information

2. Rule or section catchline:
R162-2f. Real Estate Licensing and Practices Rule
3. Purpose of the new rule or reason for the change:
The reasons for filing the proposed rule amendment are: <ul style="list-style-type: none"> 1) to eliminate the mandatory denial of an application for licensure due to an applicant's criminal history; 2) to simplify and, in rare instances, extend the deadline for application for licensure; 3) to approve an alternative format for continuing education in a live, virtual setting; 4) to differentiate between an assumed name and an entity for registration purposes; 5) to provide detail and clarity to a broker's obligation to provide active and reasonable supervision of licensees and unlicensed staff members supervised by the broker; and 6) to distinguish between, to clarify, and to supplement the trust account rules for a real estate sales company and a property management company.
4. Summary of the new rule or change:
In Section R162-2f-102, the proposed amendment would add "mandatory course" to the definition of "continuing education" and add the definition of "virtual-live continuing education" to this rule.

In Section R162-2f-20, the proposed amendment would eliminate the requirement to deny an application for licensure of an applicant who was:

- 1) convicted of a felony, or was released from jail or prison for a felony, within five years preceding the date of application; or
- 2) convicted of or released from jail or prison for a misdemeanor involving fraud, misrepresentation, theft, or dishonesty, within three years preceding the date of application.

Instead of the mandatory denial, the proposed amendment would provide discretion to the Division of Real Estate (Division) in evaluating whether to deny a license, or to issue a restricted license, to an applicant with such criminal history. The proposed amendment provides that the Division give particular consideration to such felonies or misdemeanors in reaching a licensing decision.

In Section R162-2f-202a, the proposed amendment clarifies that an individual must pass both the state and national components of the licensing examination within 12 months of completion of the applicant's prelicensing education and simplifies, and in rare circumstances extends, the deadline for application which would be 90 days from the date the applicant achieves a passing score on both examination components.

In Section R162-2f-202b, the proposed amendment updates references to other rule sections.

In Section R162-2f-204, the proposed amendment updates references to other rule sections.

In Section R162-2f-205, the proposed amendment would add "assumed name" as a category of businesses that are required to register with the Division.

In Section R162-2f-206c, the proposed amendment would add virtual-live continuing education (CE) to the approved categories of CE. Although virtual-live CE was initially developed in response to the social distancing required by the Covid-19 pandemic, it is not a temporary solution but would be a permanent option for CE instruction. CE providers are not required to provide virtual-live CE, but this is an optional format that may be used to reach potential participants. The proposed rule amendment would establish minimum standards for virtual-live CE including class size limits, the use of monitoring assistants, and communication requirements including microphones and live cameras. The proposed amendment would not change or restrict the existing CE options of traditional CE and distance education. In addition, the proposed amendment also lists the types or options of mandatory CE courses that were provided for in a prior approved rule amendment.

In Section R162-2f-401c, under existing law and rule, a broker is required to provide active and reasonable supervision of each licensee and unlicensed staff member employed by or affiliated with the broker. The proposed amendment provides direction to brokers as to the

minimum standard for active and reasonable supervision while retaining the safe harbor to protect a broker who meets the minimum standard from liability for violations of law or rule by persons required to be supervised by the broker.

In Section R162-2f-401j, the proposed amendment updates a reference to a section of the Utah Code.

In Section R162-2f-401k, the proposed amendment clarifies that:

- 1) monthly reconciliation records are among those trust account records required to be maintained and safeguarded by a broker; and
- 2) a broker must maintain records from a lease transaction for at least three years following the year in which the lease agreement is terminated.

In Section R162-2f-403a, the proposed amendment rearranges and combines the provisions of trust account rules currently found in Sections R162-2f-403a and R162-2f-403b for a real estate company and adds the following provisions:

- 1) a broker must notify the Division if the trust account is moved to another bank or credit union or the trust account number is changed;
- 2) non-traditional electronic transfers of funds would be expressly allowed;
- 3) a broker is required to reconcile brokerage trust account records with the brokerage client records at least monthly;
- 4) a broker is required to transfer funds out of the trust account and into an operating account prior to further disbursing the funds; and
- 5) with the client's written consent, a broker may reallocate earnest money funds from a failed transaction held in a trust account as earnest money for the same client in another transaction.

In Section R162-2f-403b, the proposed amendment rearranges and combines the provisions of trust account rules currently found in Sections R162-2f-403a and R162-2f-403c for a property management company and adds the following provisions:

- 1) a broker must notify the Division if the trust account is moved to another bank or credit union or the trust account number is changed;
- 2) non-traditional electronic transfers of funds would be expressly allowed;
- 3) a broker is required to reconcile brokerage trust account records with the brokerage client records at least monthly;
- 4) a broker may deposit up to \$10,000 of the broker's own funds into a property management trust account;
- 5) a broker must transfer earnings for property management services out of the trust account and into an operating account within 60 days of the date the earnings are earned according to contract and received; and
- 6) a broker is required to transfer funds out of the trust account and into an operating account prior to further disbursing the funds.

In Section R162-2f-403c, the current provisions of this section have been combined into Section R162-2f-403b. The proposed rule amendment would delete this section.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

The proposed rule amendment updates and clarifies this rule. In some instances, new options are available to licensees of the Division. The Division already has the staff and budget to administer the proposed rule amendment. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact or result in any additional cost or savings to the state budget.

B) Local governments:

Local governments are not required to comply with or enforce the Real Estate Licensing and Practices Rule. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to local governments.

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

The amendment to the Department of Commerce's (Department) Real Estate Licensing and Practices Rule are minimal and will have no impact on the costs required for a small business requesting information from the Department. The amendments as a whole should allow for greater efficiency and clarity for procedures with the Department and its constituents. Accordingly, no fiscal impact is expected as these costs are either inestimable or there is no fiscal impact.

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

The proposed amendment does not create new obligations for non-small businesses, nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to non-small businesses.

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 proposed amendment does not create new obligations for persons other than small businesses, non-small businesses, state, or local government entities nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities.

F) Compliance costs for affected persons:

Many of the proposed rule amendments are clarifications of the existing rule and do not create new obligations for affected persons. These clarifications will not result in an increased compliance cost to affected persons.

The new option of certifying and providing a course by offering a virtual-live CE course is not mandatory and does not create a new obligation. If the proposed amendment is adopted and a CE provider chooses this format to offer a CE course, this decision will be a market decision based on the cost of providing a virtual-live CE course as compared to other available options, the number of potential participants, and other expenses and income anticipated from the course offering. The Division is not able to estimate the number of virtual-live courses that providers may seek to have certified or the relative costs and revenue of such a course when compared to the current options available to course providers which are traditional CE courses or distance education. No CE provider is required to offer a virtual-live CE course but may choose to do so as an alternative to the existing options. The Division is unable to estimate the fiscal impact of the proposed amendment on CE course providers.

The fiscal impact of a virtual-live CE course to a licensee who needs to obtain required CE also cannot be estimated. The Division is unable to estimate the number of virtual-live CE courses that CE providers will seek to have certified or the cost of participating in such a course as compared to the current available options of traditional CE courses and distance education. However, the Division believes that approving another format for offering CE will improve market options for both CE providers and licensees needing to complete required CE. An individual licensee is not expected to incur a compliance cost or fiscal impact from the proposed amendment. The required number of CE hours remains unchanged by the proposed rule amendment. A licensee is still only required to take 18 hours of CE every two years.

The proposed amendment does create new obligations for principal brokers with regard to required trust accounts such as the requirement that the principal broker notify the Division when a trust account is moved or the account number changed. The Division does not know how often a change in the trust account might occur but estimates that it occurs quite infrequently. In those infrequent occasions when notification of the Division is required, the cost of notifying the Division would be the cost of preparing a letter or the time to draft an email. As the Division is not able to determine whether or how often such a notification may be required, it is unable to estimate the compliance costs for this proposed amendment and expects that any cost will be nominal and cannot be calculated at this time.

The proposed rule amendment would require that a principal broker reconcile brokerage trust account records with the brokerage client records at least monthly. The Division is informed and understands that the majority, by far, of real estate brokerages already reconcile the brokerage trust funds with their brokerage client records each month as a common business practice. The costs of doing so depend on the number of clients the broker represents and the number of transactions for which the brokerage receives funds for deposit into the trust account. In many transactions, there are no trust funds received by the brokerage. The Division is unable to estimate the fiscal impact of the proposed amendment on a principal broker. Other proposed amendments to the trust account rules are not expected to result in a compliance cost to affected persons.

Affected persons most often choose a corporation, limited liability company, or other entity from which they operate their real estate business. In those rare occasions when a licensee chooses to operate their real estate business as an assumed name, the proposed amendment requires that they register the assumed name with the Division. There is a one-time application fee to register the assumed name with the Division. The Division estimates that registration of an assumed name will occur less than one time each year. Assuming it would occur once per year, the cost of registering the assumed name with the Division is \$200 per year.

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	\$200	\$200	\$200
Total Fiscal Cost	\$200	\$200	\$200
Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	-\$200	-\$200	-\$200

H) Department head approval of regulatory impact analysis:

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

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

I have reviewed the proposed filing for the above-referenced rule and considered the fiscal impact that the rule may have on businesses. I direct that my comments about the rule's fiscal impact on businesses be inserted at the appropriate place on the notice form to be filed with the Office of Administrative Rules for publication of this rulemaking action.

The Department of Commerce Administration proposes amendments to update the Department of Commerce's Real Estate Licensing and Practices Rule. Minimal amendments have been made to update language to conform to Utah rulewriting standards, rewrite the language for requests to be simpler, and make non-substantive formatting changes for clarity.

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

Margaret Busse, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state

and federal laws. State code or constitution citations (required):		
Section 61-2f-103	Section 61-2f-204	Section 61-2f-206
Section 61-2f-305	Section 61-2f-401	

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:	05/31/2021
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10. This rule change MAY become effective on:	06/07/2021
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Jonathan Stewart, Director	Date:	04/05/2021
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R162. Commerce, Real Estate.

R162-2f. Real Estate Licensing and Practices Rule[s].

R162-2f-102. Definitions.

(1) "Active license" means a license granted to an applicant who:

(a) qualifies for licensure under Section 61-2f-203 and this rule; ~~these rules;~~

- (b) pays ~~all~~ applicable nonrefundable license fees; and
- (c) affiliates with a principal brokerage.
- (2) "Advertising" means a commercial message through:
 - (a) newspaper;
 - (b) magazine;
 - (c) Internet;
 - (d) e-mail;
 - (e) radio;
 - (f) television;
 - (g) direct mail promotions;
 - (h) business cards;
 - (i) door hangers;
 - (j) signs;
 - (k) other electronic communication; or
 - (l) any other medium.
- (3) "Affiliate:" ~~"Affiliate";~~

(a) when used in reference to licensure, means to form, for the purpose of providing a real estate service, an employment or non-employment association with another individual or entity licensed or registered under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, ~~et seq. and these rules~~ and this rule; and

(b) when used in reference to an undivided fractionalize long-term estate, means an individual or entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified individual or entity.

(4) "Branch broker" means an associate broker who manages a branch office under the supervision of the principal broker.

(5) "Branch office" means a principal broker's real estate brokerage office other than the principal broker's main office.

(6) "Brokerage" means a real estate sales or a property management company.

(7) "Brokerage record" means any record related to the business of a principal broker, including:

- (a) record of an offer to purchase real estate;
- (b) record of a real estate transaction, regardless of whether the transaction closed;
- (c) licensing records;
- (d) banking and other financial records;
- (e) independent contractor agreements;
- (f) trust account records, including:
 - (i) deposit records in the form of a duplicate deposit slip, deposit advice, or equivalent document; and
 - (ii) conveyance records in the form of a check image, wire transfer verification, or equivalent document; and
- (g) records of the brokerage's contractual obligations.

(8) "Business day" is defined in ~~S~~ ~~ubs~~ Section 61-2f-102 ~~(3)~~.

(9) "Certification" means authorization from the division to:

- (a) establish and operate a school that provides courses approved for prelicensing education or continuing education; or
- (b) function as an instructor for courses approved for prelicensing education or continuing education.

(10) "Closing gift" means any gift given by a principal broker, or a licensee affiliated with the principal broker, to a buyer or seller, lessor or lessee, in appreciation for having used the services of a real estate brokerage.

(11) "Commission" means the Utah Real Estate Commission.

(12) "Continuing education" means professional education required as a condition of renewal in accordance with Section R162-2f-204 and may be ~~either~~:

- (a) core ~~[-]~~ topics identified in Subsection R162-2f-206c(6)(c); ~~[R162-2f-206c(5)(e); or]~~
- (b) elective ~~[-]~~ topics identified in Subsection R162-2f-206c(6)(e); ~~[R162-2f-206c(5)(e)]; or~~
- (c) mandatory courses identified in Subsection R162-2f-206c(6)(f).

(13) "Correspondence course" means a self-paced real estate course that:

- (a) is not distance or traditional education; and
- (b) fails to meet real estate educational course certification standards because:
 - (i) it is primarily student initiated; and
 - (ii) the interaction between the instructor and student lacks substance and/or is irregular.

(14) "Day" means calendar day unless specified as ~~["]~~business day. ~~["]~~

(15)(a) "Distance education" means education in which the instruction does not take place in a traditional classroom setting, but occurs through other interactive instructional methods where teacher

and student are separated by distance and sometimes by time, including the following:

- (i) computer conferencing;
- (ii) satellite teleconferencing;
- (iii) interactive audio;
- (iv) interactive computer software;
- (v) Internet-based instruction; and
- (vi) other interactive online courses.

(b) "Distance education" does not include home study and correspondence courses.

(16) "Division" means the Utah Division of Real Estate.

(17) "Double contract" means executing two or more purchase agreements, one of which is not made known to the prospective lender or loan funding entity.

(18) "Expired license" means a license that is not renewed pursuant to Section 61-2f-204 and Section R162-2f-204 by:

- (a) the close of business on the expiration date, if the expiration date falls on a day when the division is open for business; or
- (b) the next business day following the expiration date, if the expiration date falls on a day when the division is closed.

(19) "Guaranteed sales plan" means:

(a) a plan in which a seller's real estate is guaranteed to be sold; or

(b) a plan whereby a licensee or anyone affiliated with a licensee agrees to purchase a seller's real estate if it is not purchased by a third party:

- (i) in the specified period of a listing; or
- (ii) within some other specified period of time.

(20) "Inactive license" means a license that has been issued pursuant to Sections R162-2f-202a through 202c or renewed pursuant to Section R162-2f-204, but that may not be used to conduct the business of real estate because the license holder is not affiliated with a principal broker. Pursuant to Section R162-2f-203, a license may be inactivated:

- (a) voluntarily, with the assent of the license holder; or
- (b) involuntarily, without the assent of the license holder.

(21) "Inducement gift" means any gift given by a principal broker, or a licensee affiliated with the principal broker, to a buyer or seller, lessor or lessee, in a real estate transaction as an incentive to use the services of a real estate brokerage.

(22) "Informed consent" means written authorization, obtained from both principals to a single transaction, to allow a licensee to act as a limited agent.

(23) "Limited agency" means the representation of each of the principals in the same transaction to negotiate a mutually acceptable agreement:

- (a) subject to the terms of a limited agency agreement; and
- (b) with the informed consent of each principal[s] to the transaction.

(24) "Net listing" means a listing agreement under which the real estate commission is the difference between the actual selling price of the property and a minimum selling price as set by the seller.

(25)(a) "Non-certified education" means a continuing education course offered outside of Utah, but for which a licensee may apply for credit pursuant to Subsection R162-2f-206c(1)(b).

- (b) "Non-certified education" does not include:
 - (i) home study courses; or
 - (ii) correspondence courses.

(26) "Nonresident applicant" means a person:

- (a) whose primary residence is not in Utah; and

(b) who qualifies under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, ~~et seq. and these rules~~ and this rule for licensure as a principal broker, associate broker, or sales agent.

(27) "Principal brokerage" means the main real estate or property management office of a principal broker.

(28) "Principal" in a transaction means an individual who is represented by a licensee and may be:

- (a) the buyer or lessee;
- (b) an individual having an ownership interest in the property;
- (c) an individual having an ownership interest in the entity that is the buyer, seller, lessor, or lessee; or
- (d) an individual who is an officer, director, partner, member, manager, or employee of the entity that is the buyer, seller, lessor, or lessee.

(29) "Provider" means an individual or business that is approved by the division to offer continuing education.

(30) "Property management" is defined in ~~S[ubs]ection 61-2f-102[(49)]~~.

(31) "Registration" means authorization from the division to engage in the business of real estate as:

- (a) a corporation;
- (b) a partnership;
- (c) a limited liability company;
- (d) an association;
- (e) a dba;
- (f) a professional corporation;
- (g) a sole proprietorship; or
- (h) another legal entity of a real estate brokerage.

(32) "Reinstatement" is defined in ~~S[ubs]ection 61-2f-102[(22)]~~.

(33) "Reissuance" is defined in ~~S[ubs]ection 61-2f-102[(23)]~~.

(34) The acronym RELMS means "real estate licensing and management system," which is the online database through which licensees shall submit licensing information to the division.

(35) "Renewal" is defined in ~~S[ubs]ection 61-2f-102[(24)]~~.

(36) "Residential property" means real property consisting of, or improved by, a single-family one- to four-unit dwelling.

(37) "School" means:

(a) any college or university accredited by a regional accrediting agency that is recognized by the United States Department of Education;

- (b) any community college or vocational-technical school;
- (c) any local real estate organization that has been approved

by the division as a school; or

- (d) any proprietary real estate school.

(38) "Sponsor" means:

(a) a person who is the original seller of an undivided fractionalized long-term estate.

(b) sponsor includes, if the seller is an entity, any individual who exercises managerial responsibility in the sponsoring entity.

(39) "Third party service provider" means an individual or entity that provides a service necessary to the closing of a specific transaction and includes:

- (a) mortgage brokers;
- (b) mortgage lenders;
- (c) loan originators;
- (d) title service providers;
- (e) attorneys;
- (f) appraisers;
- (g) providers of document preparation services;

NOTICES OF PROPOSED RULES

- (h) providers of credit reports;
- (i) property condition inspectors;
- (j) settlement agents;
- (k) real estate brokers;
- (l) marketing agents;
- (m) insurance providers; and
- (n) providers of any other services for which a principal or investor will be charged.

(40) "Traditional education" means education in which instruction takes place between an instructor and students where both the instructor and students ~~are~~ physically present in the same classroom.

(41) "Undivided fractionalized long-term estate" is defined in ~~Subsection~~ Section 57-29-102(8).

(42) "Virtual-live continuing education" means continuing education that is presented in a live, video conferencing format, using interactive instructional methods where teacher and student may be separated by distance but not by time. The teacher is able to interact, and does interact in real time with the students.

R162-2f-201. Qualification for Licensure.

(1) ~~[Character.]~~ Pursuant to Subsection 61-2f-203(1)(c), an applicant for licensure as a sales agent, associate broker, or principal broker shall evidence honesty, integrity, truthfulness, and reputation.

- ~~(a) An applicant shall be denied a license for:~~
 - ~~(i) a felony that resulted in:~~
 - ~~(A) a conviction occurring within the five years preceding the date of application; or~~
 - ~~(B) a jail or prison term with a release date falling within the five years preceding the date of application; or~~
 - ~~(ii) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty that resulted in:~~
 - ~~(A) a conviction occurring within the three years preceding the date of application; or~~
 - ~~(B) a jail or prison term with a release date falling within the three years preceding the date of application.]~~

~~(a)(b)~~ An applicant may be denied a license or issued a restricted license for incidents in the applicant's past that reflect negatively on the applicant's honesty, integrity, truthfulness, and reputation. In evaluating an applicant for these qualities, the division and commission may consider:

- (i) criminal convictions with particular consideration given to any such acts involving: ~~other than those specified in Subsection (1)(a);~~
 - (A) a felony conviction occurring within the five years preceding the date of application;
 - (B) a jail or prison term resulting from a felony conviction with a release date falling within the five years preceding the date of application;
 - (C) a conviction of a class A or class B misdemeanor, or similar offense, involving fraud, misrepresentation, theft, or dishonesty occurring within the three years preceding the date of application; or
 - (D) a jail term resulting from a conviction of a class B or class A misdemeanor, or similar offense, involving fraud, misrepresentation, theft, or dishonesty with a release date falling within the three years preceding the date of application;
- (ii) plea agreements;
- (iii) past acts related to honesty or truthfulness, with particular consideration given to any such acts involving the business

of real estate, that would be grounds under Utah law for sanctioning an existing license;

- (iv) civil judgments in lawsuits brought on grounds of fraud, misrepresentation, or deceit;
- (v) court findings of fraudulent or deceitful activity;
- (vi) evidence of non-compliance with court orders or conditions of sentencing; and
- (vii) evidence of non-compliance with:
 - (A) terms of a diversion agreement not yet closed and dismissed;
 - (B) a probation agreement; or
 - (C) a plea in abeyance.

~~(b)(i)(e)(i)~~ An applicant who, as of the date of application, is serving probation or parole for a crime that contains an element of violence or physical coercion shall, in order to submit a complete application, provide for the commission's review current documentation from two licensed therapists, approved by the division, stating that the applicant does not pose an ongoing threat to the public.

(ii) For purposes of applying this rule, crimes that contain an element of violence or physical coercion include the following:

- (A) assault, including domestic violence;
- (B) rape;
- (C) sex abuse of a child;
- (D) sodomy on a child;
- (E) battery;
- (F) interruption of a communication device;
- (G) vandalism;
- (H) robbery;
- (I) criminal trespass;
- (J) breaking and entering;
- (K) kidnapping;
- (L) sexual solicitation or enticement;
- (M) manslaughter; and
- (N) homicide.

(iii) Information and documents submitted in compliance with this Subsection (1) shall be reviewed by the commission, which may exercise discretion in determining whether the applicant qualifies for licensure.

(2) ~~[Competency.]~~ In evaluating an applicant for competency, the division and commission may consider evidence including:

- (a) civil judgments, with particular consideration given to any such judgments involving the business of real estate;
- (b) failure to satisfy a civil judgment that has not been discharged in bankruptcy;
- (c) suspension or revocation of a professional license;
- (d) sanctions placed on a professional license; and
- (e) investigations conducted by regulatory agencies ~~relative to a professional license~~.
- (3) Age. An applicant shall be at least 18 years of age.
- (4) Minimum education. An applicant shall have:
 - (a) a high school diploma;
 - (b) a GED; or
 - (c) equivalent education as approved by the commission.

R162-2f-202a. Sales Agent Licensing Fees and Procedures.

(1) To obtain a Utah license to practice as a sales agent, an individual who is not currently and actively licensed in any state shall:

- (a) evidence honesty, integrity, truthfulness, and reputation pursuant to Subsection R162-2f-201(1);

(b) evidence competency to transact the business of real estate pursuant to Subsection R162-2f-201(2);

(c)(i) successfully complete 120 hours of approved prelicensing education;

(ii) evidence current membership in the Utah State Bar; or

(iii) apply to the division for waiver of all or part of the education requirement by virtue of:

(A) completing equivalent education as part of a college undergraduate or postgraduate degree program, regardless of the date of the degree; or

(B) completing other equivalent real estate education within the 12-month period prior to the date of application;

(d)(i) apply with a testing service designated by the division to sit for the licensing examination; and

(ii) pay a nonrefundable examination fee to the testing center;

(e) pursuant to ~~this~~ Subsection (3)(a), take and pass both the state and national components of the licensing examination;

(f) pursuant to ~~this~~ Subsection (3)(b), submit to the division an application for licensure including:

(i) documentation indicating successful completion of the required prelicensing education;

(ii) a report of the examination showing a passing score for each component of the examination; and

(iii) the applicant's business, home, and e-mail addresses;

(g) if applying for an active license, affiliate with a principal broker; and

(h) pay the nonrefundable fees required for licensure, including the nonrefundable fee required under Section 61-2f-505 for the Real Estate Education, Research, and Recovery Fund.

(2) To obtain a Utah license to practice as a sales agent, an individual who is currently and actively licensed in another state shall:

(a) evidence honesty, integrity, truthfulness, and reputation pursuant to Subsection R162-2f-201(1);

(b) evidence competency to transact the business of real estate pursuant to Subsection R162-2f-201(2);

(c)(i) successfully complete 120 hours of approved prelicensing education;

(ii) evidence current membership in the Utah State Bar; or

(iii) apply to the division for waiver of all or part of the education requirement by virtue of:

(A) completing equivalent education as part of a college undergraduate or postgraduate degree program, regardless of the date of the degree;

(B) completing other equivalent real estate education within the 12-month period prior to the date of application; or

(C) having been licensed in a state that has substantially equivalent prelicensing education requirements;

(d)(i) apply with a testing service designated by the division to sit for the licensing examination; and

(ii) pay a nonrefundable examination fee to the testing center;

(e)(i) pursuant to ~~this~~ Subsection (3)(a), take and pass both the state and national components of the licensing examination; or

(ii) if actively licensed during the two years immediately preceding the date of application in a state that has substantially equivalent licensing examination requirements:

(A) take and pass the state component of the licensing examination; and

(B) apply to the division for a waiver of the national component of the licensing examination;

(f) pursuant to ~~this~~ Subsection (3)(b), submit to the division an application for licensure including:

(i) documentation indicating successful completion of the required prelicensing education;

(ii) a report of the examination showing a passing score for each component of the examination; and

(iii) the applicant's business, home, and e-mail addresses;

(g) provide from any state where licensed:

(i) a written record of the applicant's license history; and

(ii) complete documentation of any disciplinary action taken against the applicant's license;

(h) if applying for an active license, affiliate with a principal broker; and

(i) pay the nonrefundable fees required for licensure, including the nonrefundable fee required under Section 61-2f-505 for the Real Estate Education, Research, and Recovery Fund.

(3) The deadlines for sales agent licensing are as follows:~~Deadlines:~~

(a) An individual shall pass both the state and national components of the licensing examination within 12 months of the date on which the individual completes the prelicensing education.

~~(b)(a)~~ If an individual passes one test component but fails the other, the individual shall retake and pass the failed component:

(i) within six months of the date on which the individual achieves a passing score on the passed component; and

(ii) within 12 months of the date on which the individual completes the prelicensing education.

~~(c)(b)~~ An application for licensure shall be submitted~~[-~~

~~(i)~~ within 90 days of the date on which the individual achieves passing scores on both examination components~~[-and~~

~~(ii) within 12 months of the date on which the individual completes the prelicensing education].~~

~~(d)(c)~~ If a deadline in this ~~s~~Section ~~[R162-2f-202a~~]falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

R162-2f-202b. Broker Licensing Fees and Procedures.

(1) To obtain a Utah license to practice as a broker, an individual shall:

(a) evidence honesty, integrity, truthfulness, and reputation pursuant to Subsection R162-2f-201(1);

(b) evidence competency to transact the business of real estate pursuant to Subsection R162-2f-201(2);

(c)(i) successfully complete 120 hours of approved prelicensing education, including:

(A) 45 hours of broker principles;

(B) 45 hours of broker practices; and

(C) 30 hours of Utah law and testing; or

(ii) apply to the division for waiver of all or part of the education requirement by virtue of:

(A) completing equivalent education as part of a college undergraduate or postgraduate degree program, regardless of the date of the degree; or

(B) completing other equivalent real estate education within the 12-month period prior to the date of application;

(d)(i) apply with a testing service designated by the division to sit for the licensing examination; and

(ii) pay a nonrefundable examination fee to the testing center;

(e) pursuant to Subsection (3)(a), take and pass both the state and national components of the licensing examination;

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(f)(i) unless Subsection (2)(a) applies, evidence the individual's having, within the five-year period preceding the date of application either:

(A) three years full-time, licensed, active real estate experience; or

(B) two years full-time, licensed, active, real estate experience and one year full-time professional real estate experience from the optional experience table in Appendix 3; and

(ii) evidence having accumulated, within the five-year period preceding the date of application, a total of at least 60 documented experience points complying with Section R162-2f-401a, as follows:

(A) 45 to 60 points pursuant to the experience points tables found in Appendices 1 and 2, of which a maximum of 25 points may have been accumulated from the "All other property management" subsections of Appendix 2; and

(B) 0 to 15 points pursuant to the experience point table found in Appendix 3;

(iii) a minimum of one-half of the experience points from Tables 1 and 2 must derive from transactions of properties located in the state of Utah;

(iv) evidence of qualifying experience which the individual shall submit to the division by:

(A) selecting from the individual's total qualifying experience documented experience points for which the experience complies with the requirements in Section R162-2f-401a; and

(B) submitting for review and approval by the division documentation of at least 60 documented experience points and no more than 80 documented experience points of the individual's qualifying experience; and

(v) if an individual submits evidence of experience points for transactions involving a team or group, experience points are limited to those transactions for which the individual is named in any written agency agreements and purchase and lease contracts and the applicable experience points will be divided proportionally among the licensees identified in the agency agreements and lease contracts;

(g) pursuant to Subsection (3)(b), submit to the division an application for licensure including:

(i) documentation indicating successful completion of the approved broker prelicensing education;

(ii) a report of the examination showing a passing score for each component of the examination; and

(iii) the applicant's business, home, and e-mail addresses;

(h) provide from any state where licensed as a real estate agent or broker:

(i) a written record of the applicant's license history; and

(ii) complete documentation of any disciplinary action taken against the applicant's license;

(i) if applying for an active license, affiliate with a registered company;

(j) pay the nonrefundable fees required for licensure, including the nonrefundable fee required under Section 61-2f-505 for the Real Estate Education, Research, and Recovery Fund;

(k) if applying for licensure as a principal broker, establish real estate and property management trust accounts, as applicable pursuant to Sections R162-2f-403a, and R162-2f-403b, ~~and R162-2f-403e~~ that:

(i) for a real estate trust account contains either the term "real estate trust account" or "real estate escrow account" in the account name;

(ii) for a property management trust account contains either the term "property management trust account" or "property management escrow account" in the account name; and

(iii) are separate ~~and distinct~~ from any operating accounts of the registered entity for which the ~~broker applicant~~ individual will serve as principal broker; and

(l) if applying for licensure as a principal broker, ~~the applicant shall~~ identify the locations where brokerage records will be kept.

(2)(a) If an individual applies under this section ~~[R162-2f-202b]~~ within two years of allowing a broker license to expire, the experience required under Subsection (1)(f) shall be accumulated within the seven-year period preceding the date of application.

(b) Pursuant to Section R162-2f-407, an individual whose application is denied by the division for failure to meet experience requirements under Subsection (1)(f) may bring the application before the commission.

(3) Deadlines for passing tests and submitting an application are as follows:

(a) If an individual passes one test component but fails the other, the individual shall retake and pass the failed component:

(i) within six months of the date on which the individual achieves a passing score on the passed component; and

(ii) within 12 months of the date on which the individual completes the prelicensing education.

(b) An application for licensure shall be submitted:

(i) within 90 days of the date on which the individual achieves passing scores on both examination components; and

(ii) within 12 months of the date on which the individual completes the prelicensing education.

(c) If any deadline in this Section R162-2f-202b falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

(4) ~~Restriction.~~ A broker license may not be granted to an applicant whose sales agent license is on suspension or probation at the time of application.

(5) Dual broker licenses.

~~under this section~~ (a)(i) A person who holds or obtains a dual broker license may function as the principal broker of a property management company that is a separate entity from the person's real estate brokerage.

(ii) A dual broker may not conduct real estate sales activities from the separate property management company.

(iii) A principal broker may conduct property management activities from the person's real estate brokerage:

(A) without holding a dual broker license; and

(B) in accordance with Sections R162-2f-401j, R162-2f-403a, and R162-2f-403b, ~~and R162-2f-403e.~~

(b) A dual broker who wishes to consolidate real estate and property management operations into a single brokerage may:

(i) at the broker's request, convert the dual broker license to a principal broker license; and

(ii)(A) convert the property management company to a branch office of the real estate brokerage, including the assignment of a branch broker and using the same name as the real estate brokerage; or

(B) close the separate property management company.

(c) As of May 8, 2013:

(i) the Division shall:

(A) cease issuing property management principal broker (PMPB) licenses;

(B) cease issuing property management company (MN) registrations except as to a second company registered under a dual broker license;

(C) convert any property management principal broker (PMPB) license to a real estate principal broker (PB) license; and

(D) as to any property management company (MN) registration that is not a second company under a dual broker license, convert the registration to a real estate brokerage (CN) registration; and

(ii) it shall be permissible to conduct real estate sales activities under any company registration that is converted pursuant to Subsection (5)(c)(i)(C).

R162-2f-204. License Renewal or Reinstatement.

(1) ~~Renewal period and deadlines.~~
 _____(a) A license issued under this rule~~these rules~~ is valid for a period of two years from the date of licensure.

(b) To renew on time without incurring a late fee, an applicant for renewal shall, by the 15th day of the month of expiration, have completed all continuing education credits required under S[s]subsection (2)(b) to ensure continuing education providers have time to bank continuing education hours prior to license expiration.

(c) An individual who is required to submit a renewal application through the online RELMS system shall complete the online process, including the completion and banking of continuing education credits, in the licensee's individual password protected RELMS account, by the license expiration date.

(d) An individual whose circumstances require a "yes" answer to a disclosure question on the renewal application shall submit a paper renewal application:

(i) by the license expiration date, if that date falls on a day when the division is open for business; or

(ii) on the next business day following the license expiration date, if that date falls on a day when the division is closed for business.

(2) Qualification for renewal or reinstatement.

(a) Character and competency.

(i) An individual applying for a renewed license or for reinstatement of a license shall evidence that the individual maintains character and competency as required for initial licensure.

(ii) An individual applying for a renewed or reinstated license may not have:

(A) a felony conviction since the last date of licensure; or

(B) a finding of fraud, misrepresentation, or deceit entered against the applicant, related to activities requiring a real estate license, by a court of competent jurisdiction or a government agency since the last date of licensure, unless the finding was explicitly considered by the division in a previous application.

(b) Continuing education.

(i) To renew at the end of the first renewal cycle, an actively licensed individual shall complete:

(A) the 12-hour new sales agent course certified by the division;

(B) the Mandatory 3-Hour CE course; and

(C) an additional three non-duplicative hours of continuing education:

(I) certified by the division as either core or elective; or

(II) acceptable to the division pursuant to Subsection

(2)(b)(ii)(B).

(ii) To renew at the end of a renewal cycle subsequent to the first renewal, an actively licensed individual shall:

(A) complete 18 non-duplicative hours of continuing education:

(I) certified by the division;

(II) including at least nine non-duplicative hours of core curriculum, three hours of which are for completion of the Mandatory 3-Hour CE Course, a required continuing education course approved by the division; and

(III) taken during the previous license period; or

(B) apply to the division by the 15th day of the month of expiration for a waiver of all or part of the required continuing education hours by virtue of having completed non-certified courses that:

(I) were not required under Subsection R162-2f-206c(1)(a) to be certified; and

(II) meet the continuing education objectives listed in Subsection R162-2f-206c(2)(f).

(iii) If when renewing at the end of a renewal cycle subsequent to the first renewal, an actively licensed individual did not previously complete the 12-hour new sales agent course when qualifying for the individual's current license, the individual shall complete the 12-hour new sales agent course certified by the Division plus an additional six hours of non-duplicative core topic or elective continuing education hours.

(iv) The Division has certified the mandatory 3-Hour course and the 12-hour new sales agent course as core hours for continuing education purposes.

(v)(A) Completed continuing education courses will be credited to an individual when the hours are uploaded by the course provider pursuant to Subsection R162-2f-401d(1)(j).

(B) If a provider fails to upload course completion information within the ten-day period specified in Subsection R162-2f-401d(1)(j), an individual who attended the course may obtain credit by:

(I) filing a complaint against the provider; and

(II) submitting the course completion certificate to the division.

(c) Principal broker. In addition to meeting the requirements of Subsection (2)(a) and (b), an individual applying to renew a principal broker license shall certify that:

(i) the business name under which the individual operates is current and in good standing with the Division of Corporations and Commercial Code; and

(ii) the trust account maintained by the principal broker is current and in compliance with Sections R162-2f-403a and R162-2f-403b.~~[R162-2f-403.]~~

(3) Renewal and reinstatement procedures.

(a) To renew a license, an applicant shall, prior to the expiration of the license:

(i) complete the online renewal of the license in the applicant's password protected RELMS account; and

(ii) pay a nonrefundable renewal fee.

(b) To reinstate an expired license, an applicant shall, according to deadlines set forth in Subsections 61-2f-204(2)(b) through 61-2f-204(2) (d):

(i) submit any forms required by the division, including proof of having completed continuing education pursuant to Subsection 61-2f-204(2), including the Mandatory 3-Hour CE course; and

(ii) pay a nonrefundable reinstatement fee.

(4) Transition to online renewal. An individual licensee shall submit an application for renewal through the online RELMS system unless the individual's circumstances require a "yes" answer in response to a disclosure question.

R162-2f-205. Registration Required.~~[of Entity.]~~

~~_____ (1) A principal broker may not conduct business through an entity, including a branch office, dba, or separate property management company, without first registering the entity with the division. The division may not bring an action for enforcement of this subsection after the expiration of four years following the occurrence of the violation.]~~

(1) A principal broker may not engage in any activity described in Section 61-2f-201 through:

(a) an entity as defined in Section 61-2f-102;

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_____ (b) a branch office;
_____ (c) an assumed name; or
_____ (d) a separate property management company;
without first registering the entity, branch office, assumed name, or separate property management company with the division.

(2) ~~[Exemptions.]~~The following locations may be used to conduct real estate business without being registered as branch offices:

- (a) a model home;
- (b) a project sales office; and
- (c) a facility established for twelve months or less as a temporary site for marketing activity, such as an exhibit booth.

(3) To register ~~[an entity.]~~with the division, a principal broker shall:

(a) evidence that the name of the registrant ~~[entity.]~~is registered with the Division of Corporations;

(b) certify that the registrant ~~[entity.]~~is affiliated with a principal broker who:

(i) is authorized to use the ~~[entity.]~~name of the registrant; and

(ii) will actively supervise the activities of each sales agent, associate broker, branch broker, and unlicensed staff member;

(c) if registering a branch office, ~~[identify]~~submit an application that identifies:

(i) the branch broker who will actively supervise each licensee and unlicensed staff working from the branch office;

~~_____~~ ~~(d) submit an application that includes:~~

~~(ii)~~ ~~(i)~~ the physical address of the branch office ~~[entity.]~~;

~~(iii)~~ ~~(ii)~~ ~~[if the entity is a branch office,]~~the name and license number of the branch broker;

~~(iv)~~ ~~(iii)~~ the names of associate brokers and sales agents assigned to the branch office ~~[entity.]~~; and

~~(v)~~ ~~(iv)~~ the location and account number of each ~~[any]~~ real estate and property management trust account ~~[(s)]~~ in which funds received at the registered location will be deposited;

~~(d)~~ ~~(e)~~ if the applicant is not a branch office, submit an application that identifies ~~[inform the division of:]~~

(i) the location and account number of each operating account ~~[any operating account(s)]~~ used by the registrant ~~[registered entity.]~~; and

(ii) the location where brokerage records will be kept; and

~~(e)~~ ~~(f)~~ pay a nonrefundable application fee.

(4) Restrictions.
(a)(i) The division may ~~[shall]~~ not register a registrant ~~[an entity.]~~ proposing to use a business name that:

(A) is likely to mislead the public into thinking that the registrant ~~[entity.]~~is not a real estate brokerage or property management company;

(B) closely resembles the name of another registrant of the division ~~[registered entity.]~~; or

(C) the division determines might otherwise be confusing or misleading to the public.

(ii) Approval by the division of a registrant's ~~[an entity's]~~ business name does not ensure or grant to the registrant ~~[entity.]~~a legal right to use or operate under that name.

(b) A branch office shall operate under the same business name as the principal brokerage.

(c) A registrant ~~[An entity.]~~may not designate a post office box as its business address, but may designate a post office box as a mailing address.

(d) Each trust account and operating account used by a registrant ~~[registered entity.]~~shall be maintained in a bank or credit union located in the state ~~[of Utah]~~.

(5) Registration not transferable.
(a) A registrant may ~~[registered entity shall]~~ may not transfer the registration to any other person.

(b) A registrant ~~[registered entity shall]~~ may not allow an unlicensed person to use the registrant's ~~[entity's]~~ registration to perform work for which licensure is required.

(c) If a change in ~~[corporate]~~ structure of a registrant ~~[registered entity.]~~creates a separate and unique legal entity, branch office, assumed name, or separate property management company, the principal broker ~~[that entity.]~~shall obtain a unique registration, and may ~~[shall]~~ not operate under an existing registration.

(d) The dissolution or termination of an entity, branch office, assumed name, or separate property management company ~~[of a corporation, partnership, limited liability company, association, or other entity.]~~registered with the division terminates the registration.

_____ (6) The division may not bring an action for enforcement of this Section after the expiration of four years following the occurrence of the violation.

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R162-2f-206c. Certification of Continuing Education Course.

(1)(a) The division may not award continuing education credit for a course that is advertised in Utah to real estate licensees unless the course is certified prior to its being taught.

(b) A licensee who completes a course that is not required to be certified pursuant to ~~[this]~~ Subsection (1)(a), and who believes that the course satisfies the objectives of continuing education pursuant to ~~[this]~~ Subsection (2)(f), may apply to the division for an award of continuing education credit after successfully completing the course.

(2) To certify a continuing education course for traditional education, a person shall, no later than 30 days prior to the date on which the course is proposed to begin, provide the following to the division:

(a) name and contact information of the course provider;

(b) name and contact information of the entity through which the course will be provided;

(c) description of the physical facility where the course will be taught;

(d) course title;

(e) number of credit hours;

(f) statement defining how the course will meet the objectives of continuing education by increasing the participant's:

(i) knowledge;

(ii) professionalism; and

(iii) ability to protect and serve the public;

(g) course outline including a description of the subject matter covered in each 15-minute segment;

(h) a minimum of three learning objectives for every three hours of class time;

(i) name and certification number of each certified instructor who will teach the course;

(j) copies of ~~[all]~~ materials to be distributed to participants;

(k) signed statement in which the course provider and each instructor ~~[(s)]~~:

(i) agree not to market personal sales products;

(ii) allow the division or its representative to audit the course on an unannounced basis; and

(iii) agree to upload, within ten business days after the end of a course offering, to the database specified by the division, the following:

- (A) course name;
- (B) course certificate number assigned by the division;
- (C) date~~(s)~~ or dates the course was taught;
- (D) number of credit hours; and
- (E) names and license numbers of each [all-]student[s]

receiving continuing education credit;

- (l) procedure for pre-registration;
- (m) tuition or registration fee;
- (n) cancellation and refund policy;
- (o) procedure for taking and maintaining control of attendance during class time;

(p) sample of the completion certificate;

(q) nonrefundable fee for certification as required by the division; and

(r) any other information the division requires.

(3) To certify a continuing education course for distance education, a person shall:

(a) comply with ~~[this-]~~Subsection (2);

(b) submit to the division a complete description of the [all-]course delivery methods and the [all-]media to be used;

(c) provide course access for the division using the same delivery methods and media that will be provided to the students;

(d) describe specific frequent and periodic interactive events included in the course and appropriate to the delivery method that will contribute to the students' achievement of the stated learning objectives and encourage student participation;

(e) describe how and when certified instructors will be available to answer student questions; and

(f) provide an attestation from the sponsor of the availability and adequacy of the equipment, software, and other technologies needed to achieve the course's instructional claims.

(4) To certify a continuing education course for virtual-live continuing education, a person shall:

(a) comply with Subsection (2);

(b) submit to the division a complete description of the course delivery methods and the media to be used;

(c) provide course access for the division using the same delivery methods and media that will be provided to the students;

(d) describe specific, frequent, and periodic interactive events included in the course and appropriate to the delivery method that will contribute to the students' achievement of the stated learning objectives and encourage student participation;

(e) describe how and when certified instructors will be available to answer student questions; and

(f) provide an attestation from the sponsor of the availability and adequacy of the equipment, software, and other technologies needed to achieve the course's instructional claims.

~~(5)[(4) Minimum standards.~~

~~—](a) [Except for distance education courses, all]Traditional continuing education courses shall be taught in an appropriate classroom facility and not in a private residence.~~

(b) Except for a division approved virtual-live single session convention continuing education course as provided for in Subsection (5)(c), virtual-live continuing education courses are restricted as follows:

(i) each course with a class size of one to 50 students shall have at least one non-instructor monitoring assistant;

(ii) each course with a class size of between 51 and 100 students shall have at least two non-instructor monitoring assistants;

(iii) the division may not approve a virtual-live continuing education course for more than 100 students, regardless of the number of non-instructor monitoring assistants;

(iv) each student shall participate in the course with an adequately functioning microphone and live camera that is monitored by a non-instructor monitoring assistant; and

(v) the course instructor shall instruct using an adequately functioning microphone and live camera such that the instructor may be heard and seen during instruction by student participants.

(c) The division may approve a virtual-live single session convention continuing education course on a per course basis that is designed to meet the needs of students without limitation of the number of participating students.

~~(d)[(b)]~~ The minimum length of a course shall be one credit hour.

~~(e)[(c) — Except for online courses, t]~~ The procedure for taking attendance shall be more extensive than having the student sign a class roll.

~~(f)[(d)]~~ The completion certificate shall include[allow for entry of] the following information:

(i) licensee's name;

(ii) type of license;

(iii) license number;

(iv) date of course;

(v) name of the course provider;

(vi) course title;

(vii) number of credit hours awarded;

(viii) course certification number;

(ix) course certification expiration date;

(x) signature of the course sponsor; and

(xi) signature of the licensee.

~~(6)[(5)]~~ Certification procedures.

(a) Upon receipt of a complete application for certification of a continuing education course, the division shall, at its own discretion, determine whether a course qualifies for certification.

(b) Upon determining that a course qualifies for certification, the division shall determine whether the content satisfies core or elective requirements.

(c) Core topics include the following:

(i) state approved forms and contracts;

(ii) other industry used forms or contracts;

(iii) ethics;

(iv) agency;

(v) short sales or sales of bank-owned property;

(vi) environmental hazards;

(vii) property management;

(viii) prevention of real estate and mortgage fraud;

(ix) federal and state real estate laws;

(x) fair housing;

(xi) division administrative rules;

(xii) broker trust accounts; and

(xiii) water law, rights and transfer.

(d) If a course regarding an industry used form or contract is approved by the division as a core course, the provider of the course shall:

(i) obtain authorization to use each form or contract [the form(s) or contract(s)] taught in the course;

(ii) obtain permission for licensees to subsequently use each form or contract [the form(s) or contract(s)] taught in the course; and

(iii) if applicable, arrange for the owner of each form or contract to make it available to licensees for a reasonable fee.

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- (e) Elective topics include the following:
 - (i) real estate financing, including mortgages and other financing techniques;
 - (ii) real estate investments;
 - (iii) real estate market measures and evaluation;
 - (iv) real estate appraising;
 - (v) market analysis;
 - (vi) measurement of homes or buildings;
 - (vii) accounting and taxation as applied to real property;
 - (viii) estate building and portfolio management for clients;
 - (ix) settlement statements;
 - (x) real estate mathematics;
 - (xi) real estate law;
 - (xii) contract law;
 - (xiii) agency and subagency;
 - (xiv) real estate securities and syndications;
 - (xv) regulation and management of timeshares, condominiums, and cooperatives;
 - (xvi) resort and recreational properties;
 - (xvii) farm and ranch properties;
 - (xviii) real property exchanging;
 - (xix) legislative issues that influence real estate practice;
 - (xx) real estate license law;
 - (xxi) division administrative rules;
 - (xxii) land development;
 - (xxiii) land use;
 - (xxiv) planning and zoning;
 - (xxv) construction;
 - (xxvi) energy conservation in buildings;
 - (xxvii) water rights;
 - (xxviii) landlord/tenant relationships;
 - (xxix) property disclosure forms;
 - (xxx) Americans with Disabilities Act;
 - (xxxi) affirmative marketing;
 - (xxxii) commercial real estate;
 - (xxxiii) tenancy in common;
 - (xxxiv) professional development;
 - (xxxv) business success;
 - (xxxvi) customer relation skills;
 - (xxxvii) sales promotion, including:
 - (A) salesmanship;
 - (B) negotiation;
 - (C) sales psychology;
 - (D) marketing techniques related to real estate knowledge;
 - (E) servicing clients; and
 - (F) communication skills;
 - (xxxviii) personal and property protection for licensees and their clients;
 - (xxxix) any topic that focuses on real estate concepts, principles, or industry practices or procedures, if the topic enhances licensee professional skills and thereby advances public protection and safety;
 - (xl) any other topic that directly relates to the real estate brokerage practice and directly contributes to the objective of continuing education; and
 - (xli) technology courses that utilize the majority of the time instructing students how the technology:
 - (A) directly benefits the consumer; or
 - (B) enables the licensee to be more proficient in performing the licensee's agency responsibilities.
- (f) Mandatory Courses include the following:
- (i) the Mandatory Residential Course;

- (ii) the Mandatory Property Management Course; or
 - (iii) the Mandatory Commercial Course.
- (g) [(f)] Unacceptable topics include the following:
- (i) offerings in mechanical office and business skills, including:
 - (A) typing;
 - (B) speed reading;
 - (C) memory improvement;
 - (D) language report writing;
 - (E) advertising; and
 - (F) technology courses with a principal focus on technology operation, software design, or software use;
 - (ii) physical well-being, including:
 - (A) personal motivation;
 - (B) stress management; and
 - (C) dress-for-success;
 - (iii) meetings held in conjunction with the general business of the licensee and the licensee's broker, employer, or trade organization, including:
 - (A) sales meetings;
 - (B) in-house staff meetings or training meetings; and
 - (C) member orientations for professional organizations;
 - (iv) courses in wealth creation or retirement planning for licensees; and
 - (v) courses that are specifically designed for exam preparation.
 - (g) If an application for certification of a continuing education course is denied by the division, the person making application may appeal to the commission.
- (7) [(6)](a) A continuing education course certification expires 24 months from the date of issuance and must be renewed before the expiration date in order to remain active.
- (b) To renew a continuing education course certification, an applicant shall:
 - (i) complete a renewal application as provided by the division; and
 - (ii) pay a nonrefundable renewal fee.
 - (c) To reinstate an expired continuing education course certification within 30 days following the expiration date, a person shall:
 - (i) comply with the [aH] requirements for a timely renewal; and
 - (ii) pay a nonrefundable late fee.
 - (d) To reinstate an expired continuing education course certification after 30 days and within six months following the expiration date, a person shall:
 - (i) comply with the [aH] requirements for a timely renewal; and
 - (ii) pay a non-refundable reinstatement fee.
 - (e) A certification that is expired for more than six months may not be reinstated. To obtain a certification, a person must apply as a new applicant.
 - (f) If a deadline specified in this Subsection (7) [(6)] falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

R162-2f-401c. Additional Provisions Applicable to Brokers.

- (1) A principal broker shall:
 - (a) strictly comply with the record retention and maintenance requirements of S[ubs]ection R162-2f-401k;
 - (b) provide to the person whom the principal broker represents in a real estate transaction:

(i) a detailed statement showing the current status of a transaction upon the earlier of:

(A) the expiration of 30 days after an offer has been made and accepted; or

(B) a buyer or seller making a demand for such statement; and

(ii) an updated transaction status statement at 30-day intervals thereafter until the transaction either closes or fails;

(c)(i) regardless of who closes a real estate transaction, ensure that final settlement statements are reviewed for content and accuracy at or before the time of closing by:

(A) the principal broker;

(B) an associate broker or branch broker affiliated with the principal broker; or

(C) the sales agent who is:

(I) affiliated with the principal broker; and

(II) representing the principal in the transaction; and

(ii) ensure the principals in each closed real estate transaction receive copies of each document executed in the transaction closing;

(d) in order to assign all or part of the principal broker's compensation to an associate broker or sales agent in accordance with Section 61-2f-305, provide written instructions to the title insurance agent that include the following:

(i) an identification of the property involved in the real estate transaction;

(ii) an identification of the principal broker and sales agent or associate broker who will receive compensation in accordance with the written instructions;

(iii) a designation of the amount of compensation that will be received by both the principal broker and the sales agent or associate broker;

(iv) a prohibition against alteration of the written instructions by anyone other than the principal broker; and

(v) additional instructions at the discretion of the principal broker;

(e) obtain written consent from both the buyer and the seller before retaining any portion of an earnest money deposit being held by the principal broker;

(f) strictly adhere to the ~~rule [rules-]~~ governing real estate auctions, as outlined in Section R162-2f-401i;

(g) strictly adhere to the ~~rule [rules-]~~ governing property management, as outlined in Section R162-2f-401j;

(h)(i) except as provided in Subsection (1)(h)(iii), within three business days of receiving a client's money in a real estate transaction, deposit the client's money into a trust account:

(A) maintained by the principal broker pursuant to Section R162-2f-403; or

(B) if the parties to the transaction agree in writing, maintained by:

(I) a title company pursuant to Section 31A-23a-406; or

(II) another authorized escrow entity; and

(ii) within three business days of receiving money from a client or a tenant in a property management transaction, deposit the money into a trust account maintained by the principal broker pursuant to Section R162-2f-403 or forward or deposit client or tenant money into an account maintained by the property owner;

(iii) a principal broker is not required to comply with Subsection (1)(h)(i) or (ii) if:

(A) the contract or other written agreement states that the money is to be:

(I) held for a specific length of time; or

(II) as to a real estate transaction, deposited upon acceptance by the seller; or

(B) as to a real estate transaction, the Real Estate Purchase Contract or other written agreement states that a promissory note may be tendered in lieu of good funds and the promissory note:

(I) names the seller as payee; and

(II) is retained in the principal broker's file until closing;

(i)(i) maintain at the principal business location a complete record of any consideration received or escrowed for real estate and property management transactions; and

(ii) be personally responsible ~~[at all times-]~~ for deposits held in the principal broker's trust account;

(j)(i)(A)(I) in a real estate transaction, assign a consecutive, sequential number to each offer; and

(II) assign a unique identification to each property management client; and

(B) include the transaction number or client identification, as applicable, on:

(I) trust account deposit records; and

(II) trust account checks or other equivalent records evidencing the transfer of trust funds;

(ii) maintain a separate transaction file for each offer in a real estate transaction, including a rejected offer, that involves funds tendered through the brokerage and deposited into a trust account;

(iii) maintain a separate transaction file for each offer in a real estate transaction, including a rejected offer, that involves funds tendered through the brokerage and deposited into a trust account;

(iv) maintain a record of each rejected offer in a real estate transaction that does not involve funds deposited to trust:

(A) in separate files; or

(B) in a single file holding any such offer; and

(k) if the principal broker assigns an affiliated associate broker or branch broker to assist the principal broker in accomplishing the affirmative duties outlined in Subsection (1):

(i) actively supervise any such associate broker or branch broker; ~~and~~

(ii) remain personally responsible and accountable for adequate supervision of each licensee and unlicensed staff affiliated with the principal broker; ~~and~~ ~~[-]~~

(l) exercise active and reasonable supervision over the conduct of each licensee and unlicensed staff employed by or affiliated with the principal broker.

(2) A branch broker shall:

(a) exercise active and reasonable supervision over the conduct of each licensee and unlicensed staff employed by or affiliated with the branch or branches supervised by the branch broker; and

(b) be personally responsible and accountable for any other responsibility and duty assigned to the branch broker by the principal broker and accepted by the branch broker.

(3) Active and reasonable supervision includes:

(a) the establishment of:

(i) written policies, rules, and procedures; and

(ii) systems that allow the broker to review, oversee, inspect, and manage:

(A) real estate transactions performed by a licensee affiliated with the broker at either the main office or a branch supervised by the broker;

(B) documents that may have a material effect upon the rights or obligations of a party to such real estate transaction;

(C) the filing, storage, and maintenance of such documents;

(D) the handling of trust funds;

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(E) advertising of any service for which a real estate license is required;

(F) familiarizing licensees with the requirements of federal and state law governing real estate transactions including prohibitions against discrimination;

(G) to ensure that each person conducting licensed activity on behalf of the broker holds an active license;

(H) to ensure that each affiliated licensee is able to maintain reasonable and timely communication with the supervising broker or a competent designee to assist the licensee with real estate transactions handled by the brokerage; and

(I) to maintain adequate, reasonable, and regular contact with each affiliated licensee engaged in real estate transactions so as to prevent or curtail practices by a licensee that would violate the provisions of this chapter;

(b) being reasonably available to the public in order to discuss or resolve complaints and disputes that may arise during the course of a real estate transaction in which the broker or affiliated licensee is involved;

(c) providing guidance to, and instruction and oversight of, each licensee and unlicensed staff member regarding the policies, rules, procedures, and systems of the brokerage;

(d) documenting the instruction and oversight provided pursuant to Subsection (3)(b); and

(e) establishing a system for monitoring compliance with the policies, rules, and procedures, and systems of the brokerage by licensees and unlicensed staff members.

(4) A principal broker or branch broker may use a licensee or unlicensed staff member to assist in administering the provisions of Subsection (3), except that the broker may not relinquish overall responsibility for active and reasonable supervision of the acts of licensees and unlicensed staff members affiliated or associated with the broker.

(5) In establishing such policies, rules, procedures, and systems, the broker shall consider the number of sales agents and associate brokers and the number and location of branch offices supervised by the broker.

(6)(~~3~~) A principal broker and a branch broker are responsible for violations of Title 61, Chapter 2f, Real Estate Licensing and Practices Act, and the rules promulgated thereunder by licensees and unlicensed staff members they supervise, except that [N]neither a principal broker nor a branch broker shall be deemed in violation of failing to exercise active and reasonable supervision where:

[~~(a) an affiliated licensee or unlicensed staff member violates a provision of Title 61, Chapter 2f et seq. or the rules promulgated thereunder;~~

(a)(~~b~~) the supervising broker had in place at the time of the violation specific written policies or instructions to prevent such a violation;

(b)(~~e~~) reasonable procedures were established by the broker to ensure that licensees receive active and reasonable [adequate] supervision and the broker has followed those procedures;

(c)(~~4~~) upon learning of the violation, the broker attempted to prevent or mitigate the damage;

(d)(~~e~~) the broker did not participate in the violation;

(e)(~~4~~) the broker did not ratify the violation; and

(f)(~~e~~) the broker did not attempt to avoid learning of the violation.

R162-2f-401j. Standards for Property Management.

(1) Property management performed by a real estate brokerage, or by licensees or unlicensed assistants affiliated with the

brokerage, shall be done under the name of the brokerage as registered with the division unless the principal broker holds a dual broker license and obtains a separate registration pursuant to Section R162-2f-205 for a separate business name.

(2) In addition to fulfilling each duty related to supervision per Subsection 61-2f-401(12), [~~61-2f-401(14),~~]the principal broker of a registered entity, and the branch broker of a registered branch, shall implement training to ensure that each sales agent, associate broker, and unlicensed employee who is affiliated with the licensee has the knowledge and skills necessary to perform assigned property management tasks within the boundaries of this rule, [~~these rules,~~]including Subsection R162-2f-401(3).

(3) An unlicensed individual employed by a real estate or property management company may perform the following services under the supervision of the principal broker without holding an active real estate license:

(a) providing a prospective tenant with access to a rental unit;

(b) providing secretarial, bookkeeping, maintenance, or rent collection services;

(c) quoting rent and lease terms as established or approved by the principal broker;

(d) completing pre-printed lease or rental agreements, except as to terms that may be determined through negotiation of the principals;

(e) serving or receiving legal notices;

(f) addressing tenant or neighbor complaints; and

(g) inspecting units.

(4) Within 30 days of the termination of a contract with a property owner for property management services, the principal broker shall deliver any trust money to the property owner, the property owner's designated agent, or other party as designated under the contract with the property owner. If the principal broker delivers the trust money but fails to deliver it within the 30-day deadline, the division may not bring an action for enforcement of this subsection after the expiration of four years following the occurrence of the violation.

R162-2f-401k. Recordkeeping Requirements.

A principal broker shall:

(1) maintain and safeguard the following records to the extent they relate to the business of a principal broker:

(a) [~~all~~]trust account records, including the monthly reconciliation of the trust account;

(b) any document submitted by a licensee affiliated with the principal broker to a lender or underwriter as part of a real estate transaction;

(c) any document signed by a seller or buyer with whom the principal broker or an affiliated licensee is required to have an agency agreement; and

(d) any document created or executed by a licensee over whom the principal broker has supervisory responsibility pursuant to Subsection R162-2f-401c(1)(f);

(2) maintain the records identified in Subsection R162-2f-401k(1):

(a)(i) physically:

(A) at the principal business location designated by the principal broker on division records; or

(B) where applicable, at a branch office as designated by the principal broker on division records; or

(ii) electronically, in a storage system that complies with Title 46 Chapter 04, Utah Uniform Electronic Transactions Act; and

(b) for at least three calendar years following the year in

which:

(i) an offer is rejected; [~~or~~]

(ii) the transaction either closes or fails; or
 (iii) in a lease transaction, the termination of the lease agreement;

(3) upon request of the division, make any record identified in Subsection ~~R162-2f-401k~~(1) available for inspection and copying by the division;

(4) notify the division in writing within ten business days after terminating business operations as to where business records will be maintained; and

(5) upon filing for brokerage bankruptcy, notify the division in writing of:

- (a) the filing; and
- (b) the current location of brokerage records.

R162-2f-403a. Trust Accounts - Real Estate Company.~~[General Provisions.]~~

(1) ~~The [A-]principal broker of a real estate company shall:~~

(a)(i) if engaged in listing or selling real estate, maintain at least one real estate trust account in a bank or credit union located within the state of Utah; and

(ii) if engaged in property management, refer to trust account rules in Section R162-2f-403b; ~~[Subsection R162-2f-403b(3);]~~

(b) at the time a real estate trust account is established, or if the trust account is moved to another bank or credit union or the trust account number is changed, notify the division in writing of:

- (i) the account number;
- (ii) the address of the bank or credit union where the account is located; and
- (iii) the type of activity for which the account is used.

(2) A real estate trust account maintained by a principal broker shall be non-interest-bearing, unless:

(a) the parties to the transaction agree in writing to deposit the funds in an interest-bearing account;

(b) the parties to the transaction designate in writing the person to whom the interest will be paid upon completion or failure of the sale;

(c) the person designated under Subsection (2)(b):

- (i) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code; and
- (ii) operates exclusively to provide grants to affordable housing programs in Utah; and

(d) the affordable housing program that is the recipient of the grant under Subsection (2)(c)(ii) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code.

(3) A principal broker may not deposit into the principal broker's real estate trust account funds received in connection with rental of tourist accommodations where the rental period is less than 30 consecutive days.

(4) Records of deposits to a real estate trust account shall include:

- (a) transaction number or unique client identifier, as applicable pursuant to Subsection R162-2f-401c(1)(j); ~~[R162-2f-401e(1)(k);]~~
- (b) identification of payee and payor;
- (c) amount of deposit;
- (d) location of property subject to the transaction; and
- (e) date and place of deposit.

(5) Except for electronic transfers provided for in Subsection (6), any [Any-]instrument by which funds are disbursed from a real estate or property management trust account shall include:

- (a) the business name of the registered entity;

(b) the address of the registered entity;

(c) clear identification of the trust account from which the disbursement is made, including:

- (i) account name; and
- (ii) account number;
- (iii) transaction number or unique client identification, as applicable, pursuant to Subsection R162-2f-401c(1)(k);
- (iv) date of disbursement;
- (v) clear identification of payee and payor;
- (vi) amount disbursed;
- (vii) notation identifying the purpose for disbursement; and
- (viii) check number, wire transfer number, or equivalent bank or credit union instrument identification.

(6) Any instrument by which funds are disbursed from a real estate or property management trust account shall include those items required in Subsection (5), except when a required item is not able to be included due to the inherent limitations of such instrument. In a circumstance in which any item required by Subsection (5) is not included in the instrument, the principal broker shall still comply with the reconciliation requirements of this section and Section R162-2f-401k.

(7)~~(6)~~ Any instrument of conveyance that is voided shall be clearly marked with the term "void" and the original instrument retained pursuant to ~~S[ubs]ection R162-2f-401k.~~

(8)~~(7)~~ If both parties to a contract make a written claim to money held in a principal broker's trust fund and the principal broker cannot determine from any signed agreement which party's claim is valid, the principal broker may:

(a) interplead the funds into court and thereafter disburse:

(i) upon written authorization of the party who will not receive the funds; or

(ii) pursuant to the order of a court of competent jurisdiction;

or

(b) within 15 days of receiving written notice that both parties claim the funds, refer the parties to mediation if:

(i) no party has filed a civil suit arising out of the transaction;

and

(ii) the parties have contractually agreed to submit disputes arising out of their contract to mediation.

(9)~~(8)~~ If a principal broker is unable to disburse trust funds within three years after the failure of a transaction, the principal broker shall remit the funds to the State Treasurer's Office as unclaimed property pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(10)~~(9)~~ Trust account reconciliation requirements are as follows:[-] For each real estate or property management trust account operated by a registered entity, the principal broker of the entity shall:

(a) maintain a date-sequential record of each deposit to and disbursement from the account, including a [or-]cross-reference[d] to the information specified in Subsection R162-2f-401c(1)(j); ~~[R162-2f-401e(1)(k);]~~

(b) maintain a current, running total of the balance contained in the trust account;

(c)(i) maintain records sufficient to detail the final disposition of any funds associated with each transaction; and

(ii) ensure that each closed transaction balances to zero;

(d) reconcile the brokerage trust account records with the bank or credit union records at least monthly; ~~[-and]~~

(e) reconcile the brokerage trust account records with the brokerage client account records at least monthly; and

(f)~~(e)~~ upon request, make the [all-]trust account records available to the division for auditing or investigation.

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~~(11)~~~~(10)~~ The principal broker shall notify the division within 30 days if:

(a) the principal broker receives, from a bank or credit union in which the principal broker maintains a real estate or property management trust account, documentation to evidence that the trust account is out of balance; and

(b) the imbalance cannot be cured within the 30-day notification period.

(12) A real estate trust account shall be used for the purpose of securing client funds:

(a) deposited with the principal broker in connection with a real estate transaction regulated under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(b) deposited under a Real Estate Purchase Contract, construction contract, or other agreement that provides for the construction of a dwelling, if the principal broker is also a builder or developer; or

(c) collected in the performance of property management duties, pursuant to Subsection (13).

(13) A principal broker violates Subsection 61-2f-401(4)(b) if:

(a) the principal broker:

(i) deposits more than \$1000 of the principal broker's own funds into a real estate trust account; or

(ii) fails to transfer funds due to the principal broker or an affiliated licensee into the operating account within 60 days from the closing or termination of the real estate transaction; or

(iii) fails to transfer earnings for property management services out of the property management trust account and into an operating account within 60 days of the date the earnings are earned according to contract and received.

(14) A principal broker of a real estate sales company who regularly engages in property management on behalf of seven or more individual units shall establish at least one property management trust account that is:

(a) separate from the real estate trust account; and

(b) operated in accordance with Section R162-2f-403b.

(15) A principal broker may not pay a commission from a real estate trust account, without first:

(a) obtaining written authorization from the buyer and seller, or other parties having an interest in the funds, through contract or otherwise;

(b) closing or otherwise terminating the transaction;

(c) delivering the settlement statement to the buyer and seller;

(d) ensuring that the buyer or seller whom the principal broker represents has been paid the amount due as determined by the settlement statement;

(e) making a record of each disbursement; and

(f) depositing the funds into the principal broker's operating account prior to further disbursing the funds.

(16) A principal broker may disburse funds from a real estate trust account only in accordance with:

(a) specific language in the Real Estate Purchase Contract authorizing disbursement;

(b) other proper written authorization of the parties having an interest in the funds;

(c) this section; or

(d) court order.

(17) A principal broker may not release for construction purposes those funds held as deposit money under an agreement that provides for the construction of a dwelling unless the purchaser authorizes such disbursement in writing.

(18) A principal broker may not release earnest money or other trust funds associated with a failed transaction unless:

(a) a condition in the Real Estate Purchase Contract authorizing disbursement has occurred; or

(b) the parties execute a separate signed agreement containing instructions and authorization for disbursement.

(19) With the client's written consent, a principal broker may reallocate earnest money funds from a failed transaction held in a trust account as earnest money for the same client in another transaction.

R162-2f-403b. [Real Estate] Trust Accounts - Property Management Company.

[(1) A real estate trust account shall be used for the purpose of securing client funds:

(a) deposited with the principal broker in connection with a real estate transaction regulated under Title 61, Chapter 2f;

(b) if the principal broker is also a builder or developer, deposited under a Real Estate Purchase Contract, construction contract, or other agreement that provides for the construction of a dwelling; and

(c) collected in the performance of property management duties, pursuant to Subsection (3).

(2) A principal broker violates Subsection 61-2f-401(4)(B) if the principal broker deposits into the real estate trust account more than \$1,000 of the principal broker's own funds.

(3)(a) A principal broker who regularly engages in property management on behalf of seven or more individual units shall establish at least one property management trust account that is:

(i) separate from the real estate trust account; and

(ii) operated in accordance with Subsection R162-2f-403e.

(b) A principal broker who collects rents or otherwise manages property for no more than six individual units at any given time may use the real estate trust account to secure funds received in connection with the principal broker's property management activities.

(4) Unless otherwise agreed pursuant to Subsection (5)(b), a principal broker may not pay a commission from the real estate trust account without first:

(a) obtaining written authorization from the buyer and seller, through contract or otherwise;

(b) closing or otherwise terminating the transaction;

(c) delivering the settlement statement to the buyer and seller;

(d) ensuring that the buyer or seller whom the principal broker represents has been paid the amount due as determined by the settlement statement;

(e) making a record of each disbursement; and

(f) depositing funds withdrawn as the principal broker's commission into the principal broker's operating account prior to further disbursing the money.

(5) A principal broker may disburse funds from a real estate trust account only in accordance with:

(a) specific language in the Real Estate Purchase Contract authorizing disbursement;

(b) other proper written authorization of the parties having an interest in the funds; or

(c) court order.

(6) A principal broker may not release for construction purposes those funds held as deposit money under an agreement that provides for the construction of a dwelling unless the purchaser authorizes such disbursement in writing.

(7) A principal broker may not release earnest money or other trust funds associated with a failed transaction unless:

(a) a condition in the Real Estate Purchase Contract authorizing disbursement has occurred; or

~~(b) the parties execute a separate signed agreement containing instructions and authorization for disbursement.]~~

~~(1) The principal broker of a property management company shall:~~

~~(a)(i) if regularly engaged in property management on behalf of seven or more individual units, establish at least one property management trust account that is separate from the principal broker's real estate trust account and is maintained in a bank or credit union located within the state of Utah; and~~

~~(ii) if engaged in listing or selling real estate, or if regularly engaged in property management on behalf of six or fewer individual units, maintain at least one real estate trust account in a bank or credit union located within the state of Utah and maintained pursuant to Section R162-2f-403a;~~

~~(b) at the time a property management trust account is established, or if the trust account is moved to another bank or credit union or the trust account number is changed, notify the division in writing within ten business days of:~~

~~(i) the account number;~~

~~(ii) the address of the bank or credit union where the account is located; and~~

~~(iii) the type of activity for which the account is used.~~

~~(2) A property management trust account maintained by a principal broker shall be non-interest-bearing, unless:~~

~~(a) the parties to the transaction agree in writing to deposit the funds in an interest-bearing account;~~

~~(b) the parties to the transaction designate in writing the person to whom the interest will be paid upon completion or failure of the transaction;~~

~~(c) the person designated under Subsection (2)(b):~~

~~(i) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code; and~~

~~(ii) operates exclusively to provide grants to affordable housing programs in Utah; and~~

~~(d) the affordable housing program that is the recipient of the grant under Subsection (2)(c)(ii) qualifies at the time of payment as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code.~~

~~(3) A principal broker may not deposit into the principal broker's property management account funds received in connection with rental of tourist accommodations where the rental period is less than 30 consecutive days.~~

~~(4) Records of deposits to a property management trust account shall include:~~

~~(a) transaction number or unique client identifier, as applicable pursuant to Subsection R162-2f-401c(1)(j);~~

~~(b) identification of payee and payor;~~

~~(c) amount of deposit;~~

~~(d) location of property subject to the transaction; and~~

~~(e) date and place of deposit.~~

~~(5) Except for electronic transfers provided for in Subsection (6), any instrument by which funds are disbursed from a real estate or property management trust account shall include:~~

~~(a) the business name of the registered entity;~~

~~(b) the address of the registered entity;~~

~~(c) clear identification of the trust account from which the disbursement is made, including:~~

~~(i) account name;~~

~~(ii) account number;~~

~~(iii) transaction number or unique client identification, as applicable, pursuant to Subsection R162-2f-401c(1)(k);~~

~~(iv) date of disbursement;~~

~~(v) clear identification of payee and payor;~~

~~(vi) amount disbursed;~~

~~(vii) notation identifying the purpose for disbursement; and~~

~~(viii) check number, wire transfer number, or equivalent bank or credit union instrument identification.~~

~~(6) Any instrument by which funds are disbursed from a real estate or property management trust account shall include those items required in Subsection (5), except when a required item is not able to be included due to the inherent limitations of such instrument. In a circumstance in which any item required by Subsection (5) is not included in the instrument, the principal broker shall still comply with the reconciliation requirements of this section and Section 401k.~~

~~(7) Any instrument of conveyance that is voided shall be clearly marked with the term "void" and the original instrument retained pursuant to Section R162-2f-401k.~~

~~(8) If more than one party to a contract makes a written claim to money held in a principal broker's trust fund and the principal broker cannot determine from any signed agreement which party's claim is valid, the principal broker may:~~

~~(a) interplead the funds into court and thereafter disburse;~~

~~(i) upon written authorization of the parties who will not receive the funds; or~~

~~(ii) pursuant to the order of a court of competent jurisdiction;~~

~~or~~

~~(b) within 15 days of receiving written notice that more than one party claims the funds, refer the parties to mediation if:~~

~~(i) no party has filed a civil suit arising out of the transaction; and~~

~~(ii) the parties have contractually agreed to submit disputes arising out of their contract to mediation.~~

~~(9) If a principal broker is unable to disburse trust funds within three years after the funds are due to be disbursed, the principal broker shall remit the funds to the State Treasurer's Office as unclaimed property pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.~~

~~(10) Trust account reconciliation requirements are as follows: For each real estate or property management trust account operated by a registered entity, the principal broker of the entity shall:~~

~~(a) maintain a date-sequential record of each deposit to, and disbursement from, the account, including a cross-reference to the information specified in Subsection R162-2f-401c(1)(j);~~

~~(b) maintain a current, running total of the balance contained in the trust account;~~

~~(c)(i) maintain records sufficient to detail the final disposition of the funds associated with each transaction; and~~

~~(ii) ensure that each closed transaction balances to zero;~~

~~(d) reconcile the brokerage trust account records with the bank or credit union records at least monthly;~~

~~(e) reconcile the brokerage trust account records with the brokerage client accounts at least monthly; and~~

~~(f) upon request, make the trust account records available to the division for auditing or investigation.~~

~~(11) The principal broker shall notify the division within 30 days if:~~

~~(a) the principal broker receives, from a bank or credit union in which the principal broker maintains a real estate or property management trust account, documentation to evidence that the trust account is out of balance; and~~

~~(b) the imbalance cannot be cured within the 30-day notification period.~~

~~(12) A property management trust account shall be used for the purpose of securing:~~

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~~(a) tenant security deposits;
(b) rents;
(c) money tendered by a property owner as a reserve fund or for payment of unexpected expenses; and~~

~~(d) if the principal broker has not established a separate real estate trust account, client funds deposited with the principal broker in connection with a real estate transaction regulated under Title 61, Chapter 2f, Real Estate Licensing and Practices Act.~~

~~(13) A principal broker violates Subsection 61-2f-401(4)(b) if:~~

~~(a) the principal broker deposits into a property management trust account funds belonging to the principal broker without:~~

~~(i) maintaining records to clearly identify the total amount belonging to the principal broker; or~~

~~(ii) performing a monthly line-item reconciliation of the deposits and withdrawals of funds belonging to the principal broker; or~~

~~(b) the principal broker:~~

~~(i) deposits more than \$10,000 of the principal broker's own funds into the property management trust account; or~~

~~(ii) fails to transfer earnings for property management services out of the property management trust account and into the operating account within 60 days from the date the earnings are earned according to contract and received.~~

~~(14) A principal broker may disburse funds from a property management trust account only in accordance with:~~

~~(a) specific language in the property management contract or tenant lease agreement, as applicable, authorizing disbursement;~~

~~(b) other proper written authorization of the parties having an interest in the funds;~~

~~(c) this section; or~~

~~(d) court order.~~

~~(15) A principal broker who transfers funds from a property management trust account for any purpose shall maintain records to clearly evidence that:~~

~~(a) prior to making the transfer, the principal broker verified the money as belonging to the property owner for whose benefit, or on whose instruction, the funds are transferred;~~

~~(b) any money transferred into an operating account as a commission or for the principal broker's property management fee is earned according to the terms of the principal broker's contract with the property owner;~~

~~(c) any transfer for maintenance, repair, or similar purpose is:~~

~~(i) authorized according to the terms of the applicable property management contract, tenant lease agreement, or other instruction of the property owner; and~~

~~(ii) used strictly for the purpose for which the transfer is authorized, with any excess returned to the trust account.~~

~~(16) A principal broker may not pay a commission or transfer funds for the principal broker's property management fee directly from the property management trust account but shall first deposit the funds into the principal broker's operating account prior to further disbursing the funds.~~

[R162-2f-403c. Property Management Trust Accounts.

~~(1) As of January 1, 2014, a trust account that is used exclusively for property management purposes shall be used to secure the following:~~

~~(a) tenant security deposits;~~

~~(b) rents; and~~

~~(c) money tendered by a property owner as a reserve fund or for payment of unexpected expenses.~~

~~(2) A principal broker violates Subsection 61-2f-401(4)(B) if the principal broker deposits into a property management trust account any funds belonging to the principal broker without:~~

~~(a) maintaining records to clearly identify the total amount belonging to the principal broker; or~~

~~(b) performing a monthly line item reconciliation of all deposits and withdrawals of funds belonging to the principal broker.~~

~~(3) A principal broker may disburse funds from a property management trust account only in accordance with:~~

~~(a) specific language in the property management contract or tenant lease agreement, as applicable, authorizing disbursement;~~

~~(b) other proper written authorization of the parties having an interest in the funds; or~~

~~(c) court order.~~

~~(4) A principal broker who transfers funds from a property management trust account for any purpose shall maintain records to clearly evidence that:~~

~~(a) prior to making the transfer, the principal broker verified the money as belonging to the property owner for whose benefit, or on whose instruction, the funds are transferred;~~

~~(b) any money transferred into an operating account as the principal broker's property management fee is earned according to the terms of the principal broker's contract with the property owner;~~

~~(c) any transfer for maintenance, repair, or similar purpose is:~~

~~(i) authorized according to the terms of the applicable property management contract, tenant lease agreement, or other instruction of the property owner; and~~

~~(ii) used strictly for the purpose for which the transfer is authorized, with any excess returned to the trust account.]~~

KEY: real estate business, operational requirements, trust account records, notification requirements

Date of Enactment or Last Substantive Amendment: ~~2021~~ [October 21, 2020]

Notice of Continuation: March 26, 2020

Authorizing, and Implemented or Interpreted Law: 61-2f-103(1); 61-2f-105; 61-2f-203(1)(e); 61-2f-206(3); 61-2f-206(4)(a); 61-2f-306; 61-2f-307

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-108	Filing No. 53412

Agency Information

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

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

General Information

2. Rule or section catchline:
R277-108. Annual Assurance of Compliance by Local School Boards
3. Purpose of the new rule or reason for the change:
The amendment to this rule is being made because the document incorporated by reference has been updated.
4. Summary of the new rule or change:
Board Rule R277-108 is being amended to update the assurances document and replace the date in Section R277-108-3. Incorporation of Annual Assurances of Compliance. The changes include updates to the authorizing, implemented, or interpreted law.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have significant fiscal impact on state government revenues or expenditures. The amendment updates the assurances document for local education agencies (LEAs), removing certain redundant assurances, and replaces the date in Section R277-108-3. There are no fiscal impacts related to these amendments. The changes are administrative and do not significantly impact current procedure.
B) Local governments:
This rule change is not expected to have significant fiscal impact on local governments' revenues or expenditures. The amendment updates the assurances document for LEAs, removing certain redundant assurances, and replaces the date in Section R277-108-3. The changes are administrative and do not significantly impact current procedure.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have significant fiscal impact on small businesses' revenues or expenditures. The amendment updates the assurances document for LEAs, removing certain redundant assurances, and replaces the date in Section R277-108-3. The changes are administrative and do not significantly impact current procedure.

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 significant fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendment updates the assurances document for LEAs, removing certain redundant assurances, and replaces the date in Section R277-108-3. The changes are administrative and do not significantly impact current procedure.

F) Compliance costs for affected persons:

There are no significant compliance costs for affected persons. The rule change updates the assurances document for LEAs, removing certain redundant assurances, and replaces the date in Section R277-108-3. The changes are administrative and do not significantly impact current procedure.

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
Total Fiscal Cost	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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-3-401(4)
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Incorporations by Reference Information

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

	First Incorporation
Official Title of Materials Incorporated (from title page)	Local Education Agency (LEA) Compliance and Assurance Form
Publisher	Utah State Board of Education
Date Issued	02/04/2021
Issue, or version	Version 2

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:	05/31/2021
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10. This rule change MAY become effective on:	06/07/2021
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	04/16/2021
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R277. Education, Administration.

R277-108. Annual Assurance of Compliance by Local School Boards.

R277-108-1. 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; and
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law and allows the Board to interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with the law.

(2) The purpose of this rule is to provide local school boards with a list of laws requiring local school board action and a means of assuring that local boards are in compliance.

R277-108-2. Definitions.

(1) "Assurance document" means the Annual Assurances of Compliance list outlined in Subsection R277-108-3.

R277-108-3. Incorporation of Annual Assurances of Compliance.

(1) This rule incorporates by reference the Local Education Agency (LEA) Compliance and Assurance Checklist for 202[0]1-202[4]2 School Year (~~02/06/2020~~02/04/2021), which lists the required state and federal compliance information for identified programs and funds, including:

- (a) Board Rule;
- (b) State statute;
- (c) Federal Code of Regulations; and
- (d) Federal Law.

(2) A copy of the current Annual Assurances of Compliance List is located at:

- (a)

<https://www.schools.utah.gov/financialoperations/formsapplications?mid=2382&tid=2>; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

R277-108-4. Assurance Document Creation and Availability.

(1) The Superintendent shall provide a list of laws and a list of State Board of Education Administrative Rules which require action or compliance by June 1 of each year to school district superintendents, the superintendent for the Utah School for the Deaf and the Blind and charter school directors.

(2) The list described in Subsection (1) shall be approved by the Board and shall identify laws and rules along with required compliance dates and reporting forms, if different or necessary than or in addition to the annual assurance document.

(3) The Superintendent shall consolidate all required reporting and compliance forms and provide for electronic reporting, to the extent possible and ensure the assurance document is available publicly.

R277-108-5. Process, Procedures, and Penalties.

(1) An LEA shall submit the required annual responses to the assurance document and other compliance forms on or before dates identified by the Board.

(2) An LEA's assurance document shall contain a signed attestation by the appropriate authority attesting to the accuracy and validity of all responses and assurances provided by an LEA.

(3) In the event that an LEA is unable to provide required assurances, compliance information or forms by required dates, an LEA shall provide to the Superintendent a written explanation of the LEA's inability and provide an anticipated submission date.

(4) An LEA's request for additional time to provide the assurance shall be reviewed by the Superintendent and accepted or rejected in a timely manner.

(5) The Superintendent shall request a written explanation from an LEA and identified schools that fail to meet the reporting and compliance deadlines and that have not provided an explanation and request for a delayed submission date.

(6) Following an opportunity to provide explanations and request a delayed submission date, an LEA and identified schools shall be notified of penalties assessed by the Board against the LEA in accordance with rule R277-114, state law, or federal law.

R277-108-6. Reporting Deadlines.

Responses for the assurance document from an LEA are due to the Superintendent no later than July 1 of each year.

R277-108-7. Record Retention.

(1) Responses to the assurance document, as required by the Board, shall be kept on file by the Superintendent for five years, together with letters of explanation and documentation of penalties, as directed by the Board.

KEY: local school boards, compliance

Date of Enactment or Last Substantive Amendment: 2021|April 9, 2020|

Notice of Continuation: September 13, 2017

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-301	Filing No. 53411

Agency Information

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

General Information

2. Rule or section catchline:
R277-301. Educator Licensing
3. Purpose of the new rule or reason for the change:
This rule is being amended to add language for an exception to the general requirements for an Associate License to apply to educators seeking license areas in deaf education, special education, and preschool special education; and other updates to the licensing system through this rule.
4. Summary of the new rule or change:
The rule change includes updates to the requirements for an associate educator license and the requirements for

issuance of local education agency (LEA)-specific license areas of concentration.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The changes expand the options for programs a special education licensing candidate can use to meet licensure requirements and do not impact program costs.

B) Local governments:

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The changes expand the options for programs a special education licensing candidate can use to meet licensure requirements and do not impact program costs.

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

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The changes expand the options for programs a special education licensing candidate can use to meet licensure requirements and do not impact program costs.

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 expand the options for programs a special education licensing candidate can use

to meet licensure requirements and do not impact program costs.

F) Compliance costs for affected persons:

There are no significant compliance costs for affected persons. The changes expand the options for programs a special education licensing candidate can use to meet licensure requirements and do not impact program costs.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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-3-401(4)	Section 53E-6-201
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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: 05/31/2021

10. This rule change MAY become effective on: 06/07/2021

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

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	04/15/2021
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R277. Education, Administration.

R277-301. Educator Licensing.

R277-301-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section 53E-6-201, which gives the Board power to issue licenses.
- (2) This rule specifies the types of licenses and license areas of concentration available and the requirements and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah.

R277-301-2. Definitions.

- (1) "Accredited school" means a public or private school that:
 - (a) meets standards essential for the operation of a quality school program; and
 - (b) has received formal approval through a regional accrediting association.
- (2) "Currently enrolled" means:
 - (a) that an individual has been formally accepted into a Board-approved educator preparation program; and
 - (b) that the program considers the individual to be an active participant.
- (3) "Educator preparation program" means the same as that term is defined in Section R277-303-2.
- (4) "Eminence" means the same as that term is defined in Section R277-303-9.
- (5) "Endorsement" means a designation on a license area of concentration earned through demonstrating required competencies established by the Superintendent that qualifies the individual to:
 - (a) provide instruction in a specific content area; or
 - (b) apply a specific set of skills in an education setting.
- (6) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- (7)(a) "License areas of concentration" or "license area" means a designation on a license of the specific educational setting or role for which the individual is qualified, to include the following:
 - (i) Early Childhood;
 - (ii) Elementary;
 - (iii) Secondary;
 - (iv) ~~Educational~~ School Leadership
 - (v) Career and Technical Education or "CTE";
 - (vi) School Counselor;
 - (vii) School Psychologist;
 - (viii) Special Education;
 - (ix) Preschool Special Education;
 - (x) Deaf Education;
 - (xi) Speech-Language Pathologist;
 - (xii) Speech-Language Technician;
 - (xiii) School Social Worker; and
 - (xiv) Audiologist.
- (8) "Licensing Jurisdiction" means the designated educator licensing authority in any foreign country or state of the United States of America and the Department of Defense Education Activity (DoDEA).

(9) "NASDTEC" means the National Association of State Directors of Teacher Education and Certification.

(10) "NASDTEC Stage 2 Educator License" means a license issued to an individual who holds a bachelor's degree and has completed an approved program but has not met the jurisdiction-specific requirement for a Stage 3 license of a member jurisdiction.

(11[9]) "Renewal" means reissuing or extending the length of a license consistent with Rule R277-302.

R277-301-3. License Structure.

(1) Utah educator licenses include the following licenses:

- (a) Associate educator license;
- (b) Professional educator license; and
- (c) LEA-specific educator license.

(2) The Superintendent may only issue one single active Utah educator license to an individual.

(3) An educator license shall include at least one area of concentration.

(4) License areas of concentration and endorsements shall have a designation of:

- (a) associate;
- (b) professional; or
- (c) LEA-specific.

(5) An associate educator license may only include associate or LEA-specific license areas of concentration and endorsements.

(6) An LEA-specific educator license may only include LEA-specific license areas of concentration and endorsements.

(7) An educator may add a license area or endorsement to an existing license or license area of concentration by meeting the requirements for an associate, professional, or LEA specific endorsement as established in this rule.

(8) The Superintendent may establish deadlines and uniform forms and procedures for all aspects of licensing.

(9)(a) All licenses expire on June 30 of the year of expiration and a licensee may renew any time after January 1 of the same year.

(b) Responsibility for license renewal rests solely with the licensee.

R277-301-4. Associate Educator License Requirements.

(1) The Superintendent shall issue an associate educator license to an individual that applies for the license and that meets all requirements in this Section R277-301-4.

(2) An associate educator license, license area, or endorsement is valid for three years.

(3) The Superintendent may only renew an associate educator license if:

- (a) the individual has less than three years of experience in a Utah public or accredited private school; or
- (b) the individual is employed by a Utah public or accredited private school and the employer has requested a one year extension of the license.

(4) The general requirements for an associate educator license shall include:

(a) completion of a criminal background check including review of any criminal offenses and clearance in accordance with Rule R277-214 and continued monitoring in accordance with Subsection 53G-11-403(1);

(b) completion of the educator ethics review within one calendar year prior to the application; and

(c) one of the following:

- (i) a bachelor's degree or higher from a regionally accredited institution;

(ii) current enrollment in a university-based Board-approved educator preparation program that will result in a bachelor's degree or higher from a regionally accredited institution; or

(iii) skill certification in a specific CTE area as established by the Superintendent.

(5) The content knowledge requirements for an associate educator license shall include:

(a) for an elementary license area, passage of an elementary content knowledge test, approved by the Superintendent, that distinctly measures content in:

- (i) mathematics;
- (ii) reading/language arts;
- (iii) social studies; and
- (iv) science;

(b) for a secondary or CTE license area with a content endorsement, or for an endorsement being added to a professional license area, one of the following:

(i)(A) passage of a content knowledge test approved by the Superintendent, where required; or

(B) demonstration of the competency criteria established by the Superintendent if no content knowledge test is required;

(ii) a bachelor's degree or higher with a major in the content area from a regionally accredited university; or

(iii) enrollment in a program that will result in a degree described in Subsection (~~5~~6)(b)(ii);~~[-and]~~

(c) for an early childhood license area, passage of a content knowledge test approved by the Superintendent; and

(~~e~~d) for all other license areas, enrollment in:

(i) a university-based Board-approved educator preparation program; or

(ii) an educator preparation program administered by the Superintendent.

(6) Notwithstanding, Subsection (4)(c)(ii) and Subsection (5)(d),

(a) an applicant for an associate educator license with a license area in:

- (i) special education;
- (ii) pre-school special education; or
- (iii) deaf education;

(b) may also meet the general requirements and content knowledge requirements for an associate educator license;

(c) if the applicant has successfully:

(i) passed a content knowledge test approved by the Superintendent; and

(ii) completed a special education law training approved by the Superintendent; and

(iii) is enrolled in:

(A) a Board-approved non-university based special education preparation program; or

(B) a special education program at a regionally accredited institution that will yield a NASDTEC Stage 2 educator license.

(~~6~~7) Additional requirements for an associate educator license shall include:

(a) successful completion of professional learning modules created or approved by the Superintendent in:

- (i) educator ethics;
- (ii) classroom management and instruction;
- (iii) basic special education law and instruction;

(iv) the Utah Effective Teaching Standards described in R277-530; or

(b) enrollment in a university-based Board-approved educator preparation program.

(~~7~~8) An educator that holds a professional license area of concentration and has met the competency criteria established by the Superintendent need not complete the requirements detailed in Subsection (~~5~~6).

(~~8~~9) A license applicant who has received or completed license preparation activities inconsistent with this rule may present compelling information and documentation for review and approval by the Superintendent to satisfy the associate educator license requirements.

(~~9~~10) The Superintendent shall designate a panel of at least three Board staff members to review an appeal made under subsection (~~8~~9).

(~~10~~11) An LEA that employs an individual that holds an associate educator license shall develop a personalized professional learning plan designed to support the educator in meeting the requirements for a professional educator license no later than 60 days after beginning work in the classroom, which shall:

- (a) be provided to the Superintendent upon request;
- (b) include a formal discussion and observation process no later than 30 days after beginning work in the classroom; and
- (c) consider:
 - (i) previous education related experience; and
 - (ii) previous educational preparation activities.

(~~11~~12) An educator with an associate educator license may upgrade to a professional educator license at any time prior to expiration of the associate educator license if the educator meets all requirements of Section R277-301-5.

R277-301-5. Professional Educator License Requirements.

(1) The Superintendent shall issue a professional educator license to an individual that applies for the license and meets all requirements in this Section R277-301-6.

(2) A professional educator license, license area, or endorsement is valid for five years.

(3) The general requirements for a professional educator license shall include:

- (a) all general requirements for an associate educator license under Subsection R277-301-5(4);
- (b) completion of:
 - (i) a bachelor's degree or higher from a regionally accredited institution; or
 - (ii) skill certification in a specific CTE area as established by the Superintendent;
- (c) for an individual with an early childhood, elementary, special education, or preschool special education license area of concentration, completion of a literacy preparation assessment; and
- (d) one of the following:
 - (i) a recommendation from a Board-approved educator preparation program; or
 - (ii) a standard educator license in the area issued by a licensing jurisdiction outside of Utah that is currently valid or is renewable consistent with Section 53E-6-307.

(4) The content knowledge requirements for a professional educator license, license area, and endorsement shall include:

- (a) all content knowledge requirements for an associate educator license under Subsection R277-301-4(5);
- (b) demonstration of all content knowledge competencies as established by the Superintendent; and
- (c) passage of a content knowledge test provided by the Superintendent, where required.

(5) An applicant for a secondary or CTE content area endorsement that holds a bachelor's degree or higher with a major in

the content area from a regionally accredited university need not complete the requirement described in Subsection (4)(c).

(6) The pedagogical requirements for professional educator license shall include:

- (a) demonstration of all pedagogical competencies as established by the Superintendent; and
- (b) when applicable to the license area, passage of a pedagogical performance assessment meeting standards:
 - (i) established by the Superintendent; and
 - (ii) approved by the Board.

(7) An individual holding a Utah level 1, level 2, or level 3 educator license on January 1, 2020 meets the pedagogical requirements described in Subsection (6).

(8) An individual holding a Utah level - APT educator license that is employed by a Utah LEA and an individual enrolled in ARL or a university-based Board-approved educator preparation program on January 1, 2020 may meet the content knowledge and pedagogical requirements described in this Section R277-301-6 by completing all requirements of the applicable program.

(9) An individual holding a Utah professional educator license and license area in early childhood education, elementary, secondary, CTE, special education, or deaf education is considered to have met the pedagogical performance assessment requirement of Subsection (5)(b) if applying to add any of the license areas in the subsection.

(10) A license applicant who has received or completed license preparation activities inconsistent with this rule may present compelling information and documentation for review and approval or denial by the Superintendent to satisfy the professional educator license requirements.

(11) The Superintendent shall designate a panel of at least three individuals, including at least two Board licensed educators not employed by the Board, to review an appeal and make a recommendation to the Superintendent for the Superintendent's review and decision described in Subsection (10).

R277-301-6. Educator Licenses Issued by Licensing Jurisdictions Outside of Utah.

(1) The Superintendent shall review applications for a Utah educator license for individuals holding educator licenses issued by licensing jurisdictions outside of Utah to determine if the applicant has met the requirements for a Utah license under this rule.

(2) The Superintendent shall accept scores from an applicant that meet the Utah standard for passing on assessments from licensing jurisdictions outside of Utah that utilize the same assessment as Utah as meeting the requirements of this rule.

(3) The Superintendent shall accept scores from an applicant on reasonably equivalent content knowledge or pedagogical performance assessments utilized by licensing jurisdictions outside of Utah that meet the passing standard of that jurisdiction as meeting the requirements of this rule.

(4) The Superintendent shall accept demonstrations of content knowledge and pedagogical competencies from an applicant utilized by licensing jurisdictions outside of Utah that are reasonably equivalent to Utah competencies.

(5) An individual with one year of successful experience in a public or accredited private school under a standard license issued by another jurisdiction need not complete the content knowledge and pedagogical assessment requirements in the areas and subjects taught.

(6) An individual holding a standard license from another jurisdiction that was enrolled in a preparation program prior to

NOTICES OF PROPOSED RULES

January 1, 2020 and received the standard license prior to August 1, 2021 need not complete the requirements of Subsection R277-301-5(6)(b).

R277-301-7. LEA-specific Educator License Requirements.

(1) The Superintendent may issue an LEA-specific educator license to a candidate if:

(a) the LEA requesting the LEA-specific educator license has an adopted policy, posted on the LEA's website, which includes:

(i) educator preparation and support:

(A) as established by the LEA; and

(B) aligned with the Utah Effective Teaching Standards described in R277-530;

(ii) criteria for employing educators with an LEA-specific license; and

(iii) compliance with all requirements of this Rule R277-301;

(b) an LEA governing board applies on behalf of the candidate

(c) the candidate meets all the requirements in this Section R277-301-7; and

(d) within the first year of employment, the LEA trains the candidate on:

(i) educator ethics;

(ii) classroom management and instruction;

(iii) basic special education law and instruction; and

(iv) the Utah Effective Teaching Standards described in R277-530.

(2) An LEA-specific license, license area, or endorsement is valid only within the requesting LEA.

(3) An LEA-specific license, license area, or endorsement is valid for one, two, or three years in accordance with the LEA governing board's application and this Section R 277-301-7.

(4) The first renewal of an LEA-specific educator license, license area, or endorsement shall be approved or denied by the Board.

(5) The Board may require that subsequent renewals be approved by the Board on a case by case basis.

(6)(a) An LEA-specific license area of concentration may only be issued for one school year and may not be renewed for a license area in:

(i) special education; or

(ii) pre-school special education.

(b) If an LEA grants a license area of concentration under this Subsection (6), the LEA shall provide special education law training recommended by the Superintendent within the first month of the educator's employment.

(7) An LEA-specific license expires immediately if the educator's employment with the LEA that requested the license ends.

(8) The general requirements for an LEA-specific educator license shall include:

(a) completion of a criminal background check including review of any criminal offenses and clearance in accordance with Rule R277-214 and continued monitoring in accordance with Subsection 53G-11-403(1);

(b) completion of the educator ethics review within one calendar year prior to the application; and

(c) approval of the request by the LEA governing board in a public meeting no more than 60 days prior to the application, which includes the LEA's rationale for the request.

(9) The content knowledge and pedagogical requirements for an LEA-specific educator license shall be established by the LEA governing board.

(10) An LEA school that requests an LEA-specific license, license area, or endorsement shall prominently post the following information on each school's website:

(a) disclosure of the fact that the school employs individuals holding LEA-specific educator licenses, license areas, or endorsements;

(b) an explanation of the types of licenses issued by the board;

(c) the percentage of the types of licenses, license areas, and endorsements held by educators employed in the school based on the employees' FTE as reported to the Superintendent; and

(d) a link to the Utah Educator Look-up tool provided by the Superintendent in accordance with Subsection R277-512-7(6).

R277-301-8. Eminence.

(1) The purpose of an eminence designation is to allow an individual with exceptional training or expertise, consistent with Section R277-301-2, to teach or work in the public schools on a limited basis.

(2) An LEA may request an eminence designation for an LEA-specific license, license area, or endorsement for a teacher whose employment with the LEA is no more than 37% of a teacher's regular instructional load.

(3)(a) The Superintendent may approve or deny a request under Subsection (2).

(b) The Superintendent may require documentation of the exceptional training, skills, or expertise of a candidate for an eminence designation.

(4)(a) The Superintendent may approve or deny the renewal of an LEA-specific license, license area, or endorsement with an eminence designation at the request of the LEA that requested the designation.

(b) Subsection (4)(a) supersedes Subsection R277-301-7(5) for a licensee with an eminence designation.

(c) If a request for an eminence designation or renewal of an eminence designation is denied by the Superintendent, the LEA may appeal the denial to the Board.

R277-301-9. Superintendent Annual Report to the Board.

(1) The Superintendent shall annually report to the Board on licensing, including:

(a) educator licensing;

(b) educator preparation; and

(c) equitable distribution of teachers.

(2) The Superintendent shall use a process approved by the Board to:

(a) establish the content knowledge competency requirements required for associate and professional endorsements; and

(b) review, adopt, and establish passing standards for all assessments required for educator licensing.

(3) The Superintendent shall create an ethics review for all licensed educators based upon Rule R277-217, Educator Standards and Local Education Agency (LEA) Reporting.

(4) The Superintendent may correct identified errors in licensing information with notice to the license holder.

KEY: professional competency, educator licensing
Date of Enactment or Last Substantive Amendment: 2021 July 9, 2020]
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-102; 53E-3-401

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-325	Filing No. 53413

Agency Information

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

General Information

2. Rule or section catchline:
R277-325. Public Education Exit and Engagement Surveys
3. Purpose of the new rule or reason for the change:
The rule change updates the links to the documents incorporated by reference in Rule R277-325 and updates the requirements for local education agencies (LEAs) to administer the surveys.
4. Summary of the new rule or change:
The changes include updated uniform resource locators (URL) to the model surveys and deletes language in Section R277-325-4 about when the surveys are administered.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have fiscal impact on state government revenues or expenditures. The change to Section R277-325-4 should reduce the frequency of

new educators taking the public education engagement survey. This rule applies to educators and LEAs.

B) Local governments:

This rule change may have fiscal impact on local governments' revenues or expenditures. The change to Section R277-325-4 should reduce the frequency of new educators taking the public education engagement survey. This should reduce the time and effort required for new educators to fill out this survey annually, allowing additional time for other duties.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. The change to Section R277-325-4 should reduce the frequency of new educators taking the public engagement education survey. This rule applies to educators and LEAs.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The change to Section R277-325-4 should reduce the frequency of new educators taking the public engagement education survey. This rule applies to educators and local education agencies.

F) Compliance costs for affected persons:

This rule change should reduce compliance costs for affected persons. The change to Section R277-325-4 should reduce the frequency of new educators taking the public education engagement survey. This should reduce the time and effort required for new educators to fill out this survey annually, allowing additional time for other duties.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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-3-401(4)	Section 53G-11-304
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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: 05/31/2021

10. This rule change MAY become effective on: 06/07/2021

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

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	04/15/2021
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R277. Education, Administration.

R277-325. Public Education Exit and Engagement Surveys.

R277-325-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53G-11-304, which requires the Board to make rules for the creation and administration of a public education exit survey.

(2) The purpose of this rule is to:

- (a) adopt minimum standards for LEAs to administer a public education exit and engagement survey; and
- (b) adopt a model public education exit and engagement survey for use by LEAs.

R277-325-2. Definitions.

(1) "Educator" means, for purposes of this rule:

- (a) a general education classroom teacher;
- (b) a preschool teacher;
- (c) a special education teacher; or
- (d) a school based specialist.

(2) "Survey" means the Model Public Education Exit and

Engagement Surveys incorporated by reference in Section R277-325-3.

R277-325-3. Incorporation of Model Public Education Exit and Engagement Surveys by Reference.

(1) This rule incorporates by reference the Model Public Education Exit and Engagement Surveys.

(2) A copy of the model surveys are located at:

- (a) ~~https://schools.utah.gov/file/b470b911-a489-4278-8b05-809adb47e360~~ <https://schools.utah.gov/administrativerules/documentsincorporated>;
- (b) ~~https://schools.utah.gov/file/f3d60dec-e592-4137-9e90-981a60b749d5~~ <https://schools.utah.gov/administrativerules/documentsincorporated>; and
- (c) the Utah State Board of Education.

R277-325-4. Survey Administration.

(1)(a) Each LEA shall request that the LEA's educators complete the model public education engagement survey, at a minimum, every other year beginning in the 2019-20 school year through:

- (i) a Board approved online provider; or
- (ii) a provider approved by the LEA.

(b) An LEA shall administer the model public education engagement survey in the opposite years from those in which it administers the school climate survey described in Rule R277-623, except as provided in Subsection (2).

~~[(2) An LEA shall request a new educator complete the model public education engagement survey every year for the first three years the educator is in the profession.]~~

~~[(3)](2)~~ Each LEA shall request that an educator leaving the LEA complete the model public education exit survey at the time of their separation from employment through:

- (a) a Board approved online provider; or
- (b) a provider approved by the LEA.

~~(3) If an LEA administers the surveys through a provider other than a Board approved online provider, the LEA shall provide the data from the surveys to the Superintendent by June 30 annually in a manner prescribed by the Superintendent.~~

(4) The surveys:

- (a) shall allow each educator to remain anonymous;
- (b) may not request the educator's CACTUS ID number;
- (c) shall ask each educator to identify the educator's LEA;

(d) may ask each educator to voluntarily identify the educator's school; and

(e) may ask each educator to provide basic non-identifying demographic data as requested by the Superintendent.

(5) An LEA shall adopt written policies to:

- (a) restrict access to survey results to appropriate personnel; and
- (b) prevent identification of educators who complete the survey.

(6)(a) An LEA may include additional questions along with the required survey questions at the time the LEA administers the surveys.

(b) An LEA may limit dissemination of data from educator answers to questions included in accordance with Subsection (6)(a) in accordance with the LEA's written policies.

(7) If an LEA fails to administer the surveys, the Superintendent may pursue corrective action in accordance with Rule R277-114.

KEY: exit, survey

Date of Enactment of Last Substantive Amendment: ~~2021~~ **January 9, 2020**

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-11-304

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-614	Filing No. 53414

Agency Information

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

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

General Information

2. Rule or section catchline:
R277-614. Athletes and Students with Head Injuries
3. Purpose of the new rule or reason for the change:
The amendments to Rule R277-614 add language to address head injuries for all students. The current rule only includes student athletes and PE class.

4. Summary of the new rule or change:
 The changes add language to address head injuries for all students, during the school day or other school activities. It also broadens the requirements for the involvement of parents following a head injury incident.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
 This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. This rule change primarily affects local education agencies (LEAs).

B) Local governments:
 This rule change may create some fiscal impact on local governments' revenues or expenditures. The current rule regarding head injuries only includes student athletes and PE class. This rule change broadens these requirements to all students. This may require some LEAs to update certain processes to comply with the broadened requirements; however, the costs associated with these activities are not directly measurable, though will be relatively 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. This rule change primarily affects LEAs.

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. This rule change primarily affects LEAs.

F) Compliance costs for affected persons:
 There are no significant compliance costs for affected persons. This rule change primarily affects LEAs.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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-3-401(4)
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Public Notice Information

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

A) Comments will be accepted until: 05/31/2021

10. This rule change MAY become effective on: 06/07/2021

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

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	04/15/2021
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R277. Education, Administration.

R277-614. Athletes and Students with Head Injuries.

R277-614-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Section 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 direct LEAs under the general control and supervision of the Utah State Board of Education to adopt and enforce a head injury policy for students participating in physical education and extracurricular sporting events.

R277-614-2. Definitions.

(1) "Agent" has the same meaning as described in Subsection 26-53-102(1).

(2) "Free play" means unstructured student play, games and field days during school hours.

(3) "Head injury" means any injury to the head not described in Subsection 26-53-102(6) including a mild bump.

~~(3)~~(4) "LEA" includes for purposes of this rule, the Utah Schools for the Deaf and the Blind.

~~(4)~~(5) "Parent" means a parent or legal guardian of a student for whom an LEA is responsible.

~~(5)~~(6) "Physical education class" means a structured school class that includes an adult supervisor.

~~(6)~~(7) "Sporting event" has the same meaning as described in Subsection 26-53-102(5).

~~(7)~~(8) "Traumatic head injury" has the same meaning as described in Subsection 26-53-102(6).

R277-614-3. Superintendent Responsibilities.

(1) The Superintendent shall, in consultation with Utah State Risk Management, provide a model policy for LEAs to use in developing the policy required in Section R277-614-4.

(2) The Superintendent shall provide model forms for LEAs to use to inform parents of LEA policies and obtain parent signatures documenting the parents' understanding of and willingness to adhere to LEA policies.

(3) The Superintendent shall provide professional development, as needed and to the extent of funds available, to assist LEAs with training to:

(a) identify students' traumatic head injuries;

(b) provide notice to parents; ~~and~~

(c) encourage best practices in supporting a child in their recovery; and

~~(e)~~d) comply with the law.

(4) The Superintendent shall make the resources required by this Section R277-614-3 available on the Board website.

R277-614-4. LEA Responsibilities.

(1) An LEA shall comply with Title 26, Chapter 53, Protection of Athletes with Head Injuries Act, including all responsibilities of an amateur sports organization.

(2) All LEAs shall adopt and maintain a traumatic head injury policy for students:

(a) participating in physical education classes, excluding free play, offered by the LEA; and

(b) participating in extracurricular activities sponsored by the LEA or statewide athletic associations.

(3) An LEA's policy shall include:

(a) direction to agents to remove a student from a sporting event if the student is suspected of sustaining a concussion or a traumatic head injury;

(b) the prohibition of the continued participation of a student removed under Subsection (3)(a) until the student is evaluated by a trained qualified health care professional;

NOTICES OF PROPOSED RULES

(c) a written statement from a trained qualified health care provider clearing a student removed under Subsection (3)(a) to resume participation in a sporting event;

(d) adequate training for agents, consistent with their involvement and responsibility for supervising students in sporting events and physical education classes, about traumatic head injuries and response to suspected student injuries, consistent with the law; and

(e) a requirement of notice at least annually to parents of students who participate in sporting events, to be acknowledged by a parent in writing, of an LEA's traumatic head injury policy.

(4) An LEA shall post the policy required under Subsection (2) on the LEA's website where the information will be readily accessible to the public and to parents.

(5) An LEA shall notify a parent if a student is reported to have experienced a head injury during school hours or a school sanctioned activity.

KEY: athletes, head injuries

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

Notice of Continuation: May 11, 2018

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-727	Filing No. 53415

Agency Information

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

General Information

2. Rule or section catchline:
R277-727. School Meals Program
3. Purpose of the new rule or reason for the change:
This rule is being created to provide a process for distribution of the state liquor tax revenues designated for school meals programs and provides a new incentive

program for local education agencies (LEAs) to innovate and implement best practices in the area of school meals programs.

4. Summary of the new rule or change:

This rule establishes the current practice for school meals programs fund distributions, defines school meals programs, and establishes a process for the new additional reimbursement that may be used under certain circumstances.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This proposed rule is not expected to have independent fiscal impact on state government revenues or expenditures. The new incentive program should not meaningfully affect state program costs.

B) Local governments:

This proposed rule is not expected to have independent fiscal impact on local governments' revenues or expenditures. This rule establishes a process for a new additional reimbursement that may be used under certain circumstances. This may affect revenues from the Utah State Board of Education Child Nutrition Program for certain LEAs.

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

This proposed rule is not expected to have independent fiscal impact on small businesses' revenues or expenditures. This proposed rule will primarily affect LEAs.

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 is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This proposed rule is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This proposed rule will primarily affect LEAs.

F) Compliance costs for affected persons:

There are no significant compliance costs for affected persons. This proposed rule will primarily affect LEAs.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

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

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses. This proposed rule has no fiscal impact on 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-3-401(4)	Section 53E-3-510
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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: 05/31/2021

10. This rule change MAY become effective on: 06/07/2021

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

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	04/14/2021
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R277. Education, Administration.

R277-727. School Meals Program.

R277-727-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Section 53E-3-510, which allows the Board to control how meals program revenue may be disbursed, transferred, or drawn upon.

(2) The purpose of this rule is to:

(a) define school meals programs; and

(b) outline how the school meals program revenue may be distributed.

R277-727-2. Definitions.

(1) "Federal child nutrition laws" means the Richard B. Russell National School Lunch Act, 79 P.L. 396, 60 Stat. 230, and the Child Nutrition Act of 1966, 89 P.L. 642, 80 Stat. 885.

(2) "School meals program" means a program that meets the requirements in 7 CFR 210, 220, or 225.

R277-727-3. School Meals Reimbursement.

(1) An LEA shall receive a state reimbursement for each meal served pursuant to a school meals program through a state reimbursement rate established by the Superintendent.

(2) The Superintendent shall determine the state reimbursement rate by considering:

(a) the previous year's state reimbursement rate;

(b) statewide participation rates in school meals programs;

(c) the amount of state liquor tax revenues collected pursuant to Subsection 32B-2-304(4); and

(d) additional considerations established by the Board.

(3) The Superintendent shall establish at least twice a year a flat rate per reimbursable meal served pursuant to a school meals program.

(4) The Superintendent may establish an additional reimbursement rate if there is incremental state liquor tax revenue collected compared to the total collected amount in fiscal year 2021.

(5) An LEA may receive an additional state reimbursement amount per reimbursable meal served if the LEA has established school meals programs enhancements including:

(a) increased meal quality;

(b) innovative meal access;

(c) locally purchased products; or

(d) improved meal presentation.

(6) The Superintendent shall establish:

(a) the qualifying criteria for an additional state reimbursement described in Subsection (4); and

(b) appropriate monitoring procedures in accordance with Federal child nutrition laws

(7) The Superintendent shall establish the additional state reimbursement rate by considering:

(a) the previous year's additional state reimbursement rate;

(b) participation rates of school meals programs for LEAs with school meals programs enhancements;

(c) the amount of incremental state liquor tax revenues collected to be set aside; and

(d) additional considerations established by the Board.

KEY: school meals, child nutrition, reimbursement

Date of Enactment or Last Substantive Amendment: 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); and 53E-3-510

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-733-2	Filing No. 53416

Agency Information

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

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

General Information

2. Rule or section catchline:
R277-733-2. Incorporation of Utah Adult Education Policies and Procedures Guide by Reference
3. Purpose of the new rule or reason for the change:
Rule R277-733 is being updated to incorporate by reference an updated Utah Adult Education Policies and Procedures Guide.
4. Summary of the new rule or change:
The rule incorporates by reference the Utah Adult Education Policies and Procedures Guide, March 2021 revision. The changes to the policy and procedure guide include: Section 1 removed duplicate language from Adult Basic Education (ABE) section and in Section 3 E - Adult Secondary Education credit-bearing courses must be under the direction of a certified teacher. English Language Acquisition instruction must be under the direction of either an English Language Learner (ELL) endorsed or Teaching English as a Second Language (TESOL) credentialed instructor. Adult education programs must have an evaluation process in place 1 - Adult Secondary Education courses must be approved by the program's local board of education, have written

course descriptions, and be aligned with the Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS) course codes J - Adult education programs must ensure competency credit opportunities, when offered, are aligned with Rule R277-418 P - Work Experience Description: 1.0 credit for 180 hours (.50 for 90 hours) of continuous, professional employment (W2 or pay stubs).

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 because the amendments to the guide do not have fiscal impact.

B) Local governments:

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures because the amendments to the guide do not have fiscal impact.

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 because the amendments to the guide do not have fiscal impact.

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 because the amendments to the guide do not have fiscal impact.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

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

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

NOTICES OF PROPOSED RULES

revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

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

Sydnee Dickson, State Superintendent

Citation Information

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

Article X, Section 3	Subsection 53E-3-501(1)	Subsection 53E-3-401(4)
Section 53E-10-202	Section 53F-2-401	

Incorporations by Reference Information

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

	First Incorporation
Official Title of Materials Incorporated (from title page)	Utah Adult Education Policy and Procedure Guide
Publisher	Utah State Board of Education
Date Issued	January 9, 2020
Issue, or version	February 24, 2021

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: 05/31/2021

10. This rule change MAY become effective on: 06/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the

date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	04/15/2021
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R277. Education, Administration.

R277-733. Adult Education Programs.

R277-733-2. Incorporation of Utah Adult Education Policies and Procedures Guide by Reference.

(1) The rule incorporates by reference the Utah Adult Education Policies and Procedures Guide, [~~January 2020~~ April 2021] Revision, which provides day-to-day operating standards and technical assistance to eligible providers for operation of adult education programs.

(2) A copy of the guide is located at:

(a) [~~https://schools.utah.gov/file/0e56fe1a-e2bc-4d7e-8572-ead9046799e9~~]<https://schools.utah.gov/administrativerules/documentsincorporated>; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

KEY: adult education

Date of Enactment or Last Substantive Amendment: ~~2021~~ [April 9, 2020]

Notice of Continuation: June 6, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-10-202; 53E-3-501(1); 53E-3-401(4); 53F-2-401; 53F-2-401; 53E-10-205

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R357-25	Filing No.	53418
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Agency Information

1. Department:	Governor		
Agency:	Economic Development		
Building:	World Trade Center		
Street address:	60 E South Temple		
City, state:	Salt Lake City, UT 84111		
Mailing address:	60 E South Temple		
City, state, zip:	Salt Lake City, UT 84111		
Contact person(s):			
Name:	Phone:	Email:	
Dane Ishihara	801-538-8864	dishihara@utah.gov	

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

General Information

2. Rule or section catchline:
R357-25. Rural Coworking and Innovation Center Grant Program
3. Purpose of the new rule or reason for the change:
The purpose of this proposed rule amendment is to modify the circumstances under which a grant may be awarded under the Rural Coworking and Innovation Center Grant Program.
4. Summary of the new rule or change:
Section R357-25-105 is amended so that a grant recipient has to allow use of a center for at least five years if a grant is awarded for improving utilities or broadband service or for purchasing equipment, furniture, or security systems for a center. Section R357-25-105 is also amended so that a grant recipient has to allow use of a center for at least seven years if a grant is awarded for construction or renovation of a center.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no new aggregate anticipated cost or savings to the state budget. These changes merely update the qualifications for an applicant to receive a Rural Coworking and Innovation Center Grant.
B) Local governments:
There is no new aggregate anticipated cost or savings to local governments. These changes merely update the qualifications for an applicant to receive a Rural Coworking and Innovation Center Grant.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no new aggregate anticipated cost or savings to small businesses. These changes merely update the qualifications for an applicant to receive a Rural Coworking and Innovation Center Grant.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no new aggregate anticipated cost or savings to non-small businesses. These changes merely update the qualifications for an applicant to receive a Rural Coworking and Innovation Center Grant.

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**):

There is no new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. These changes merely update the qualifications for an applicant to receive a Rural Coworking and Innovation Center Grant.

F) Compliance costs for affected persons:

There are no new compliance costs for affected persons. These changes merely update the qualifications for an applicant to receive a Rural Coworking and Innovation Center Grant.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Development, Dan Hemmert, has reviewed and approved this fiscal analysis.

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

This rule will have no new impact on businesses. This rule filing merely establishes a minimum timeframe during which a grant recipient must allow use of a Rural Coworking and Innovation Center in order to receive grant funds.

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

Dan Hemmert, 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 63N-4-504		
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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: 5/31/2021

10. This rule change MAY become effective on: 6/7/2021

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

Agency head or designee, and title:	Dan Hemmert, Executive Director	Date:	4/15/2021
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R357. Governor, Economic Development.

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

R357-25-101. Title.

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

R357-25-102. Definitions.

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

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

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

(3) "Project" means:

(a) construction or renovation[~~g~~] of a facility to create a [~~C~~]co-working and [~~H~~]innovation [~~C~~]center;

(b) extending and/or improving utilities and broadband service connections to a [~~C~~]co-working and [~~H~~]innovation [~~C~~]center; or

(c) purchasing equipment, furniture, and security systems as part of a [~~C~~]co-working and [~~H~~]innovation [~~C~~]center.

R357-25-103. Authority.

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

R357-25-104. Content of Application.

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

(a) entity name;

(b) contact information including:

(i) entity's physical address;

(ii) telephone number; and

(iii) email address.

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

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

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

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

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

(iii) amount of grant funding requested;

(iv) list of [~~all~~]each entity[~~ies~~] associated with the proposed project and [~~their~~]its anticipated role[s];

(v) letters of support from [~~all~~]each entity[~~ies~~] associated with the proposed project;

(vi) matching funds associated with the proposed project;

(vii) timeline of the proposed project; and

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

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

(a) federal Tax ID;

(b) NAICS Code and Primary Industry;

(c) number of years in business;

(d) number of full-time employees;

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

(f) business license from local county or municipality;

- (g) most recent [F]federal and [S]state [F]tax [R]returns as proof of company profitability;
- (h) most recent balance sheet and profit and loss statements as proof of solvency; and
- (i) GRAMA request for confidentiality form [~~(Request for confidentiality)~~].

R357-25-105. Application and Approval Procedure.

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

- (a) organizational information;
- (b) supporting documentation;
- (c) entity history and qualifications;
- (d) project proposal;
- (e) scope of work;
- (g) budget;
- (g) matching funds;
- (h) timeline; and
- (i) deliverables and outcomes.

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

(3) A grant may only be awarded if the grant receipt agrees to:

- (a) for construction or renovation of a coworking and innovation center, allow use of the center for at least seven years in the rural area where the center is located; or
- (b) for extending or improving utilities or broadband service connections to a coworking and innovation center or for purchasing equipment, furniture, or security systems for a coworking and innovation center, allow use of the center for at least five years in the rural area where the center is located.

~~(3)~~ (4) If, after review of an application provided by an entity the advisory committee determines that the application provides reasonable justification for authorizing a grant and if there are available funds for the grant, the office shall enter into a written agreement with the entity for a term no longer than 18 months.

~~(4)~~ (5) An entity, without prior written approval from the office, may not commence performance on the contract until the contract agreement is completely executed.

R357-25-106. Project Reimbursement.

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

- (a) a letter of request on entity letterhead specifying the amount requested and certifying that the project is either up to 50% [~~partially~~] completed [~~(up to 50%)~~] or fully completed and [~~all~~] each invoice[s] has [~~ve~~] been paid. The [~~F~~]letter of [~~R~~]request shall be signed and the accuracy of the information verified by a company officer;
- (b) copies of [~~all~~] each invoice[s] and evidence of payment [~~(checks, bank statements or loan agreements)~~] for work on the project;
- (c) photo evidence that the project is partially completed [~~(up to 50%)~~] or fully completed. Please provide several photos of the [~~C~~]co-working and [~~H~~]innovation [~~C~~]center, the building, expansion, installed and functioning equipment; and
- (d) proof of [~~O~~]occupancy as issued by the local governing body's inspections department for final reimbursement.

(2) Partial reimbursement payment may be made through the course of the 18 month term of the contract, not to exceed 50% of expenses incurred during the development of the project. A request-for-

funds form and itemization sheet will be required to be signed and submitted to receive the initial 50% of funds.

KEY: rural coworking, economic development, working hubs
Date of Enactment or Last Substantive Amendment: 2021 [~~September 23, 2019~~]
Authorizing, and Implemented or Interpreted Law: 63N-4-504(1)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R495-830	Filing No. 53387

Agency Information

1. Department:	Human Services	
Agency:	Administration	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Contact person(s):		
Name:	Phone:	Email:
Jonah Shaw	801-538-4219	jshaw@utah.gov
Thomas Dunford	801-538-4181	tdunford@utah.gov
Amanda Alkema	385-414-1767	aalkema@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R495-830. Qualifications for Forensic Evaluator
3. Purpose of the new rule or reason for the change:
This rule establishes minimum qualifications for forensic evaluators providing forensic evaluations for the Department of Human Services (DHS).
4. Summary of the new rule or change:
This rule: 1) defines terms; 2) defines qualification for general forensics evaluators that include the types of degrees required, the optional supervision available for individuals without complete credentialing, and waivers to certain requirements; 3) defines minimum requirements for specialized forensic evaluators;

- 4) requires a certification exam, initial and ongoing training, and periodic peer reviews to maintain a forensic evaluator designation; and
- 5) specifies that individuals may lose their evaluator status through certain specified conduct.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

DHS does not anticipate any savings or cost to state budgets as a result of this rule. Activities associated with budgets will include a shared responsibility between DHS, the Division of Services to People with Disabilities (DSPD), the Utah State Hospital (USH), and to the Division of Substance Abuse and Mental Health (DSAMH). DSPD, DSAMH, and USH will need to maintain certification, initial and ongoing training, forensic training portal, and best practice standards, which will require both divisions to provide the designated training, and monitor completion of required training and continuing education credits. A forensic psychologist role position within DHS will need to oversee the certification and training processes and provide other forensic psychologists with mentoring and peer reviews that will be needed to maintain the certification process. All of these required support duties will be absorbed by the department and effect divisions.

B) Local governments:

There are no cost savings or increases to local governments as a result of this rule. Forensic evaluators are private citizens who contract with DHS to provided evaluations for the court system. A forensic evaluator could foreseeably be employed by a county government, but that individual's contract with DHS would be separate from duties they would perform for the county, and any cost to the individual would be attributed to them, and not their employer. There is a possibility that the required training in this rule would be associated with a cost of an evaluator's time, but this cost already exists in the current process, and is not increased or decreased as a result of this rule.

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

There are no cost savings or increases to small businesses as a result of this rule. Forensic evaluators are private citizens who contract with DHS to provided evaluations for the court system. A forensic evaluator could foreseeably be employed by a small business, but that individual's contract with DHS would be separate from other duties they would perform for their employer, and any cost to the individual would be attributed to them, and not their employer. There is a possibility that the required training in this rule would be associated with a cost of an evaluator's time, but this cost already exists in the current process, and is not increased or decreased as a result of this rule. DHS does anticipate that some of the forensic evaluators will be private small business owners

themselves, and their contracts with DHS will be a major source of their income. The same issues apply for this group of individuals as for those who work for a small business. The costs of contracting with DHS have not increased or decreased because of this rule, and the time commitment for training will not change.

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

There are no cost savings or increases to non-small businesses as a result of this rule. Forensic evaluators are private citizens who contract with DHS to provided evaluations for the court system. A forensic evaluator could foreseeably be employed by a non-small business, but that individual's contract with DHS would be separate from other duties they would perform for their employer, and any cost to the individual would be attributed to them, and not their employer. There is a possibility that the required training in this rule would be associated with a cost of an evaluator's time, but this cost already exists in the current process, and is not increased or decreased as a result of this rule.

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**):

There are no cost savings or increases to persons other than small businesses, non-small businesses, state, or local government entities as a result of this rule. Forensic evaluators are private citizens who contract with DHS to provided evaluations for the court system. A forensic evaluator could foreseeably be employed by persons other than small businesses, non-small businesses, state, or local government entities, but that individual's contract with DHS would be separate from other duties they would perform for the entity in question, and any cost to the individual would be attributed to them, and not their employer. There is a possibility that the required training in this rule would be associated with a cost of an evaluator's time, but this cost already exists in the current process, and is not increased or decreased as a result of this rule.

F) Compliance costs for affected persons:

DHS does not estimate any compliance costs for affected persons. Nothing in this rule will require additional costs above and beyond that which is already required for all individuals who currently contract with DHS to provide forensic evaluations. Also, the costs to pay for an evaluation will not increase. Forensic evaluations are currently paid by DSAMH, DSPD, and the USH. The costs are as follows: DSAMH evaluations cost \$600 for adult mental illness competency evaluations, juvenile, costs paid by DSAMH, and DSPD adult evaluations cost \$662.20 plus mileage, and a higher rate for extraordinary circumstances. All of these expenses are paid to the

contracted evaluators or to evaluators employed by USH, DSAMH, DSPD, or DHS.

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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

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

The Department does not anticipate any fiscal impacts on businesses as a result of compliance requirements in this rule.

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

Tracy Gruber, 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 77-15-6	Section 78A-6-1302	Section 77-16a-301
Subsection 77-16a-103(2)		

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:	05/31/2021
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10. This rule change MAY become effective on:	06/07/2021
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Mark Brasher, Deputy Director	Date:	03/25/2021
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R495. Human Services, Substance Abuse and Mental Health.

R495-830. Qualifications for Forensic Evaluator.

R495-830-1. Authority.

This rule establishes qualifications for a forensic evaluator to provide forensic evaluations as anticipated in Subsection 77-15-2(1); and Sections 77-15-7, 77-16a-103, 78A-6-1302, and 78A-6-1303.

R495-830-2. Purpose.

This rule establishes minimum qualifications for forensic evaluators providing forensic evaluations for the Department of Human Services.

R495-830-3. Intent.

(1) Create statewide qualifications and standards for forensic evaluators providing forensic evaluations for the Department of Human Services.

(2) Agencies and individuals impacted by this rule have until 18 months after this rule is made effective to come into compliance.

R495-830-4. Definitions.

(1) "Department" means the Department of Human Services.

(2) "Forensic Evaluation" is used as defined in Sections 77-15-7, 77-16a-103, 78A-6-1302, and 78A-6-1303 and Subsection 77-15-2(1).

(3) "Forensic Evaluator" is used as defined in Subsection 77-15-2(4).

(4) "Intellectual Disability" is used as defined in Section 76-2-305.

(5) "Licensed Clinical Social Worker" (LCSW) is used as defined in Section R156-60a-302c.

(6) "Mental Illness" is used as defined in Section 76-2-305.

(7) "Not Guilty by Reason of Insanity" and "Diminished Mental Capacity" are used as defined in Section 77-16a-301.

(8) "Related Condition" is used as defined in 42 C.F.R. 435.1010.

R495-830-5. Qualifications for General Forensic Evaluator.

(1) A forensic evaluator must meet the minimum qualifications under this section according to each discipline.

(2) An applicant for a forensic evaluator that possesses a Ph.D. or PsyD degree in clinical or counseling psychology shall meet the following requirements:

(a) the doctoral program in which the applicant obtained their degree must be accredited by the American Psychological Association;

(b) the official school transcripts for the degree under this Subsection (2) must verify completion of doctorate courses of study and graduation;

(c) the applicant's experience in providing psychological or neuropsychological assessment as a licensed psychologist or training experience must be at least 2 years; and

(d) the applicant must have completed at least 2000 hours of forensic evaluation experience.

(3) If an applicant does not meet the requirements in Subsection (2), they must be supervised initially by a forensic evaluator designated by the Department. This supervision will last a minimum of 1 year, and may be extended by the Department with cause.

(4) If an applicant has successfully completed a postdoctoral fellowship in forensic psychology recognized as meeting the experience waiver requirements by the American Board of Forensic Psychology, the requirement in Subsection R495-830-5(2)(d) has been met, but the applicant must still obtain certification as a forensic evaluator from DHS.

(5) An applicant for a forensic evaluator that is a psychiatrist with a M.D. or D.O. degree shall meet the following requirements:

(a) the M.D. or D.O. degree must be accredited by the Council for Graduate Medical Education;

(b) the official school transcripts for the degree under this Subsection (5) must verify completion of doctorate courses of study and graduation; and

(c) the applicant must have completed at least 2000 hours of forensic evaluation experience.

(6) An applicant that is certified by the American Board of Psychiatry and Neurology, Incorporated in forensic psychiatry is exempt from the requirements of Subsection (5).

(7) If an applicant does not meet the requirements in Subsection (5) or Subsection (6), they must be supervised initially by a forensic evaluator designated by the Department. This supervision shall last a minimum of 1 year, and may be extended by the Department with cause.

(8) An applicant for a forensic evaluator that possesses a LCSW license shall meet the following requirements:

(a) the applicant possesses five years post licensure clinical evaluation and assessment experience as approved by the Department;

(b) the official school transcripts for the LCSW license under Subsection (8) verify completion of master level courses of study and graduation; and

(c) the applicant must have completed at least 2000 hours of forensic evaluation experience.

(9) If the applicant does not meet the requirements in Subsection (8), the applicant must participate in a probationary period of 2000 hours, including:

(a) the applicant must be supervised by a forensic evaluator certified by the Department;

(b) the applicant must ensure that each forensic evaluation they conduct is co-signed by a forensic evaluator certified by the Department;

(c) the applicant may only conduct an evaluation when the individual being evaluated is an adult with a mental illness charged with a misdemeanor; and

(d) the supervision shall last a minimum of 1 year, and may be extended by the Department with cause.

(10) Each applicant shall possess a current and unrestricted license to practice psychology, medicine, or mental health therapy in the state, or have a clear path to licensure as outlined by the Utah Division of Occupational and Professional Licensing.

(11) Each applicant must complete the forensic evaluator certification process under Subsection (12) required by the Department within the time period designated.

(12) The certification process required by the Department includes:

(a) a certification exam;

(b) initial and on-going training; and

(c) initial and periodic peer-review of redacted work sample evaluations.

R495-830-6. Minimum Qualifications for Specialized Forensic Evaluations.

(1) A forensic evaluator providing juvenile forensic evaluations shall meet the following minimum qualifications:

(a) meet the minimum qualifications for a forensic evaluator as defined in this rule; and

(b) demonstrate completion of the additional requirements for juvenile forensic evaluation specified in the forensic evaluator certification process required by the Department within the time period designated by the Department.

(2) A forensic evaluator providing a forensic evaluation of an individual with an intellectual disability or related condition for either the district court or juvenile court must meet the following minimum qualifications:

(a) meet minimum qualifications for a forensic evaluator as defined in this rule;

(b) demonstrate competence and experience administering psychological or neuropsychological testing of individuals with an intellectual disability, or related condition as determined and approved by the Department; and

(c) have experience working with individuals with an intellectual disability or related condition, and reviewing psychological or neuropsychological testing for this population as approved by the Department.

(3) A forensic evaluator providing a mental condition evaluation for the purpose of a not guilty by reason of insanity plea pursuant to Section 77-16a-301 must meet the following minimum qualifications:

(a) meet minimum qualifications for a forensic evaluator as defined in this rule, and:

(i) possess a Ph.D. or PsyD degree in clinical or counseling psychology; or

(ii) be a psychiatrist with a MD or DO degree; or

(b) a degree approved by the Department.

R495-830-7. Continuing Education, Certification and Training Minimum Requirements.

(1) A forensic evaluator shall:

(a) maintain a license in good professional standing;

(b) complete and maintain forensic evaluator certification required by the Department including:

(i) a certification exam;

(ii) initial and on-going training; and

(ii) initial and periodic peer-review of redacted work sample evaluations;

(c) attend and complete any required forensic training assigned by the Department;

(d) obtain continuing education credits related to the competence, skills, practice and ethics of forensic evaluation, and submit documentation of completion of credits every two years to the Department as required by certification and professional license; and

(e) follow guidelines and recommendations for forensic evaluations as specified by the appropriate governing body for the general and specialty practice of forensic psychology and psychiatry, and any applicable laws.

(2) A forensic evaluator otherwise qualified under this rule shall lose such qualification status if the forensic evaluator is found to have engaged in unprofessional, unethical or unlawful conduct as determined by the Department.

KEY: forensic evaluator, forensic evaluation, competency evaluation

Date of Enactment or Last Substantive Amendment: 2021 Authorizing, and Implemented or Interpreted Law: 77-15-6; 77-16a-103(2); 77-16a-301; 78A-6-1302

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Utah Admin. Code Ref (R no.):	R850-80	Filing No. 53407
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Agency Information

1. Department:	School and Institutional Trust Lands
Agency:	Administration
Room no.:	Suite 500

Street address:	675 E 500 S	
City, state:	Salt Lake City, UT 84102-2818	
Contact person(s):		
Name:	Phone:	Email:
Michelle McConkie	801-538-5183	meastmccconkie@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R850-80. Sale of Trust Lands
3. Purpose of the new rule or reason for the change:
The repealed and reenacted rule allows for sale procedures to be updated and specifically provide for electronic auctions to be held. It also reorganizes the rule to provide that actions that affect both negotiated sales and auction sales are grouped together in a way that is easier to understand.
4. Summary of the new rule or change:
This reenacted rule allows the sale procedure to be conducted electronically, as well as orally. It updates notice requirements to remove the requirement that notices of sales be posted in governmental administrative building or courthouses. It also provides that a minimum 7.5% rate be charged when sales are financed with the School and Institutional Trust Lands Administration (Agency).

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
One of the main purposes of the repeal and reenactment of this rule is to establish an electronic bidding process for public land sales. The contractor the agency will use for the online auction charges 3% of the sales price for their services. The Agency will typically increase the minimum sales prices for the auction parcels to account for the 3%. Since the price for these services will be included in the final purchase price of each parcel and will therefore be passed on to the successful bidder of the parcel, it is not anticipated that any additional costs will be incurred by the state due to this rule change. In addition, this rule will also provide that the annual variable interest rate when sales are financed with the Agency will be the greater of prime plus 2.5% or 7.5%. The 7.5% minimum is a change set forth in the reenacted rule. This may end up increasing amounts paid by the public to the Agency for financed land sales.

B) Local governments:

The main purposes of the repeal and reenactment of this rule is to establish an electronic bidding process for public land sales and to allow for a minimum 7.5% annual variable interest rate when land sales are financed with the Agency. It is not anticipated that local governments will be affected as a result of these changes because local governments typically do not participate in land sale auctions or financed sales with the Agency.

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

The main purposes of the repeal and reenactment of this rule is to establish an electronic bidding process for public land sales and to allow for a minimum 7.5% annual variable interest rate when land sales are financed with the Agency. If a small business is the successful bidder for a parcel, then the 3% contractor charge would be passed along to that bidder. In addition, if the small business owner were to purchase a parcel of land and then finance it with the Agency, the minimum annual rate would be 7.5% (where previously it would have been prime plus 2.5% with no minimum rate). These costs are unknown since the final purchase price of a parcel will not be determined until the close of the auction. It is also unknown whether the minimum interest rate would affect such a purchaser because prime rate fluctuates frequently.

Potential auction bidders (including small businesses) may save money as a result of this rule change if they would have ordinarily paid to travel to an in-person public auction held by the Agency since these expenses would no longer be required for online bidding.

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

The main purposes of the repeal and reenactment of this rule is to establish an electronic bidding process for public land sales and to allow for a minimum 7.5% annual variable interest rate when land sales are financed with the agency. If a non-small business is the successful bidder for a parcel, then the 3% contractor charge would be passed along to that bidder. In addition, if the non-small business owner were to purchase a parcel of land and then finance it with the Agency, the minimum annual rate would be 7.5% (where previously it would have been prime plus 2.5% with no minimum rate). These costs are unknown since the final purchase price of a parcel will not be determined until the close of the auction. It is also unknown whether the minimum interest rate would affect such a purchaser because prime rate fluctuates frequently.

Potential bidders (including non-small businesses) may save money as a result of this rule change if they would have ordinarily paid to travel to an in-person public auction held by the Agency since these expenses would no longer be required for online bidding.

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 main purposes of the repeal and reenactment of this rule is to establish an electronic bidding process for public land sales and to allow for a minimum 7.5% annual variable interest rate when land sales are financed with the agency. If a person other than a small business, non-small business, state, or local government entity is the successful bidder for a parcel, then the 3% contractor charge would be passed along to that bidder. In addition, if this person were to purchase a parcel of land and then finance it with the Agency, the minimum annual rate would be 7.5% (where previously it would have been prime plus 2.5% with no minimum rate). These costs are unknown since the final purchase price of a parcel will not be determined until the close of the auction. It is also unknown whether the minimum interest rate would affect such a purchaser because prime rate fluctuates frequently.

Potential bidders may save money as a result of this rule change if they would have ordinarily paid to travel to an in-person public auction held by the Agency since these expenses would no longer be required for online bidding.

F) Compliance costs for affected persons:

The main purposes of the repeal and reenactment of these rules are to establish an electronic bidding process for public land sales and to allow for a minimum 7.5% annual variable interest rate when land sales are financed with the agency. No compliance costs will be charged by the contractor providing the electronic auction service or will be incurred by the Agency. No compliance charges are associated with the minimum 7.5% annual interest rate.

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
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits			
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Director of Department of School and Institutional Trust Lands Administration, David Ure, has reviewed and approved this fiscal analysis.

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

The intent of this rule is to provide another mechanism for offering trust lands for sale to the private sector. As such, no adverse fiscal impact for business is anticipated.

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

David Ure, 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):

28 Stat. 107-112, Utah Enabling Act of 1894, Sections 6, 8, 10, 12	Subsection 53C-2-201(1)(a)	Section 53C-4-202(6)
Article X	Article XX	Section 63G-2-305
Section 53C-1-302(1)(a)(ii)	Section 53C-4-102	Section 53C-4-101(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: 05/31/2021

10. This rule change MAY become effective on: 06/07/2021

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

Agency Authorization Information

Agency head or designee, and title:	David Ure, Director	Date:	04/13/2021
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R850. School and Institutional Trust Lands, Administration.

R850-80. Sale of Trust Lands.

~~**R850-80-100. Authorities.**~~

~~_____ This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) which authorize the director to prescribe the terms and conditions for the sale of trust land.~~

~~**R850-80-150. Planning.**~~

~~_____ In addition to those other planning responsibilities described herein, the agency shall:~~

- ~~_____ 1. Submit proposals for the sale of trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;~~
- ~~_____ 2. Evaluate and respond to comments received through the RDCC process; and~~
- ~~_____ 3. Evaluate any comments received through the notice and advertising processes conducted pursuant to R850-80-600 and R850-80-615.~~

~~**R850-80-200. Sale of Trust Lands.**~~

~~_____ The agency may sell trust land if the agency determines that the sale of the land would be in the best interest of the trust beneficiaries and provided that the land is sold for no less than fair market value.~~

~~**R850-80-250. Evaluation of Temporary Easements, Rights of Entry and Existing Rights of Record.**~~

~~_____ Prior to the sale of any trust land, the agency shall undertake the notification process set forth in R850-40-250(2) to evaluate whether any temporary easement or right of entry exists on the subject property. The agency shall also evaluate the presence and impact of other valid existing rights of record on the subject property prior to sale, and take any appropriate steps to mitigate adverse impacts resulting from such rights.~~

R850-80-300. Sales Initiation Process.

~~The sales process shall be initiated by an agency determination to evaluate the appropriateness of the sale of a particular parcel of trust land. The evaluation shall be undertaken in accordance with R850-80-500. In determining the appropriateness of a parcel of trust land for sale, the agency may consider nominations by interested parties.~~

R850-80-400. Sales Deposits.

~~If the agency evaluates a parcel of trust land for sale due to a nomination by an interested party, the person making such nomination may be required to deposit funds in an amount determined by the agency to be used to offset costs incurred in preparing the parcel for sale. In the event the person making the deposit is the successful purchaser of such land, the deposit shall be a credit against any fees charged by the agency to the purchaser for preparing the land for sale. In the event the person making the deposit is not the successful purchaser of such land or the land is not offered for sale, the deposit shall be refunded.~~

R850-80-500. Sale Determination Procedures.

- ~~1. Preliminary Analysis~~
 - ~~(a) The director shall not offer trust land for sale when:

 - ~~i) the subject property is appreciating in value at a rate in excess of the anticipated return from the investment of the principle;~~
 - ~~ii) there is no evidence of competitive market interest, unless the purpose of the sale is to test the market in a particular area;~~
 - ~~iii) the sale would create obstacles to future mineral development on trust lands; or~~
 - ~~iv) in the sole discretion of the director, it has been determined that the sale would foreclose future development or management options which would likely result in greater long term economic benefit.~~~~
 - ~~2. Market Analysis~~
 - ~~(a) The agency shall conduct a market analysis of a proposed sale of trust land which shall include an estimate of value. If the estimate of value is determined by an appraisal, the cost of the appraisal shall be borne by the successful purchaser.~~
 - ~~(b) The market analysis may also include the evaluation of:

 - ~~i) real estate trends;~~
 - ~~ii) market demand;~~
 - ~~iii) opportunity costs including potential for appreciation; and~~
 - ~~iv) associated management costs of retention.~~~~
 - ~~3. Sale Determination~~
 - ~~(a) The director may take into account any factor and circumstances deemed relevant, as well as any applicable policy adopted by the board, when making a determination as to whether to sell trust land. Prior to the sale of trust land, the agency shall take prudent and cost-effective actions to increase the value of the land.~~
 - ~~(b) If a sale is determined to be appropriate, the agency shall determine the minimum acceptable selling price of the subject property, which minimum acceptable selling price shall not be less than fair market value. This determination may include information from any of the following:

 - ~~i) the appraisal;~~
 - ~~ii) the data gathered pursuant to R850-80-500(2); and~~
 - ~~iii) any other information which the agency considers relevant.~~~~
 - ~~(c) The minimum acceptable selling price shall be provided protected records status until the sale is consummated, unless otherwise ordered by the director.~~

R850-80-550. Methods of Sale.

- ~~The agency may sell land or assets using one of the methods described below:

 - ~~1. A public sale pursuant to R850-80-610, or~~
 - ~~2. A negotiated sale pursuant to R850-80-620.~~~~

R850-80-600. Public Sale Notice and Advertising.

- ~~1. At least 30 days prior to a public sale, notice shall be sent by certified mail to:

 - ~~(a) the appropriate county authority in which the subject property is located with a request to have the notice posted in the governmental administrative building or courthouse and other appropriate locations;~~
 - ~~(b) lessees/permittees of record on the subject property; and~~
 - ~~(c) adjoining landowners as shown on county records.~~~~
- ~~2. The notice of sale shall include:

 - ~~(a) the date, time, and location where the sale will be held;~~
 - ~~(b) a general description of the subject property including township, range, and section and a brief description of the location of the subject property; and~~
 - ~~(c) contact information of the agency office where interested parties can obtain more information.~~~~
- ~~3. The agency may advertise public sales using any other methods the director has determined may increase the potential for additional competition at the sale.~~

R850-80-610. Public Sale Auctions.

- ~~Public sale auctions shall be conducted as follows:

 - ~~1. Sealed bids shall be accepted until the day prior to the auction by the agency, or on the day of the auction by the officer conducting the auction.~~
 - ~~2. A sealed bid shall contain funds in an amount equal to at least 10% of the total bid amount offered to purchase the subject property and may be required to consist of certified funds. Bids and bid deposits shall be a specified dollar amount. The agency reserves the right to reject any bid however submitted.~~
 - ~~3. Purchasers who have defaulted on certificates of sale may be required to make larger down payments or submit sealed bids in the form of certified funds even if such a requirement is not contained in the notice of sale.~~
 - ~~4. The persons submitting the three highest bids shall be allowed to enter into oral bidding, which shall begin at the amount of the highest sealed bid, subject to those terms and conditions of R850-80-610(5). Those persons who submit a sealed bid that is within 20% of the third highest sealed bid shall also be allowed to participate in oral bidding, subject to those terms and conditions of R850-80-610(5).~~
 - ~~5. In the event the minimum selling price of a property is disclosed prior to the auction, persons who bid less than the disclosed minimum selling price shall be disqualified and shall not be eligible for oral bidding, even if such bids would otherwise meet those requirements in R850-80-610(4) or (6).~~
 - ~~6. Only current grazing permittees, materials permittees and special use lessees on the subject property who submit sealed bids shall automatically qualify to enter into oral bidding, subject to those terms and conditions of R850-80-610(5).~~
 - ~~7. All bids, whether sealed or oral, constitute a valid offer to purchase. An attempt to withdraw a sealed bid after the first sealed bid has been read, or an attempt to withdraw or amend an oral bid may result in the forfeiture of the bid deposit and any other remedy afforded the agency at law or equity.~~~~

8. If, after the first round of oral bidding, no bid is submitted which equals or exceeds the agency's minimum selling price, then the sale shall not be made except as provided below.

(a) At the discretion of the officer conducting the sale, qualified bidders may enter into additional rounds of oral bidding, starting at the high bid reached in the previous round.

(b) To facilitate the sale of the parcel, the officer conducting the sale may divulge the minimum selling price.

9. At the conclusion of the auction, the agency shall collect from the successful bidder:

(a) a down payment in the amount required by the sale notice;

(b) interest on the unpaid balance from the date of sale to the first day of the following month; and

(c) reimbursement of costs incurred in preparing the parcel for sale, which may include costs incurred for advertising, appraisal, cultural resource investigations, environmental assessments, and a sale processing charge.

10. The first payment shall be due one year from the first day of the month following the sale; subsequent payments shall be due on the first day of the same month each year thereafter until the balance is paid in full.

11. Amounts paid in excess of the current obligations shall be applied to principal. The unpaid balance, plus interest to date, may be paid in full at any time without penalty.

12. If the successful bidder defaults on the down payment or otherwise fails to meet the requirements of R850-80-610(9), the property may, upon approval by the director, be offered for sale to the person whose bid was second highest at the auction provided that the terms of the sale shall meet or exceed the minimum acceptable selling price established for the subject property. The second highest bidder shall have 30 days from the date of the agency's offer to submit the amounts required under R850-80-610(9).

13. The interest rate which shall be charged against any unpaid balance at the conclusion of the auction shall be the prime rate, as determined by the agency on the date the public sale is approved by the director, plus 2 1/2% (Prime Rate + 2 1/2%). Interest shall be calculated on a 365-day basis. Every year thereafter, the interest rate which shall be charged against the unpaid balance shall be the prime rate, as determined by the agency on the date of billing, plus 2 1/2% (Prime Rate + 2 1/2%).

14. Third parties owning authorized improvements on the parcel at the time of the sale shall be allowed 90 days from the date of the sale to remove the improvements. This provision is not applicable when such improvements are permitted under a valid existing right of record when such right survives the sale of the parcel.

R850-80-615. Negotiated Sale Notice and Advertising.

1. Prior to an agency decision to initiate a negotiated sale, notice of such shall be sent by certified mail to:

(a) the appropriate county authority in which the subject property is located with a request to have the notice posted in the governmental administrative building or courthouse and other appropriate locations;

(b) lessees/permittees of record on the subject property; and

(c) adjoining landowners as shown on county records.

2. The notice of sale shall include:

(a) a general description of the subject property including township, range, and section and a brief description of the location of the subject property; and

(b) contact information of the agency office where interested parties can obtain more information.

3. The agency may advertise negotiated sales using any other methods the director has determined may increase the potential for additional interest in the subject property.

R850-80-620. Negotiated Sale Procedures.

1. Negotiated sales shall be advertised in the manner set forth in R850-80-615. In the event a competing offer(s) is received, the agency shall evaluate the offers and determine what action is in the best interest of the beneficiaries.

2. The board and affected beneficiary institution(s) shall be provided notice 30 days prior to the sale describing the terms, reasons, and other pertinent facts of the proposed negotiated sale.

3. Board approval of a negotiated sale is required if:

(a) the value of the subject property exceeds \$250,000.00;

(b) the subject property exceeds 320 acres in size; or

(c) additional interested person(s) indicate to the agency an interest in purchasing the subject property.

4. A purchaser of trust land sold at a negotiated sale may be required to reimburse the agency for costs incurred in preparing the parcel for sale, which may include costs for advertising, appraisal, cultural resource investigations, environmental assessments, and a sale processing charge.

R850-80-700. Certificates of Sale.

1. Following a public sale or upon concurrence of the parties in a negotiated sale, the agency shall prepare and deliver a certificate of sale to the purchaser. This certificate shall contain a legal description of the subject property, and shall include:

(a) information regarding the amount paid;

(b) the amount due;

(c) the time when the principal and interest shall become due;

(d) the beneficiary of the land;

(e) provisions for remedies if the agency may elect in the event of a default, as such remedies are set forth in R850-80-700(8); and

(f) any other terms, covenants, deed restrictions, or conditions which the agency considers appropriate.

2. Certificates of sale must be executed by the purchaser and returned to the agency within 30 days from the date of the purchaser's receipt of the certificate. If the certificate is not received by the agency within the 30-day period, certified notice shall be sent to the purchaser giving notice that after 30 days the sale may be canceled with all monies received, including the down payment, forfeited to the agency. Notification by certified mail, return receipt requested, of this forfeiture provision shall accompany the transmittal of the certificate to the purchaser.

3. A certificate of sale shall be signed by the director after it has been signed by the purchaser and returned to the agency. The certificate shall not be final and no rights shall vest in the purchaser until the certificate is executed by the director. The agency reserves the right to cancel a sale of trust land for any reason prior to execution of the certificate by the director.

4. A certificate of sale may be assigned to any person qualified to purchase trust lands, provided that the assignment is approved by the director, and that no assignment is effective until approval is given by the director in writing.

5. An assignment of a certificate of sale shall be consistent with these rules, executed by the assignee and assignor and acknowledged, and shall clearly set forth the certificate of sale number, the land involved, and the name and address of the assignee.

6. Assignment of a certificate of sale does not relieve the assignor from any obligations under the original certificate of sale.

~~7. Upon payment in full and surrender of the original certificate of sale for any tract of land sold, or payment in full of any amounts required under R850-80-750(3) for the partial release of property, the agency shall issue a patent to the appropriate person.~~

~~8. In the event of a purchaser's default under the certificate of sale, the agency's remedies shall include, without limitation, acceleration of the debt, forfeiture, any remedy which the agency may pursue under the certificate of sale, suit for judgment, foreclosure as provided for under Section 57-1-19 et seq. for trust deeds, and any other remedies afforded at law or equity.~~

R850-80-750. Partial Releases.

~~Partial release of property sold under a certificate of sale may be allowed at the discretion of the director. The following conditions shall be met:~~

~~1. Access to the remainder of the land must be preserved without restriction;~~

~~2. All utilities and infrastructure, including water, sewer and storm drains, electric power, and natural gas, installed on land covered by the certificate shall have the capacity and capability to service all trust land originally included in the certificate;~~

~~3. Unless the director makes a written finding that waiver of this condition would be in the best interests of the trust beneficiaries, payment shall be made to the agency in an amount equal to 125% of the original price per acre, multiplied by the number of acres to be released, plus interest on that amount to the date payment is received. The payment shall be in the form of certified funds, and shall be applied to principal. This payment shall not affect the amount or due dates of annual payments;~~

~~4. Unless the director makes a written finding that waiver of this condition would be in the best interests of the beneficiaries, the 125% payment required by paragraph 3 above shall not include the 10% down payment or any annual installment paid under the certificate of sale;~~

~~5. The buyer shall provide a survey and legal description prepared and sealed by a Utah Registered Land Surveyor of the parcel to be released and the remaining land under the certificate; and~~

~~6. The value of the remaining land shall not be reduced to an amount less than the remaining principal balance of the certificate.]~~

R850-80-100. Authorities.

~~This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1), which authorize the director to prescribe the terms and conditions for the sale of trust lands.~~

R850-80-150. Planning.

~~In addition to those other planning responsibilities described herein, the agency shall:~~

~~(1) Submit proposals for the sale of trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;~~

~~(2) Evaluate comments received through the RDCC process; and~~

~~(3) Evaluate any comments received through the notice and advertising processes conducted pursuant to R850-80-605 and R850-80-615.~~

R850-80-200. Determination to Sell Trust Lands.

~~(1) The director may sell trust lands if the director determines that the sale would be in the best interest of the trust beneficiaries. The director may take into account any factor and circumstances deemed relevant in determining whether to sell trust lands.~~

~~(2) In determining whether the sale of trust lands is in the best interest of the trust beneficiaries, the director may consider the following factors:~~

~~(a) whether the subject parcel is appreciating in value at a higher rate than the anticipated rate of return on the purchase price;~~

~~(b) whether there is evidence of competitive market interest, unless the purpose of the sale is to test the market in a particular area;~~

~~(c) whether the sale would create obstacles to future mineral development on trust lands; or~~

~~(d) whether, in the director's sole discretion, the sale would foreclose future development or management options that would likely result in greater long-term economic benefits.~~

~~(3) The director may not sell trust lands for less than fair market value.~~

R850-80-250. Evaluation of Temporary Easements, Rights-of-Entry, and Other Existing Rights of Record.

~~Prior to the sale of trust lands, the agency shall determine, pursuant to R850-40-250(2), whether temporary easements or rights-of-entry exist on the subject parcel. The agency shall also evaluate the presence and impact of other valid existing rights of record on the subject parcel prior to sale.~~

R850-80-300. Determination of Fair Market.

~~(1) If the director determines that the sale of a parcel of trust lands is in the best interest of the beneficiaries, the agency shall determine the fair market value of the parcel. In determining the fair market value of a parcel, the agency may consider:~~

~~(a) an appraisal;~~

~~(b) a market analysis, including evaluation of real estate trends, market demand, opportunity costs of the sale, and the management costs of retention; and/or~~

~~(c) other information that the agency considers relevant.~~

~~(2) The agency shall evaluate whether taking prudent and cost-effective actions would increase the fair market value of the parcel.~~

R850-80-400. Deposits on Nominated Parcels.

~~(1) If the director evaluates a parcel of trust lands for sale due to a nomination by an interested party, the agency may require the nominator to deposit funds to offset the costs incurred by the agency to prepare the parcel for sale.~~

~~(2) If the nominator purchases the parcel, the agency shall credit the deposit against those costs and fees charged by the agency pursuant to R850-80-610(4) and R850-80-620(4).~~

~~(3) If the agency does not offer the subject parcel for sale or if the nominator submits a credible bid on the subject parcel but is not the successful bidder, the agency shall refund the deposit to the nominator. A bid less than a disclosed minimum acceptable purchase price is not a credible bid.~~

R850-80-500. Agency Financing.

~~(1) The agency may offer financing at a variable interest rate on any unpaid portion of the purchase price or other costs owed by the purchaser.~~

~~(2) Unless otherwise determined by the director, the interest rate shall be equal to the greater of:~~

~~(a) the prime rate plus 2.5%, or~~

~~(b) 7.5%.~~

~~(3) The agency shall establish the interest rate for each payment due by determining the prime rate as of the date of billing, except for interest due pursuant to R850-80-610(6) and R850-80-620(4).~~

(4) Interest is calculated on a 365-day basis, except for interest due pursuant to R850-80-610(6) and R850-80-620(4).

(5) The agency shall use the prime rate established as of a date determined by the director prior to the sale to determine the interest due pursuant to R850-80-610(6) and R850-80-620(4).

(6) A purchaser that finances through the agency shall make annual payments on the debt for no longer than 20 years. The agency may establish a shorter financing period.

(7) The purchaser shall make the first payment on or before one year from the first day of the month following the date of sale. The purchaser shall make all subsequent payments on or before the first day of the same month of each year thereafter until the balance is paid in full. The agency may require more frequent payments.

(8) The agency shall apply amounts paid in excess of the current obligation to principal. The purchaser may pre-pay the unpaid balance and accrued interest at any time without penalty.

(9) If the purchaser fails to pay an annual payment or accrued interest when due, the agency shall send the purchaser notice of default and allow the purchaser to cure the default, including paying any late fees, within 30 days of the notice. If the purchaser fails to cure the default within the 30-day cure period, the agency may accelerate the debt, forfeit the purchaser's interest in the subject parcel, and pursue all other available contractual, legal, or equitable remedies, including specific performance.

(10) A purchaser that finances through the agency shall execute and acknowledge a quitclaim deed in favor of the agency for the subject parcel. The agency may not record the quitclaim deed unless the agency forfeits the purchaser's interest in the subject parcel pursuant to R850-80-500(5).

R850-80-600. Methods of Sale.

The director may sell trust lands using one of the methods described below:

(1) A public auction pursuant to R850-80-610, or

(2) A negotiated sale pursuant to R850-80-620.

R850-80-605. Advertisement of Public Auction.

(1) At least 45 days prior to a public auction, the agency shall give notice by certified mail to:

(a) the legislative body of the county in which the subject parcel is located;

(b) lessees/permittees of record on the subject parcel; and

(c) adjoining landowners as shown on county records.

(2) The notice of sale must include:

(a) the date and time of the auction;

(b) whether the auction will be held in person or by electronic means;

(c) if the auction is held in person, the location of the auction;

(d) if the auction is held electronically, the ways in which a potential bidder may participate;

(e) a general description of the subject parcel and a brief description of its location, including township, range, and section; and

(f) the contact information of the agency office where interested parties can obtain more information.

(3) The agency may advertise public auctions using other methods determined by the agency to increase competition at the auction.

R850-80-610. Public Auction Rules and Procedures.

(1) The agency may conduct a public auction in person or electronically.

(2) The agency shall publish the bidding procedures at the agency's website, which procedures must include:

(a) information required to register for the auction, if applicable;

(b) payments required to be paid at the auction by the successful bidder, including the down payment and costs and fees assessed by the agency pursuant to R850-80-610(4); and

(c) whether the agency is willing to finance the unpaid portion of the purchase price.

(3) The agency may disclose the minimum acceptable purchase price for the subject parcel.

(4) The agency may require that the successful bidder reimburse the agency for costs incurred by the agency in preparing the parcel for sale, including the costs of advertising, appraisal, cultural resource investigations, and environmental assessments. The agency may also charge a sale processing fee.

(5) A bid constitutes a valid offer to purchase.

(6) At the conclusion of the auction, the successful bidder shall pay the agency the down payment, the costs and fees published pursuant to R850-80-610(4), and if the successful bidder elects to finance through the agency, the interest on the unpaid balance as calculated from the date of sale to the first day of the following month.

(7) If the successful bidder does not finance the remainder of the purchase price through the agency, the successful bidder shall pay the remainder of the purchase price at the conclusion of the auction. If the successful bidder fails to pay the purchase price at the auction, the agency is not required to finalize the transaction and may retain all amounts paid by the successful bidder at the auction.

(8) If the successful bidder fails to pay the amounts required under R850-80-610(6) or fails to execute the certificate of sale within 30 days, pursuant to R850-80-700(2), the director may offer the subject parcel for sale to the person whose bid was second highest at the auction. The purchase price paid by the second highest bidder must meet or exceed the minimum acceptable purchase price. To accept the agency's offer, the second highest bidder shall submit all amounts owing under R850-80-610(6) or R850-80-610(7) and execute the certificate of sale within 30 days after the agency's offer.

(9) If a third party owns improvements on a parcel of trust lands sold at auction that were installed pursuant to a valid permit or other right granted by the agency and such valid right does not survive the sale of the parcel, the purchaser shall permit the owner of the improvements to remove them within 90 days after the date of the auction.

R850-80-615. Advertisement of Negotiated Sale.

(1) The agency shall give notice of a negotiated sale by certified mail to:

(a) the legislative body of the county in which the subject parcel is located;

(b) lessees/permittees of record on the subject parcel; and

(c) adjoining landowners as shown on county records.

(2) The notice of sale must include:

(a) a general description of the subject parcel and a brief description of its location, including township, range, and section; and

(b) the contact information of the agency office where interested parties can obtain more information.

(3) Negotiated sales must be advertised using methods determined by the agency to be in the best interest of the beneficiaries.

R850-80-620. Negotiated Sale Procedures.

(1) If the agency receives an expression of competitive interest within the notice period, the agency shall evaluate the offer and determine what action is in the best interest of the beneficiaries.

(2) The agency shall give the board and affected beneficiary prior notice of the proposed negotiated sale, which notice must describe the terms, reasons, and other pertinent facts of the proposed negotiated sale.

(3) Board approval of a negotiated sale is required if:

(a) the fair market value of the subject parcel exceeds \$250,000.00;

(b) the subject property exceeds 320 acres; or

(c) the agency receives a competitive offer on the subject parcel.

(4) The agency may require the purchaser to pay a down payment and the costs and fees described in R850-80-610(4)

R850-80-700. Certificates of Sale.

(1) Following a public auction or on concurrence of the parties in a negotiated sale, the agency shall prepare and deliver a certificate of sale to the purchaser. The certificate must contain:

(a) a legal description of the subject parcel;

(b) the purchase price and any pre-paid amounts;

(c) costs assessed by the agency;

(d) financing terms, if applicable;

(e) the dates on which obligations must be met;

(f) the beneficiary of the subject parcel;

(g) remedies available to the agency on default by the purchaser, including forfeiture; and

(h) any other terms, covenants, deed restrictions, or conditions that the agency considers appropriate.

(2) For trust lands purchased at an auction, the successful bidder must execute the certificate of sale within 30 days of receipt from the agency. If the successful bidder fails to execute the certificate of sale within the 30-day period, the agency is not required to finalize the transaction and may retain the down payment and costs paid by the successful bidder at the auction.

(3) The agency may terminate a negotiated sale for any reason prior to finalization of the certificate of sale. If a negotiated sale is terminated by the proposed purchaser, the agency may retain the costs and fees paid pursuant to R850-80-620(4).

(4) A certificate of sale is not final until the purchaser and the director or other authorized agency representative executes the certificate.

(5) The purchaser under a certificate of sale may assign the certificate of sale to any person qualified to purchase trust lands. If the purchaser desires to assign the certificate prior to payment in full of the purchase price and all accrued interest, the purchaser must have the agency's prior written consent to the assignment. The agency may require the assignee to execute a quitclaim deed, as required under R850-80-500(6), as a condition to consent to the assignment. An assignment of a certificate of sale must clearly identify the subject parcel, the certificate of sale number, the name and address of the assignee, and be executed by both the assignor and assignee.

(6) Assignment of a certificate of sale does not relieve the assignor from any obligations arising prior to the date of assignment.

(7) Within a reasonable time after payment in full of the amounts owing under a certificate of sale, the agency shall seek issuance of a patent from the governor or the governor's designee to the purchaser of the property.

R850-80-750. Partial Releases.

(1) The director may authorize a partial release of trust lands sold under a certificate of sale if in the director's sole determination it is in the best interest of the trust beneficiaries. In considering whether a partial release is in the best interest of the trust beneficiaries, the director may consider the following:

(a) whether access to the remainder of the parcel is preserved without restriction;

(b) whether utilities and infrastructure, including water, sewer and storm drains, electric power, and natural gas, installed on trust lands covered by the certificate have the capacity and capability to service the whole of the parcel;

(c) whether the value of the remaining portion of the parcel is less than the remaining principal balance of the certificate; and

(d) any other factor the director deems reasonable to preserve the value of the remainder of the parcel.

KEY: administrative procedures, sales

Date of Enactment or Last Substantive Amendment: ~~2021~~ ~~October 9, 2007~~

Notice of Continuation: June 27, 2017

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-4-101(1); 53C-4-102; 53C-4-202(6); 63G-2-305; 72-5-203(1)(a)(i); 72-5-203(2)(a)

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R661-24	Filing No. 53391

Agency Information

1. Department:	Navajo Trust Fund	
Agency:	Trustees	
Street address:	151 E 500 N	
City, state, zip:	Blanding, UT 84511	
Contact person(s):		
Name:	Phone:	Email:
Maury Bergman	435-678-1461	mbergman@utah.gov
Tony Dayish	435-678-1468	tdayish@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R661-24. Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program

3. Effective Date:
04/08/2021
4. Purpose of the new rule or reason for the change:
The reason for this new rule is to reinstate an expired rule (R661-6).
5. Summary of the new rule or change:
The objective of the Program is to assist San Juan County, Utah, Navajo college students with scholarships by matching other college financial assistance or funding sources. These requirements and guidelines already existed under Rule R661-6 so there will be no major changes due to this new rule.
6. Regular rulemaking would:
<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or
<input type="checkbox"/> place the agency in violation of federal or state law.
Specific reason and justification:
The Utah Navajo Trust fund continually awards financial assistance to college students. Without this funding, most students would not be able to afford college, which would

affect their general welfare. By implementing this emergency rule, it would allow college students to continue receiving their scholarships.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

All requirements listed in Rule R661-24 previously existed under Rule R661-6. The rule text remains the same. Since the content of this rule has not changed, there will be no fiscal impact to the state budget with this new rule.

B) Local governments:

All requirements listed in Rule R661-24 previously existed under Rule R661-6. The rule text remains the same. Since the content of this rule has not changed, there will be no fiscal impact to local governments with this new rule.

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

All requirements listed in Rule R661-24 previously existed under Rule R661-6. The rule text remains the same. Since the content of this rule has not changed, there will be no costs or savings to small businesses with this new rule.

D) 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**):

All requirements listed in Rule R661-24 previously existed under Rule R661-6. The rule text remains the same. Since the content of this rule has not changed, there will be no fiscal impact on persons, non-small businesses, state or local government entities with this new rule.

8. Compliance costs for affected persons:

All requirements listed in Rule R661-24 previously existed under Rule R661-6. The rule text remains the same. Since the content of this rule has not changed, there will be no compliance costs for affected persons with this new rule.

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

No new fiscal impact will result under this proposed rule because the text remains the same as Rule R661-6.

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

Tony Dayish, Administrator

Citation Information

10. 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):

Title 51, Chapter 10		
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Agency Authorization Information

Agency head or designee, and title:	Maury Bergman, Finance Manager	Date:	04/08/2021
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R661. Navajo Trust Fund, Trustees.

R661-24. Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program.

R661-24-101. Objective.

(1) The Higher Education Financial Assistance Scholarship Program ("the Program") includes both the UNTF Higher Education Scholarship Fund and the UNTF Endowment Fund. The objective of the Program is to assist San Juan County, Utah, Navajo college students with scholarships by matching other college financial assistance or funding sources.

(2) UNTF higher education financial assistance and scholarship funding is available to eligible San Juan County, Utah, Navajo students for studies at institutions of their choice.

(3) The UNTF Endowment Education Fund was established in 1994 to provide college financial assistance to eligible San Juan County, Utah, Navajo College students attending college in San Juan County, Utah, such as Utah State University-Eastern-Blanding Campus. The Endowment Fund was established as a result of a special U. S. Dept. of Education grant which brought together five contributors/partners: UNTF, USU-Eastern, Ute Mountain Tribe, Calvin Black Foundation, and a U.S. Government grant regarding Native American education.

(a) UNTF continues to participate in the Endowment Fund even though the scheduled twenty (20) year period maturity occurred in 2014 due to the good growth of the Fund.

(b) Funds from the Endowment Fund yearly allocation must be exhausted before regular UNTF funds are utilized. The Endowment Fund allocation to UNTF is based on the Endowment's previous year's earnings from investment.

R661-24-201. Definitions.

(1) "College" means any college, university, technical school, or institution of higher learning after high school (post-secondary) level.

(2) "Financial Assistance" means UNTF financial assistance for college expenses.

(3) "Academic Term" means the period of time that the college uses to begin and end educational sessions such as a semester, quarter, term, etc.

R661-24-301. Eligibility.

(1) Applicants must meet the UNTF residency requirement in accordance with the UNTF Residency Rule R661-3-101 every three years.

(a) The residency requirement may have to be renewed more often than three years if a name change or record change becomes essential.

(2) The applicant must be enrolled in at least six (6) credit hours of approved college courses during the regular academic term. Course work must apply towards an approved degree or certificate program from an accredited post-secondary institution.

(a) Repeated and/or audited courses will not be funded by UNTF. If a student changes majors and has to retake lower level courses, only one transition academic term will be paid by UNTF.

(b) The eligible San Juan County, Utah Navajo College student must maintain a 2.0 grade point average on a 4.0 grade point scale. UNTF has the discretion to provide incremental scholarship bonuses to students who obtain a GPA greater than 2.0

(i) Official transcripts are required at the beginning of every fall semester; thereafter, grade reports from the previous academic term shall be submitted to UNTF following the completed academic term.

(ii) Awards are made on a first-come, first-served basis.

(c) If a student's GPA falls below 2.0, UNTF will provide a warning letter to the student and place the student on probation. If a student's GPA is below 2.0 for two consecutive semesters, the student will be ineligible for any further UNTF assistance unless the student is able to bring their GPA to 2.0 or above using their own resources or non-UNTF resources.

(3) San Juan County, Utah, Navajo Students are eligible for UNTF assistance in obtaining a One-year or two-year Certificate, Associates, Baccalaureate, Masters, or Doctorate degree.

(a) Eligible San Juan County, Utah, Navajo College Students shall declare a major in a given field no later than two (2) years after commencement of higher-level education so that proper counseling and academic advice can be provided

(b) Only one bachelor's degree will be funded by UNTF, unless the second degree is closely related to the first degree and if the same prerequisite general education classes can be used.

(c) The limit for Associates Degree is 75 credit hours and 145 credit hours for a Bachelors' Degree.

(d) A "degree contract" must be agreed upon between the college and the student and submitted to UNTF to receive funding. A "degree contract" is a list of core classes and prerequisites required to obtain a degree.

(e) Only one one-year or two-year certificate, or one Associate Degree will be funded by UNTF, unless the certificate or Associate Degree are related to and are part of a program that leads to a further certificate or degree.

(f) UNTF will fund a certificate or degree program for a student, but not both.

(4) Graduate students must submit a letter of acceptance and be eligible for UNTF Scholarship, and must carry the minimum graduate studies requirement of the College. An exception will be made if the course work is one of a special requirement for the professional track and/or tenure such as a special license or certification.

(5) High School Concurrent Enrollment Program students must meet the eligibility criteria regarding all requirements for the UNTF Higher Education Scholarship and Financial Assistance Program with the following modifications:

(a) Applicant shall provide a letter of recommendation from his/her high school counselor or school officials for concurrent enrollment program participation. The letter should address the student's ability to meet the demands of concurrent enrollment.

(b) Students must maintain at least a 3.0 grade point average (GPA) in their high school studies to be eligible for this program.

(c) The maximum amount of UNTF assistance available annually is determined by the UNTF Board. The UNTF assistance can

be increased by the UNTF Board of Directors based on the Utah colleges cost data that is maintained by the State of Utah-Department of Education.

(6) On-line or correspondence courses may be taken as long as earned credits are applied to a degree program or a recognized certification program under UNTF funding guidelines.

(a) All UNTF Higher Education Scholarship eligibility requirements must be met by the applicant before any assistance toward the on-line/correspondence courses will be approved.

(b) Students attending on-line/correspondence courses shall be eligible for UNTF funding if enrolled in at least three (3) credit hours of approved college course work.

R661-24-401. Funding.

(1) UNTF is not a primary funding source, UNTF funds are supplemental to other scholarship and financial aid resources. The applicant must submit applications and award or denial letters from other financial aid resources to the UNTF office to prove that the applicant has applied for other sources of funding. UNTF will fund a student based on credit hours. The maximum amount of funding available per academic term is determined by the UNTF Board.

(2) The amount of funding afforded to each eligible San Juan County, Utah, Navajo College student per academic term is determined by the number of credit hours and a financial needs analysis. The award amount per credit-hour-group will be determined by UNTF as part of each year's annual budget.

(a) Should a student drop a class, the student's funding for the next academic term shall be assessed a decreased funding adjustment, unless a refund is properly made by the student.

(i) In order to facilitate the UNTF award on a timely basis toward the student's next academic term, the student must submit a list of the courses from pre-registration to the UNTF Education Specialist. The information will help determine the actual award amount based on the number of hours or credit units to be carried in the next academic term.

(b) Financial Needs Analysis

(i) Applicants must file a FAFSA Grant application with the U.S. Department of Education in order to determine their financial aid needs from UNTF.

(ii) It is the responsibility of the institution's Student Financial Aid Office to complete the needs analysis, and to request an award from UNTF based upon the determined need. When the financial needs determination is completed, the student must complete a UNTF financial assistance application which can be obtained from the UNTF Higher Education Scholarship.

(iii) Upon completion of the needs analysis by the Office of Student Financial Aid, the UNTF Education Specialist will evaluate the level of financial assistance requested, matching resources, and make the appropriate award amount.

(iv) Students with a "No Need" determination (as determined by the educational institution) may be awarded UNTF funding if the financial aid officer at the institution determines the parents cannot or are unwilling to provide the family contribution to meet the student's need as determined by the federal financial aid application analysis.

(A) The UNTF "No Need" contribution amount is limited to the Expected Family Contribution (EFC amount) however, the maximum limits will be no more than 75% of the normal scholarship award amounts.

(B) If financial assistance calculates out at less than \$40.00 for "No Need" it will not be awarded

(C) The EFC amount is determined by the Federal Student Aid program, an office of the U.S. Department of Education, when a student applies to the FAFSA (Free Application for Financial Student Aid) program.

(v) If the student does not qualify for FAFSA and the EFC cannot be determined; and if the student is otherwise eligible for UNTF assistance an \$800.00 grant amount may be awarded for the last academic term prior to graduation for a bachelor's degree or higher degree.

(3) All student applicants must also apply to the Navajo Nation Office of Scholarship and Financial Assistance (ONNSFA). UNTF coordinates with ONNSFA to exchange information regarding match funding with UNTF and other acquired resource funds. All Student applicants to the UNTF funds must sign the UNTF Consent Form (UNTF Form R6101-2 Consent Form) that authorizes UNTF to contact ONNSFA to verify funding verification.

(4) The UNTF Education Specialist will process the required and appropriate funding documentation to the UNTF Financial Manager for funding disbursement. The UNTF Financial Manager shall maintain accounts, historical and concurrent, of all UNTF-funded students for proper record keeping and reporting. UNTF check(s) will be mailed to the institution's Student Financial Aid Office. No payment(s) will be made directly to a student.

(5) All Post-Graduate students must abide by appropriate application procedures in accordance with post-graduate study program requirements. Supplemental funding from other sources is a major requirement in participating in the graduate-studies program, including program funds from the Office of Navajo Nation Scholarship and Financial Aid (ONNSFA). Other considerations regarding special studies as applied to the undergraduate program also apply.

(6) UNTF Higher Education Scholarship funds may not be used to pay loans, including education loans; purchase(s) of personal belongings not directly associated with higher education studies; encumbrances from previous year's college/university attendance; and other expenses for which the funds are not intended.

(a) Students withdrawing from classes are required to refund the UNTF awards for that academic term. UNTF reserves the right to adjust awards for any refund amounts that were not paid.

(b) The penalty for misspent or misused UNTF scholarship funds will include placing the student on ineligible status for a one (1) year period. The student may re-establish his/her eligibility for UNTF funding by successfully completing a full academic year without the financial assistance of UNTF.

(c) Misuse or false acquisition of scholarship or emergency assistance funds by the student shall be subject to repayment to UNTF Higher Education Scholarship Program via standard collection procedures, which may include legal action.

R661-24-501. Application Schedule and Requirements.

(1) The UNTF Higher Education Scholarship Program observes and follows a funding schedule compatible with Federal, State, Tribal, and private agencies. Students must carefully observe these schedules to allow for the most timely funding application consideration, especially application deadline dates. Matching funds are critical and essential, since UNTF funding is supplemental.

(2) Students should observe the institution's academic year schedule and early funding application submittal to UNTF to ensure proper funding review and consideration.

R661-24-601. Student Recipient Obligations.

(1) UNTF-funded students must maintain acceptable academic progress in conformance with academic standards set by

UNTF and the participating institutions. UNTF requires the funded student to maintain a minimum grade point average (GPA) of 2.0 to be eligible for continued funding consideration.

(2) Official transcripts shall be provided to UNTF at the commencement of the each fall academic term.

(a) If a student fails to provide an official transcript, UNTF funds will be discontinued.

(b) A student's failure to provide required funding documents is not grounds for grievance action on the part of the student.

(3) In order to receive UNTF Funding the Student shall execute all necessary documentation required by the College to permit the College to release the Student's official transcript and degree information to UNTF.

R661-24-701. Program Effectiveness Metrics.

(1) Scholarship recipient progress shall be tracked by UNTF staff.

(2) UNTF staff shall report to the UNTF Board:

(a) When a recipient completes a certificate or degree program; and

(b) The time it took the recipient to complete the program.

R661-24-801. Grievance and Appeal Procedures.

(1) Grievance and Appeals Procedures: A student applicant may file a grievance with the UNTF Education Specialist if the student disagrees with the decision rendered regarding his/her funding.

(a) The written grievance shall be submitted to the Education Specialist within fifteen (15) calendar days from the date the adverse decision was mailed to the student.

(b) The written grievance statement must contain a justification for re-consideration of the Education Specialist's decision, including attachment of documents which may support such justification.

(2) The Education Specialist shall report receipt of the written grievance to the UNTF Financial Manager for review. The UNTF Financial Manager shall make a determination regarding the substance of the grievance within fifteen (15) calendar days of receipt of the written grievance.

(a) If the grievant is dissatisfied with the Financial Manager's decision, an appeal may be filed with UNTF.

(i) To appeal the decision of the UNTF Financial Manager, an applicant may submit a written request for a hearing to the UNTF Scholarship Appellate Committee within fifteen (15) calendar days from the date the adverse decision was mailed to the student, via the Education Specialist.

(A) The Applicant must include a written justification statement setting forth with specificity the reason(s) why the decisions made by the Higher Education Specialist and the Financial Manager should be reversed.

(B) The Applicant shall include copies of all documentation supporting the justification identified in the Applicant's statement.

(ii) The Appellate Committee must commence a hearing within fifteen (15) calendar days of the receipt of the request.

(iii) The student shall be notified in writing by certified mail fifteen (15) calendar days prior to the hearing.

(iv) A decision by the Appellate Committee shall be rendered within fifteen (15) calendar days after the Committee hearing.

(3) Appellate Committee

(a) The Appellate Committee is comprised of: 1) two members of the UNTF Dine' Advisory Committee, 2) the UNTF

Administrator, 3) a college student, and 4) a representative from another state agency or institution of higher learning.
 (b) The Appellate Committee may choose not to hear a case if the grieving party has not submitted a justification in writing with appropriate and necessary supportive documentation.
(4) Appellate Committee Hearing Procedures
 (a) Attorneys, court advocates, or any type of legal representation are not allowed in the Appellate Committee Hearing. Family members or other persons are not allowed in the Committee Hearing. The attendees of the hearing will consist of the Appellate Committee members, the UNTF Education Specialist, and the Applicant (Grievant).
 (b) A letter will be sent to the UNTF Education Specialist and the Student/Grievant of the Appellate Committee's decision on the matter. This will be the final decision and final step of the UNTF Appeal and Grievance process.

R661-24-901. Forms.

R6101-1a. UNTF Higher Educational Financial Assistance and Scholarship Application form and b.Financial Needs Analysis
R6101-2 Consent Form

KEY: scholarships, endowment fund, college, Utah Navajo Trust Fund (UNTF)
Date of Enactment or Last Substantive Amendment: April 8, 2021
Authorizing, and Implemented or Interpreted Law: 51-10

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R661-25	Filing No. 53392

Agency Information

1. Department:	Navajo Trust Fund	
Agency:	Trustees	
Street address:	151 E 500 N	
City, state, zip:	Blanding, UT 84511	
Contact person(s):		
Name:	Phone:	Email:
Maury Bergman	435-678-1461	mbergman@utah.gov
Tony Dayish	435-678-1468	tdayish@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R661-25. Utah Navajo Trust Fund Housing Projects Policy
3. Effective Date:
04/08/2021

4. Purpose of the new rule or reason for the change:
The reason for this new rule is to reinstate an expired rule (R661-7).
5. Summary of the new rule or change:
The objective of this policy is to provide housing assistance to San Juan County, Utah Navajos. These requirements and guidelines already existed under Rule R661-7 so there will be no major changes due to this new rule.
6. Regular rulemaking would:
x cause an imminent peril to the public health, safety, or welfare;
cause an imminent budget reduction because of budget restraints or federal requirements; or
place the agency in violation of federal or state law.
Specific reason and justification:
The Utah Navajo Trust fund continually assists Utah Navajos by building suitable housing for them. Without this funding, many Navajos would not be able to afford a place to live, which would affect their general welfare. By implementing this emergency rule, it would allow the Trust Fund to continue providing funding for apposite housing.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
All requirements listed in Rule R661-25 previously existed under Rule R661-7. The rule text remains the same. Since the content of this rule has not changed, there will be no fiscal impact to the state budget with this new rule.
B) Local governments:
All requirements listed in Rule R661-25 previously existed under Rule R661-7. The rule text remains the same. Since the content of this rule has not changed, there will be no fiscal impact to local governments with this new rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
All requirements listed in Rule R661-25 previously existed under Rule R661-7. The rule text remains the same. Since the content of this rule has not changed, there will be no fiscal impact to small businesses with this new rule.
D) 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):
All requirements listed in Rule R661-25 previously existed under Rule R661-7. The rule text remains the same. Since the content of this rule has not changed, there will be no fiscal impact to other persons, non-small

businesses, state or local government entities with this new rule.
8. Compliance costs for affected persons:
All requirements listed in Rule R661-25 previously existed under Rule R661-7. The rule text remains the same. Since the content of this rule has not changed, there will be no compliance costs for affected persons with this new rule.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
No new fiscal impact will result under this proposed rule because the text remains the same as R661-7.
B) Name and title of department head commenting on the fiscal impacts:
Tony Dayish, Administrator

Citation Information

10. 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):
Title 51, Chapter 10

Agency Authorization Information

Agency head or designee, and title:	Maury Bergman, Finance Manager	Date:	04/08/21
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**R661. Navajo Trust Fund, Trustees.
R661-25. Utah Navajo Trust Fund Housing Projects Policy.
R661-25-101. Requesting UNTF Housing Assistance.**

(1) Individuals requesting UNTF housing assistance must apply to their respective Chapter and follow the Chapter's procedures for application, required documents, and prioritization. All requests, budget preparation, updates and progress reports will be processed initially through the Chapter.

(a) The requesting Chapter or organization has the primary responsibility to identify clients most in need of housing assistance and shall provide written confirmation that the applicant has not received funding to construct a new home from UNTF, Navajo Royalties Holding Fund, other housing agencies or funding source within the past 20 years.

(b) Chapters are required to maintain housing assistance policies and procedures and submit a copy of the policy to UNTF once every three (3) years, and when updated or amended.

(i) The Chapter policy should include a prioritization system that utilizes a numbering system for each criterion. Disabled, elderly and veteran applicants shall be considered first on the housing priority assistance list.

(ii) The Chapter shall have a housing application review committee.

(c) The Chapter must submit an approved resolution along with the Housing priority list that supports the request.

(d) Applicants must meet UNTF residency criteria.

R661-25-201. Types of Housing Assistance.

(1) New House construction from footing to exterior and interior completion.

(2) Completion of construction on houses that were started but not completed.

(3) Additions of a room(s) such as a bedroom, bathroom, or kitchen.

(4) Remodel or Renovation includes:

(a) Renovation or retrofit to accommodate ADA-compliant features, including but not limited to, additions/expansion for large bathrooms, walk-in, roll-in showers, widening of hallways and doorways, expansion of stoop or deck size, exterior ramps leading up to doorways.

(b) Improvement of an existing structure such as roof repair, floor installation or replacement.

(c) Weatherization measures, including replacement of broken windows or dilapidated doors, and installation of draft-proof windows, sealant, caulking, weather stripping, etc.

(d) Renovation of trailers or modular/manufactured homes, including the stabilization of the foundation with appropriate skirting and/or masonry foundation.

(e) Installation of house wiring, indoor plumbing, plumbing fixtures, kitchen cabinetry.

(f) Financial assistance for housing located off reservation land in San Juan County, Utah, is limited to renovation. The applicant must provide proof of ownership of the property.

R661-25-301. Housing Assistance Not Available.

(1) To fund the purchase of trailers or modular/manufactured housing units.

(2) For down payment assistance or closing costs are not eligible for UNTF funding.

(3) For mortgage funding or payoff

(4) For any type of loan payoffs.

(5) For purchase of appliances such as a refrigerator, range, or microwave oven.

R661-25-401. Housing Assistance Eligible Purchases.

(1) Water heaters if waterline is available and water is about to be turned on or, if the water heater is electric, electricity is functional.

(2) Wood and/or coal stove, stove pad, stove pipe, and through the roof stove pipe kit.

(3) One ceiling fan for distribution of heat.

(4) UNTF staff will determine if the materials proposed to be purchased are reasonably priced quality building materials.

(a) A client who desires a more expensive item than what is approved by UNTF staff must purchase that item using their own funds. UNTF will not pay client the difference between the UNTF staff approved item and the item client desires to purchase.

(b) If the client does not purchase the item in time for construction crew installation the client must install the item at their own cost.

R661-25-501. Required Documentation for Housing Projects.

(1) A Navajo Nation Homesite Lease will be required of all new house construction and construction completion projects.

(2) For other types of Housing Assistance applicants are strongly encouraged to have a homesite lease available for proof of ownership, utilities and other services.

(3) Matching fund agencies shall be identified and commitment letters from each agency shall be included in the proposal package.

(4) Applicants must provide documentation naming a successor owner/lessee who is permitted to occupy the residence and is obligated to maintain the property.

(5) All new construction must be based on a floor plan showing all components of the dwelling unit to be constructed. Additionally, a specific list of all materials to be used and an estimate of total man-hours for construction is required.

(6) Proof of the applicants contribution towards the construction, addition, or renovation of a dwelling in the form of receipts for the purchase of cement as well as proof of purchase of adequate waterproof material for protection from moisture damage to the bags of cement purchased.

R661-25-601. Purchasing.

(1) Only UNTF staff trained in the State of Utah Purchasing Rules are allowed to engage in purchasing activities for Chapter Projects using UNTF funds.

(2) Chapter responsibilities will be to:

(a) Identify the project or client to be assisted, in accordance with Chapter housing selection procedures;

(b) Determine the scope of work;

(c) Submit the appropriate documentation needed for the project; and

(d) Meet with UNTF staff at the beginning stages of the project.

(3) UNTF staff will execute the purchasing functions, including obtaining estimates or utilizing appropriate purchasing procedures, such as Requests for Qualifications, Requests for Proposals, or Invitations for Bids.

(4) If a chapter executes a project without involving UNTF, that expense will not be eligible for reimbursement and the project may not be able to be completed.

(5) Building materials shall not be purchased and delivered at commencement of construction.

(6) Purchases and deliveries of materials shall be completed in phases according to the following schedule.

Phase 1: Foundation materials for footing, stem wall, piers, rebar, anchor bolts, and redwood or treated lumber

Phase 2: House Shell materials for framing, trusses, OSB plywood, siding, roofing, vents

Phase 3: Exterior Doors and Windows

Phase 4: Rough-in House wiring and Plumbing

Phase 5: Insulation and Drywall

Phase 6: Flooring

Phase 7: Finish Carpentry: Cabinets, Casing and Baseboard, Exterior trim, Soffit, Interior and Exterior Painting

Phase 8: Finish House wiring and Plumbing

(7) Purchases for Stoops, Steps, or Decks can be performed at any point after Phase 1.

(8) All documentation must be submitted to the Chapter

(a) Requests for payment must include all materials receipts as well as verification signed by the homeowner, chapter representative, or UNTF representative picking up the items or signing for the delivery.

(b) The person signing the receipt shall deliver the receipt to the Chapter and/or UNTF office and shall safeguard materials from theft or damage.

(c) Upon receipt of material verification forms by the UNTF Administration, invoices will be processed for payment directly to the vendor.

R661-25-701. Funding.

(1) UNTF preference is to fund projects on a reimbursement basis. However, in exceptional circumstances the UNTF Administrator has the authority to make advance disbursements up to Five Thousand Dollars (\$5,000.00) for mobilization expenses.

(2) UNTF will disburse approved funding directly to Chapters or identified and approved contractors and/or vendors.

(3) The Chapter or UNTF will retain ten percent (10%) of the approved contractor billings until proof of completion of the housing project is provided to UNTF.

(4) The Chapter shall provide UNTF staff with an annual report identifying percentage of project completion and an explanation of what remains to be completed.

R661-25-801. Resale Approval Required.

Housing built, or appliances purchased, using UNTF funding shall not be sold without prior UNTF approval.

R661-25-901. New Housing Capital Matching Program.

(1) An applicant with at least 33.33% of the capital needed for an eligible project may be eligible for the Housing Capital Matching Program.

(2) The applicant must be approved by the Chapter as an eligible Utah Navajo qualifying for UNTF assistance.

(3) The matching funds must be in the form of cash. The eligible project must be funded in full, and cash must be received by UNTF prior to commencement of construction.

(4) The matching funds cannot be in the form of a loan to the applicant or any other type of lien.

(5) Eligible projects include new housing, additions, or major renovations, including ADA compliant features. Houses that are two stories or more are not eligible.

(6) An applicant may not own another home at the time of entering into this program.

KEY: housing, chapter, Utah Navajo Trust Fund (UNTF), eligible purchases

Date of Enactment or Last Substantive Amendment: April 8, 2021 Authorizing, and Implemented or Interpreted Law: 51-10

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to 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.):	R174-1	Filing No. 50340

Agency Information

1. Department:	Communications Authority Board (Utah)	
Agency:	Administration	
Street address:	5215 Wiley Post Way, Suite 550	
City, state, zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Quinton Stephens	801-641-0547	qstephens@uca911.org
David Edmunds	435-640-8117	dedmunds@uca911.org
Nathan Marigoni	801-531-3022	marigonin@ballardspahr.com
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R174-1. Utah 911 Advisory Committee

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 63H-7a-204(12) authorized the Communications Authority Board (Authority) to "provide for the management and administration of the public safety communications network by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act." Subsection 63H-7a-302(5) requires the 911 Division to recommend to the board rules that "establish the criteria, standards, technology, and equipment that a public safety answering point is required to adopt in order to qualify as a recipient of goods or services that are funded from the restricted account."

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:

The Authority requires this rule to be continued to allow the Authority to revise and update this rule to account for new legislation affecting the Authority's operations, including the criteria for usage of funds from restricted accounts. No comments have been received in opposition to this rule.

Agency Authorization Information

Agency head or designee, and title:	David Edmunds, Executive Director	Date:	04/14/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-116	Filing No. 53246

Agency Information

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

General Information

2. Rule catchline:
R277-116. Audit Procedure
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by: a) Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board; b) Subsection 63I-5-201(4) which requires the State Board of Education (Board) to direct the establishment of an internal audit department for programs administered by the entities it governs; 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; d) Subsection 53E-3-501(1)(e) which directs the Board to develop rules and minimum standards regarding school productivity and cost effectiveness measures, school budget formats, and financial, statistical, and student accounting requirements for the local school districts; e) Section 53E-3-602 which allows the Board to approve auditing standards for school boards; f) Section 53E-3-603 which makes the Board responsible for verifying audits of local school districts; g) Subsection 53F-2-204(2) which directs the Board to assess the progress and effectiveness of all programs funded under the State System of Public Education; and h) Subsection 53E-3-401(9) which gives the Board authority to audit the use of state funds by an education entity that receives state funds as a distribution from the Board.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no written comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule continues to be necessary because it outlines the role of the Chief Audit Executive, Superintendent, and agency in the audit process and outlines the Board's procedures for audits of agencies. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	04/14/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R277-750	Filing No. 53029
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Agency Information

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

General Information

2. Rule catchline:
R277-750. Education Programs for Students with Disabilities
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by: a) Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; b) Subsection 53E-3-

501(1) which directs the State Board of Education (Board) to adopt rules regarding services for persons with disabilities; c) Title 53E, Chapter 7, Part 2, Education of Children with Disabilities, which requires the Board to adopt rules regarding educational services to students with disabilities; and d) Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no written comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule continues to be necessary because it specifies standards and procedures for special education programs. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	04/14/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R307-210	Filing No. 52597

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84114-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R307-210. Standards of Performance for New Stationary Sources

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 R307-210 was enacted under the authority of Subsection 19-2-104(1)(a). Section 19-2-104 gives the Utah Air Quality Board the power to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source."

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 were received by interested persons supporting or opposing Rule R307-210.

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 Environmental Protection Agency (EPA) has delegated authority to "develop and submit" procedures for "implementing and enforcing standards of performance for new sources located in such State", as per 42. U.S.C. Subsection 7411(c). Rule R307-210 is a part of those procedures. The Division of Air Quality believes it is in the best interest to remain in control of implementing and enforcing standards of performance for new sources. Therefore, Rule R307-210 should be continued.

Agency Authorization Information

Agency head or designee, and title:	Bryce C. Bird, Division Director	Date:	03/22/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R313-12	Filing No. 50716

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	

Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R313-12. General Provisions
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. The subsection also allows the Board to make rules as necessary regarding the possession, use, transfer, or delivery of source and byproduct material and the disposal of byproduct material. As part of the state primacy of the radiation control program, the definitions and other general provisions in Rule R313-12 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations.
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:
Since the last five-year review, there have been no comments from interested persons specifically 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:
This rule is necessary because it lays the foundation for establishing radiation safety and protection and, as an Agreement State, maintains the appropriate regulatory compatibility with the NRC. Therefore, this rule should be continued.
There have been no opposing comments to this rule since the last five-year review in 2016.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R313-14	Filing No. 50720

Agency Information

1. Department:	Environmental Quality
Agency:	Waste Management and Radiation Control, Radiation
Room no.:	Second Floor
Building:	MASOB
Street address:	195 N 1950 W
City, state, zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144880
City, state, zip:	Salt Lake City, UT 84114-4880
Contact person(s):	
Name:	Phone: Email:
Tom Ball	801-536-0251 tball@utah.gov
Please address questions regarding information on this notice to the agency.	

General Information

2. Rule catchline:
R313-14. Violations and Escalated Enforcement
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Section 19-3-109 allows the director to assess penalties and allows persons who violate provisions of this rule to appeal a penalty. Section 19-3-111 allows the director to impound radioactive material. Section 19-3-108.1 allows the director to issue orders, enforce orders, and institute judicial proceedings in connection with rules adopted by the Board. Rule R313-14 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-14 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations.
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:
Since the last five-year review, there have been no comments from interested persons specifically 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:

This rule is necessary because it establishes actions that may be taken for noncompliance with existing radiation control laws and rules and, as an Agreement State, maintains the appropriate regulatory compatibility with the NRC. This includes setting violation severity levels, enforcement sanctions, and assessment of civil penalties. Therefore, this rule should be continued.

There have been no opposing comments to this rule since the last five-year review in 2016.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R313-16	Filing No. 52562

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov

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

General Information

2. Rule catchline:
R313-16. General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Section 19-3-104 also allows the Division of Waste Management and Radiation Control to require registration or licensing of radiation sources that constitute a significant health hazard and requires all sources of ionizing radiation to be registered or licensed. This section also allows the Board to make rules regarding the use radiation sources. Section 19-3-108.1 allows the director to authorize inspections. Rule R313-16 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-16 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations.

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:

Since the last five-year review, there have been no comments from interested persons specifically 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:

This rule is necessary because it prescribes requirements governing the installation, registration, inspection, and use of sources of electronically produced ionizing radiation to protect human health and the environment. The prolific use of such machines is not only very common among the healing arts professions for critical diagnostic and therapeutic applications, but they also provide key functions in veterinarian, academic, industrial, and other professional applications. Therefore, this rule should be continued.

There have been no opposing comments to this rule since the last five-year review in 2016.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R313-17	Filing No. 50712

Agency Information

1. Department:	Environmental Quality
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FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R313-17. Administrative Procedures
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Sections 19-1-301 and 19-1-301.5 govern adjudicative proceedings and the actions that may be taken by the Department of Environmental Quality and its boards. Rule R313-17 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-17 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations.
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:
Since the last five-year review, there have been no comments from interested persons specifically 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:
This rule is necessary because it establishes the requirements for conducting public hearings for various radioactive materials licensing actions and for conducting adjudicative proceedings. As an Agreement State, this rule is necessary for maintaining the appropriate regulatory compatibility with the NRC. Therefore, this rule should be continued.

There have been no opposing comments to this rule since the last five-year review in 2016.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R313-18	Filing No. 50726
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Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R313-18. Notices, Instructions and Reports to Workers by Licensees or Registrants--Inspections
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Sections 19-6-107 and 19-6-109 authorize the Director of the Division of Waste Management and Radiation Control (Division) to authorize employees or representatives of the Department of Environmental Quality to conducted inspections. Rule R313-18 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-18 have been reviewed by the U.S. Nuclear Regulatory Commission

(NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations.

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:

Since the last five-year review, there have been no comments from interested persons specifically 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:

This rule is necessary because it specifies the training and notification requirements by employers for workers that use radioactive materials. This rule also provides the basis for worker protection and safety requirements and inspections by the Division. As an Agreement State, this rule is necessary for maintaining the appropriate regulatory compatibility with the NRC. Therefore, this rule should be continued.

There have been no opposing comments to this rule since the last five-year review in 2016.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R313-19	Filing No. 52300

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R313-19. Requirements of General Applicability to Licensing of Radioactive Material

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Rule R313-19 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-19 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations.

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:

Since the last five-year review, there have been no comments from interested persons specifically 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:

This rule is necessary because it prescribes requirements governing the licensing of radioactive material. This rule is also necessary to ensure that the state's rules are adequate to protect public health and safety. This rule identifies certain concentrations or quantities of radioactive material, provides for reciprocal recognition of out-of-state licenses, and identifies terms and conditions of licenses. As an Agreement State, this rule is necessary for maintaining the appropriate regulatory compatibility with the NRC. Therefore, this rule should be continued.

There have been no opposing comments to this rule since the last five-year review in 2016.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R313-22	Filing No. 50717

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R313-22. Specific Licenses
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Rule R313-22 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-22 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations.
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:
Since the last five-year review, there have been no comments from interested persons specifically 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:
This rule is necessary because it prescribes requirements for the issuance of "specific licenses" for control of radioactive material. This rule is also necessary to ensure that the state's rules are adequate to protect public health and safety. This rule prescribes procedures for filing an application, assuring financial surety for decommissioning facilities where radioactive materials are used, and requirements for "specific licenses" of broad scope. As an

Agreement State, this rule is necessary for maintaining the appropriate regulatory compatibility with the NRC. Therefore, this rule should be continued.

There have been no opposing comments to this rule since the last five-year review in 2016.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R313-25	Filing No. 50725
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Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Rule R313-25 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-25 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and

have been determined to be compatible with the corresponding federal radiation protection regulations.

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:

Since the last five-year review, the Division of Waste Management and Radiation Control (Division) has received comments related to Rule R313-25. In October of 2016, an entity submitted a petition to initiate rulemaking requesting that Rule R313-25 be repealed and reenacted by adopting 10 CFR Part 61 by reference in its place. In December of 2016, the entity rescinded its petition.

Following the publication of the notice of continuation associated with the last five-year review of Rule R313-25, an entity submitted comments requesting wording changes to Subsection R313-25-31(10)(a) so that this rule would only apply to above-ground structures and the deletion of Subsection R313-25-31.5(3) because they did not believe that legislation did not support the existence of this rule. These same comments were re-submitted in November of 2017 during the public comment period for a proposed amendment to Rule R313-25.

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 necessary because it establishes the procedures, criteria, and terms and conditions upon which a license may be issued for the land disposal of radioactive wastes. It is necessary to continue this rule because of the presence of an active low-level radioactive waste disposal facility in the . As an Agreement State, this rule is necessary for maintaining the appropriate regulatory compatibility with the NRC. Therefore, this rule should be continued.

In response to the comment suggesting wording changes to Subsection R313-25-31(10)(a), the Division stated that the language in this rule was taken verbatim from legislation, and thus making the suggested changes would require legislative action.

In response to the comment to delete Subsection R313-25-31.5(3), the Division responded by making the deletion.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R313-28	Filing No. 50724
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Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R313-28. Use of X-Rays in the Healing Arts
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Rule R313-28 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-28 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations.
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:
Since the last five-year review, there have been no comments from interested persons specifically 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:
This rule is necessary because it prescribes the requirement for the use of X-rays in the healing arts to protect human health. This rule establishes X-ray machine parameters for limiting the size of the X-ray beam, controlling radiation exposure, maintaining accuracy and linearity, and defining performance of mammography X-ray systems. Therefore, this rule should be continued.

There have been no opposing comments to this rule since the last five-year review in 2016.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R313-32	Filing No. 50722

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R313-32. Medical Use of Radioactive Material
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Rule R313-32 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-32 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations.

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:

Since the last five-year review, there have been no comments from interested persons specifically 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:

This rule is necessary because it establishes the requirements for medical use of radiation and radioactive material. This rule is necessary to ensure that the state's rules are adequate to protect public health and safety, and to meet compatibility requirements of the U.S. NRC's program. This rule provides protection of public health by regulating the internal and external administration of radioactive material to humans. This rule also establishes training requirements for individuals who are authorized to use radioactive material in the practice of medicine. Therefore, this rule should be continued.

There have been no opposing comments to this rule since the last five-year review in 2016.

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R313-36	Filing No. 52331

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:	
R313-36. Special Requirements for Industrial Radiographic Operations	
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	
Subsection 19-3-104(4) allows the Waste Management and Radiation Control Board (Board) to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government. Rule R313-36 contains the rules adopted by the Board and as part of the state primacy of the radiation control program. The rules in Rule R313-36 have been reviewed by the U.S. Nuclear Regulatory Commission (NRC) and have been determined to be compatible with the corresponding federal radiation protection regulations .	
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:	
Since the last five-year review, there have been no comments from interested persons specifically 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:	
This rule is necessary because it establishes the radiation safety requirements for person who use radioactive material to examine the macroscopic structure of materials. This rule is also necessary to ensure that the states rules are adequate to protect public health and safety. This rule establishes the training criteria a person must meet to utilize a radiographic exposure device in an industrial setting. As an Agreement State, this rule is necessary for maintaining the appropriate regulatory compatibility with the NRC. Therefore, this rule should be continued.	
There have been no opposing comments to this rule since the last five-year review in 2016.	

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R313-70	Filing No. 50729

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room no.:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state, zip:	Salt Lake City, UT 84114-4880	
Contact person(s):		
Name:	Phone:	Email:
Tom Ball	801-536-0251	tball@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:	
R313-70. Payments, Categories and Types of Fees	
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	
Subsection 19-3-104(6) requires the Division of Waste Management and Radiation Control (Division) to assess fees for registration, licensing, and inspection of radiation sources. It also requires the Division to comply with the requirements of Section 63J-1-504 in assessing fees for licensure and registration.	
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:	
Since the last five-year review, there have been no comments from interested persons specifically 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:	
This rule is necessary because it establishes the requirements for payment of fees for the registration or licensing of sources of radiation. This rule identifies registration or license categories, the time period that a license is valid, and the type of fees the Division has established pursuant to Section 63J-1-504. Therefore, this rule should be continued.	
There have been no opposing comments to this rule since the last five-year review in 2016.	

Agency Authorization Information

Agency head or designee, and title:	Ty Howard, Director	Date:	04/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R525-8	Filing No.	51276
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Agency Information

1. Department:	Human Services		
Agency:	Substance Abuse and Mental Health, State Hospital		
Room no.:	Second Floor		
Building:	Multi Agency State Office Building		
Street address:	195 N 1950 W		
City, state, zip:	Salt Lake City, UT 84116		
Contact person(s):			
Name:	Phone:	Email:	
Thom Dunford	801-538-4181	tdunford@utah.gov	
Jonah Shaw	801-538-4219	jshaw@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule catchline:
R525-8. Forensic Mental Health Facility
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule was established to explain the criteria for admission to beds for the Forensic Mental Health Facility at the Utah State Hospital as granted under Subsection 62A-15-105(5) and required under Subsection 62A-15-902(2)(c).
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 relating to this rule have been received over the past five years.
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 it is required by Subsection 62A-15-902(2)(c).

The Division of Substance Abuse and Mental Health is considering a nonsubstantive change to this rule to correct grammar in the near future.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Deputy Director	Date:	04/05/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R765-608	Filing No.	51991
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Agency Information

1. Department:	Regents (Board of)		
Agency:	Administration		
Building:	Gateway Tower II		
Street address:	60 S 400 W		
City, state, zip:	Salt Lake City, UT 84101		
Contact person(s):			
Name:	Phone:	Email:	
Ashley Reyes	801-321-7211	areyes@uheaa.org	

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

General Information

2. Rule catchline:
R765-608. Utah Engineering and Computer Science Scholarship Program
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 53B, Chapter 6, Section 105.7, Initiative student scholarship program, establishes an engineering, computer science, and related technology scholarship program for which the Board of Regents may make rules for the overall administration of the scholarship program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking 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 program has been eliminated by the legislature. This rule is being continued to keep it place so it can be repealed through the regular rulemaking process.

Agency Authorization Information

Agency head or designee, and title:	Ashley Reyes, Manager of Student Aid, Research, and Policy	Date:	04/13/2021
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Horse Racing Commission (Utah)
No. 53286 (Amendment) R52-7: Horse Racing
Published: 02/15/2021
Effective: 04/12/2021

Animal Industry

No. 53299 (Amendment) R58-11: Slaughter of Livestock and Poultry
Published: 02/15/2021
Effective: 04/12/2021

Plant Industry

No. 53328 (New Rule) R68-11: Quarantine Pertaining to the Emerald Ash Borer
Published: 03/15/2021
Effective: 04/23/2021

No. 53258 (Amendment) R68-24: Industrial Hemp License for Growers
Published: 01/15/2021
Effective: 04/12/2021

Regulatory Services

No. 52663 (New Rule) R70-580: Kratom Product Registration and Labeling
Published: 05/01/2020
Effective: 04/02/2021

No. 52663 (First Change in Proposed Rule) R70-580: Kratom Product Registration and Labeling
Published: 06/15/2020
Effective: 04/02/2021

No. 52663 (Second Change in Proposed Rule) R70-580: Kratom Product Registration and Labeling
Published: 10/15/2020
Effective: 04/02/2021

No. 52663 (Third Change in Proposed Rule) R70-580: Kratom Product Registration and Labeling
Published: 12/15/2020
Effective: 04/02/2021

No. 52663 (Fourth Change in Proposed Rule) R70-580: Kratom Product Registration and Labeling
Published: 03/01/2021
Effective: 04/02/2021

Commerce

Occupational and Professional Licensing
No. 53315 (Amendment) R156-76: Professional Geologist Licensing Act Rule
Published: 03/01/2021
Effective: 04/08/2021

Education

Administration
No. 53316 (New Rule) R277-102: Adjudicative Proceedings
Published: 03/01/2021
Effective: 04/08/2021

No. 53317 (Amendment) R277-215: Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions
Published: 03/01/2021
Effective: 04/08/2021

No. 53318 (Amendment) R277-216: Surrender of License with UPPAC Investigation Pending
Published: 03/01/2021
Effective: 04/08/2021

NOTICES OF RULE EFFECTIVE DATES

No. 53319 (Amendment) R277-217: Educator Standards and LEA Reporting
Published: 03/01/2021
Effective: 04/08/2021

No. 53320 (Amendment) R277-303: Educator Preparation Programs
Published: 03/01/2021
Effective: 04/08/2021

No. 53321 (Amendment) R277-308: New Educator Induction and Mentoring
Published: 03/01/2021
Effective: 04/08/2021

No. 53322 (Amendment) R277-461: Elementary School Counselor Grant Program
Published: 03/01/2021
Effective: 04/08/2021

No. 53323 (Amendment) R277-484: Data Standards
Published: 03/01/2021
Effective: 04/08/2021

No. 53325 (Amendment) R277-490: Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)
Published: 03/01/2021
Effective: 04/08/2021

No. 53324 (Repeal) R277-505: Education Leadership License Areas of Concentration and Programs
Published: 03/01/2021
Effective: 04/08/2021

No. 53326 (Repeal) R277-506: School Psychologists, School Social Workers, School Counselors, Communication Disorders (Audiologists), Speech-Language Pathologists, and Speech-Language Technicians Licenses and Programs
Published: 03/01/2021
Effective: 04/08/2021

No. 53228 (Amendment) R277-622: School-based Mental Health Qualified Grant Program.
Published: 12/15/2020
Effective: 04/01/2021

No. 53327 (Amendment) R277-716: Alternative Language Services for Utah Students
Published: 03/01/2021
Effective: 04/08/2021

Environmental Quality

Drinking Water

No. 53234 (Repeal and Reenact) R309-405: Compliance and Enforcement: Administrative Penalty
Published: 02/01/2021
Effective: 04/23/2021

Water Quality

No. 53240 (Amendment) R317-8: Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs)
Published: 01/01/2021
Effective: 04/15/2021

No. 53240 (Change in Proposed Rule) R317-8: Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs)
Published: 03/15/2021
Effective: 04/15/2021

No. 53244 (Amendment) R317-8: Utah Pollutant Discharge Elimination System (UPDES)
Published: 01/01/2021
Effective: 04/15/2021

Health

Health Care Financing, Coverage and Reimbursement Policy
No. 53099 (New Rule) R414-12: Laboratory Services
Published: 10/15/2020
Effective: 05/01/2021

No. 53099 (Change in Proposed Rule) R414-12: Laboratory Services
Published: 03/15/2021
Effective: 05/01/2021

Heritage and Arts

Administration

No. 53216 (New Rule) R450-5: Utah Martin Luther King Jr. Human Rights Commission
Published: 12/15/2020
Effective: 04/05/2021

History

No. 53291 (New Rule) R455-16: Cultural Site Stewardship Program Vandalism Volunteer Selection, Training, and Certification Procedures
Published: 02/15/2021
Effective: 04/05/2021

No. 53298 (New Rule) R455-17: Cultural Site Stewardship Program Vandalism Reporting Procedures
Published: 02/15/2021
Effective: 04/05/2021

Pardons (Board of)

Administration

No. 53263 (Amendment) R671-302: News Media and Public Access to Hearings
Published: 01/15/2021
Effective: 04/26/2021

Workforce Services

Employment Development
No. 53330 (Amendment) R986-700: Unearned Income,
Pandemic
Published: 03/15/2021
Effective: 04/22/2021

Unemployment Insurance
No. 53336 (Amendment) R994-302-102: Due Dates for
Contribution Payments
Published: 03/15/2021
Effective: 04/22/2021

No. 53337 (Amendment) R994-302-103: Employer
Contribution Payments
Published: 03/15/2021
Effective: 04/22/2021

No. 53338 (Amendment) R994-302-104: Due Dates for
Filing Contribution and Equivalent Reports
Published: 03/15/2021
Effective: 04/22/2021

End of the Notices of Rule Effective Dates Section

